THE IMPLICATIONS OF NEUTRALITY RULES:

APPLICATION TO OTHER SECTORS

The automotive sector

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1. Net neutrality in the marketing of automobiles

Basically three types of agents take part in the automotive market:

i) **The manufacturer.** Takes charge of the entire vehicle design and production process and part of the promotion of new models placed on the market. Its main objective is to differentiate its vehicles from those of the competition with a view to increased sales and market share.

   In Spain and most of Europe, manufacturers market their vehicles through a network of dealers operating under official distribution and service contracts.[1] Manufacturers sell their products to dealers that, in turn, resell them to customers applying a margin thus producing the revenues of the business activity.

   Selective distribution is the type of distribution applied by most automakers in Spain. It is called *selective* because such contracts between manufacturers and dealers restrict the number of establishments that sell vehicles and require dealerships to comply with a number of qualitative aspects in the performance of their vehicle sales service such as respecting the brand image, having a showroom of a particular size or ensuring standards of quality and service.

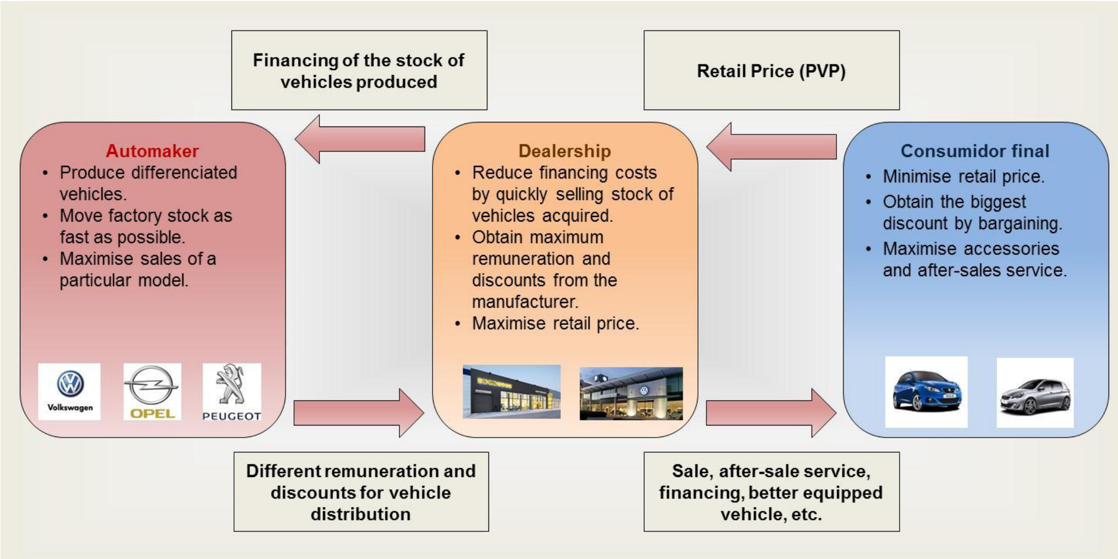
ii) **The network of dealers.** This network takes care of all the activities necessary for the sale of vehicles. Dealers act on their own behalf assuming any risks that may arise from the sale of automobiles. Dealerships form a geographical distribution network putting industrial automakers in contact with end buyers.
   Car and commercial vehicle dealerships are mostly family-owned, small and medium enterprises. In addition to distribution and sales, they provide after-sales service for the vehicles of a particular manufacturer or act as independent importers according to the stipulations set out in the contract with the manufacturer.
   Lastly, dealers play a key role in the automotive sector insofar as they finance the stock of vehicles on their lot as well as those purchased on credit.

iii) **Car buyers.** Car buyers are susceptible to a great many factors when purchasing a vehicle from a dealership. Among these are their preference for a particular make or model, discounts offered by the manufacturer and the dealer, their initial budget, the possibility of obtaining financing, amount of information amassed, the possibility of acquiring after-sales service, vehicle accessories, etc.

Bearing these characteristics in mind, the automotive industry establishes its trade relations as illustrated in Figure 1.

[1] In some cases, a third contract for the distribution of spare parts is used as in the case of the distribution networks of CITROEN and PEUGEOT of the PSA Group.

Figure 1: Business model of the automotive industry



Source: Created in-house.

Strategies between manufacturers and dealers

The relationship between dealers and manufacturers is based on two main factors: on the one hand, manufacturers require financing of their stock of vehicles and, on the other, provide incentives to dealers to achieve the sales targets laid down in the contract. Following is a description of how contracts between manufacturers and dealers work.

Dealers acquire vehicles from manufacturers at the ex-works price (EXW) set by the manufacturer and which is the same for all dealers. This EXW is on average 15% higher than the final sales price, i.e. the price paid by the consumer. The difference is recovered with fixed and variable remuneration and promotional discounts received by dealers from the manufacturer once the vehicle has been sold. Therefore, dealers earn no income until the vehicle is sold to the end customer; just the opposite, since they are forced to finance their stock of vehicles for a period of between 15 and 45 days.

The EXW established by the automaker is the same for all dealers and discounts can only be offered on those vehicles that are stuck at the factory due to buyers' reluctance to purchase them or because they have been rendered obsolete by a new model. In such cases, the manufacturer offers a discount or rebate on the EXW for those dealers willing to purchase this stock and this is applied at the time of acquisition by the dealer and not when the vehicle is sold to the end customer.

In addition to the EXW, automakers provide dealers with a recommended retail price (RRP) which is usually different from the retail selling price (RSP) set by the dealer based on the latter's commercial policy and remunerations obtained.

The dealer's profit margin is determined by the sum of the retail selling price (RSP) and fixed and variable remuneration received from the manufacturer minus the ex-works price (EXW).

$$\textbf{Dealer profit margin} = \textbf{RSP} + \textbf{fixed remuneration} + \textbf{variable remuneration} - \textbf{EXW}$$

Following is a description of the remuneration by the manufacturer to the dealer:

i) **Fixed remuneration:** This part of the remuneration is intended to cover overhead costs incurred by the dealer in meeting minimum standards and to provide after-sales service required by the manufacturer under the contract.

ii) **Variable remuneration:** This part of the remuneration depends on sales targets and is directly proportional to the volume of vehicles sold and customer satisfaction and loyalty. These targets are additional and include, inter alia:

   a. **Sales volume**:

      - **Volume discounts:** discounts obtained as a percentage of the EXW depending on the number of sales.
      - **Mixed Discounts:** discounts on the EXW based on meeting sales targets placed on specific models.
      - **Regularity discounts**: discount for meeting sales and mixed sales targets over a certain period of time.

   b. Remuneration for **end customer satisfaction and loyalty:** This part depends, among other variables, on customer satisfaction with the sale of the vehicle, customer loyalty and being able to identify why some customers finally take the decision to not purchase a vehicle.

   c. Remuneration for **advertising:** This fraction of the remuneration is tied to the investment made by the dealer in brand advertising and local advertising campaigns.

   d. Remuneration for **distribution capacity:** This part is linked to the size of the dealer's showroom, proper management of the stock of vehicles, the showing of certain models in the showroom and the availability of vehicles for customers to test drive.

According to the above description, the incentive linked to the variable part of the remuneration is what generates the most competition between dealers. The greater the degree of compliance with variable remuneration targets, the higher the discounts, special offers, gifts or additional guarantees given to a dealership.

Therefore, it would be fair to say that the difference in remuneration paid by manufacturers to dealers which is based on targets achieved, is the key competitive factor in the automotive industry, not only in terms of lower prices but also in relation to after-sales service, better financing terms, increased warranty period, etc.

Business strategies between dealers and consumers

In order to help standardise prices, car manufacturers draw up a catalogue of ceiling prices that dealers forming part of their commercial networks can charge for a specific model. Depending on the model and time of year, the manufacturer applies discounts on certain models or groups of vehicles. These are identical for all dealers. However, most vehicles are sold at prices below those set by the manufacturer (ceiling price - discount). Said prices depend on the dealership where the sale was made.

This price differentiation is dictated by the customers. A dealer may set the price of a vehicle depending on its utility for the end consumer; the latter's bargaining power; the volume of vehicles acquired; or, his ability to obtain financing.

Following are some of the factors affecting the range of prices and which lead dealers to establish different pricing and conditions:

i. **The amount of information consumers have regarding the prices charged by other dealers of the same make:** In the automobile market there is not a great deal of uniformity in terms of pricing information. The same model could have a different price for the same consumer at different dealerships or the same dealer could sell the same model at different prices depending on the consumer. Therefore, customers are offered a higher or lower price depending on their ability to gather pricing information from different dealers and their skill in negotiating the final price.

ii. **Selection of technical characteristics and the adding of accessories:**The possibility of modifying technical characteristics and adding extra equipment to a vehicle is a marketing strategy used to meet the needs and tastes of consumers in order to boost the sales of a particular model and increase loyalty. This marketing practice allows consumers to choose engine size, seat fabric, colour, type of headlamps and electronic devices, among many other details, that most suit their needs.

iii. **Advertising efforts to promote the make and the dealer:** The expected effect of advertising on price differentiation depends on the characteristics of that advertising. Price differentiation will increase where advertising focuses on enhancing the image of the cars and the brand. In contrast, price differentiation diminishes when advertising is intended to attract customers by providing information on reduced costs, for example by advertising prices or discounts.

iv. **Consumer loyalty:** Dealers may implement loyalty strategies by offering special discounts to customers who agree to trade-in the vehicle after a certain period of time. Another marketing strategy related to loyalty is to offer discounts to consumers who have previously purchased a vehicle at that same dealership.

v. **Financing the purchase of a vehicle:** Another way to promote sales is to offer financing for the purchase of the vehicle. Consumer credit offered by dealers typically ranges from 12 to 48 months. Interest rates in the vicinity of 9% are set by dealers. This is also a helpful business strategy for consumers as it enables them to purchase a vehicle by means of instalment payments over a period of time.[2]

vi. **Different after-sales services depending on end consumers and their needs:** This strategy enables the provision of service checks, repair and replacement of parts according to customer needs and the use made of the vehicle. Dealers offer more complete after-sales services to companies that use their vehicles on a more continuous basis which naturally wear out faster than those owned by individuals who use them less intensively.

vii. **Discounts on 0-mileage cars:** These vehicles are already registered and therefore dealers want to sell them as soon as possible as they are tying up needed cash. They are usually sold at a discount of up to 25% on the price of the same model that is new. Another advantage is that delivery is often immediate. The main drawback is that, naturally, the customer cannot choose the characteristics of the car as these are "as is" vehicles with no options in terms of motor, equipment and colour. If the customer is satisfied with the characteristics of a 0-mileage vehicle, it is a very good deal due to the savings.

viii. **Use for which the vehicle is intended:** Another strategy used by dealers to determine consumers' willingness to pay is the proposed use to be made of the vehicle, i.e. whether it is intended for private or business use. Dealers make more attractive offers to buyers of business vehicles than those for private use since the former are used on a more continuous basis and are consequently renewed more frequently.

ix. **Volume of vehicles purchased by the consumer:** Companies or organisations that acquire a large volume of vehicles or renew their fleet more often have greater bargaining power and can get a better final price than an individual looking for a single vehicle.

x. **Sales targeting specific groups receiving special treatment:** Groups making special or intensive use of vehicles are typically offered a lower price than an individual would be charged. This usually applies to leasing arrangements, rent a cars, driving schools, taxis, self-employed persons, government agencies,

[2] Annex I of this document shows the evolution of interest rates for the purchase of vehicles.

diplomatic corps, persons with disabilities and others.

xi. **Quality:** The perceived quality of the vehicle is a determining factor when it comes to demand. We must clarify that quality is a variable that is measured a priori and not after the vehicle has been used. It could happen that the vehicle does not live up to expectations or that the accessories are not as useful as initially expected. Consequently, since higher perceived quality tends to increase product differentiation, which in turn decreases consumers' sensitivity to price, it would make sense for dealers to charge a higher price.

xii. **Discounts for obsolescence of a particular vehicle model:** Dealers can use special discounts to move vehicles that have been made obsolete by a new model. The purpose of these discounts is to get rid of a stock of vehicles as soon as possible as they could become increasingly difficult to sell as time goes by and they become less attractive due to a more recent model or the type of equipment on-board. These types of models are also called discount cars.

Applying the neutrality rule in the automotive sector

The application of neutrality criteria would restrict most of the strategies used today by automakers and dealers because *"when the neutrality rule is applied, all market participants must be treated equally in terms of pricing, preferences, quality, quantity and priority."*

This means that manufacturers would not be able to adjust dealer remuneration based on factors such as sales volume, type of vehicle sold, money spent by dealers on advertising, specific targets, geographical location and many others.

Moreover**, dealers would no longer be permitted to set different prices and sales conditions depending on the buyer** and therefore the vehicle would have the same final retail price with no possibility of additional discounts. Also, **no differentiation could be made in terms of after-sales service, warranty period or financial conditions** adapted to the requirements of each buyer, which could close the market to many consumers without readily available cash.

However, it is competition within the automotive sector that would suffer the most from net neutrality. Neutrality means that all of the distribution contracts with manufacturers would have to be the same; dealers would be unable to improve their remuneration and, in turn, would be unable to pass on more competitive prices and better services to their customers with a view to differentiating themselves from other dealers. Moreover, commercial margins

would be identical for all dealers of a particular brand which would enormously restrict differentiation and innovation in the distribution of vehicles.

We must not lose sight of the fact that the higher the remuneration and deduction obtained by dealers, the greater leeway they have to fine-tune the final sales price or offer better services to consumers. Naturally, those dealers with lower prices and better services would be more competitive and make more sales.

The elimination of all remuneration and deductions by manufacturers in their distribution contracts would take away all incentive for competition between dealerships. There would be no incentive to maximise sales, to market new categories of vehicles or offer after-sales repair, replacement or check-up services, practices that today are encouraged by manufacturers by applying higher remuneration based on dealer performance. Additionally, advertising campaigns and customer loyalty practices that dealers typically engage in would be eliminated since manufacturers compensate these activities based on the efforts made by each individual dealer.

This would have a carry-over effect on other sectors such as radio, television, advertising agencies, the press, etc. that benefit from the hefty sums spent by dealers on advertising and to improve brand image.

A single price for all customers would make it impossible for dealers to adjust pricing depending on the preferences of a particular consumer. No discounts would be offered for the type of use intended for the vehicle, the number of vehicles purchased or the need for financing. Therefore, many firms which depend on these practices to attract customers could face viability problems.

One of the evils arising from the neutrality rule would be the requirement to standardise the specifications and equipment of all vehicles sold. Manufacturers and dealers would no longer be permitted to offer a particular model adapted to the needs and tastes of the customer as a way to boost sales and close the deal. As a result, this adaptability that the automotive industry offers to buyers today and which clearly enhances their level of satisfaction would be lost. In the worst case scenario, automakers would offer a limited array of colours, engines would be limited to a particular type of fuel and accessories would be much poorer. Dealers would not be allowed to differentiate among customers by offering different after-sales repair, check-up or replacement services based on customer needs. For instance, a customer who uses a vehicle intensively for work purposes could not benefit from better maintenance service or a more competitive price. The aim of these offers is to create loyalty among customers who are expected renew their fleet of vehicles more often than an individual buyers.

Financing, the cornerstone of a dealership's business, would be adversely affected since it would be required to offer the same credit conditions to all consumers. This would keep consumers who absolutely require financing from being able to purchase a vehicle. Car rental companies in need of favourable financing conditions to purchase their fleets of vehicles would also be adversely affected.

A reduction in the volume of orders placed by dealers would be the direct result of all of this. Manufacturers would also be affected since their financing structure depends on the existing business model whereby dealers are forced to purchase vehicles at the maximum price and are only subsequently given discounts and remuneration once the vehicle has been sold

Dealers' role as intermediaries would be affected drastically as they would lose their ability to negotiate vehicle prices and maximize profits based on customer preferences. For their part, consumers would be forced to purchase their vehicles at the same price regardless of the amount of information gathered, their willingness to negotiate, budget constraints, needs or other considerations conducive to the setting of different prices, different after-sales services, improved financing conditions, more accessories, etc.

Application of the neutrality rule would significantly affect the business model of dealers and especially the strategies available to them to manage stocks of vehicles already acquired from the manufacturer. This would lead to higher prices, a less diversified range of after-sales services and less investment in advertising, showrooms and personnel as there would no longer be any incentive for consumers to negotiate or for dealers to maximise their remuneration and discounts

While our intention is not to provide an all-inclusive list, mention should be made of the following consequences of neutrality for the automotive industry in general:

a) **Impact of the neutrality rule on automakers**:

- Decline in vehicle production.
- Inefficient management of stock of vehicles at the factory.
- Reduced financing capacity.
- Limited marketing strategies to move stocks of vehicles which do not sell well or are made obsolete by newer models.
- Increased operational risks.
- Inability to make use of economies of scale resulting from the sale of high volumes of vehicles.

b) Impact of the neutrality rule on dealers:

- Less competition between dealers.
- Distortions in the instruments used by dealers to efficiently manage stocks of vehicles acquired from manufacturers.
- Less incentive to identify customers' needs.
- Fewer dealers of the same brand in the marketplace which would mean a decline in investment in premises and less employment.
- Less incentive to retain customers through loyalty schemes and identify the drivers behind consumer demand.

- Increased operational risks.

c) Impact of the neutrality rule on consumers:

- Higher vehicle prices.
- Decline in the supply of vehicles of a given brand.
- Less competitive prices and less diversified after-sales services.
- Increased waiting periods for the vehicle chosen.
- Same treatment for individuals and special cases such as people with disabilities, driving schools, taxi drivers, etc.
- Decline in the quality of vehicles.
- Standardisation of vehicles.
- Less financing or deferred purchases of vehicles.

The specific effects of each marketing strategy on customers are shown in Table 1.

Table 1: Summary of marketing practices that would be prohibited if "neutrality rules" were applied and their impact on consumers

Business Strategy	Restrictions arising from neutrality rules	Impact on consumers
Discounts based on customer profile: ***Customers with a deep knowledge of the sector.*** ***Special groups.*** ***Special promotions to create customer loyalty.*** ***Discounts for companies.***	All customers must pay the same price for the same vehicle: *Discriminatory practices based on customer profile cannot be employed.* *No discounts on vehicles of the same model are allowed.*	· No discounts based on consumer type. · No incentive to gather information on vehicle performance. · Less incentive to create customer loyalty. · No discounts for volume purchases. · Higher vehicle prices for all consumers. · No bargaining power to negotiate price.
Volume discounts: ***Discounts based on the number of vehicles purchased.***		
Financing facilities based on consumer needs. ***Different financing periods and amounts for customers who want to purchase a vehicle on instalment.***		
Higher quality: ***Reduce the importance of price when purchasing the vehicle.*** **Differentiation in terms of technical characteristics and accessories.** **Enhance brand image and invest more in advertising.**	Sales service conditions are standardised: *Vehicle prices must be the same regardless of the quality perceived by the customer.* *Vehicle accessories and technology must be identical for all models of the same brand; no adaptation to consumers' needs or tastes is permitted.*	· Less investment in brand image or improving vehicle quality and service. · Less investment in advertising and increased cognitive dissonance following purchase. · Standardisation of vehicles with no possibility of adapting to the needs and tastes of consumers.
Different after-sales services: ***Check-up, repair and parts replacement services in consonance with the level of use of the vehicle.***	After-sales service conditions are standardised: *Special after-sales services based on customer needs are prohibited.*	· Inefficient after-sales services that are not properly adapted to consumers' needs.
Special promotions for the sale of obsolete stock. ***Special discounts on models that are to be updated and on 0-mileage vehicles.***	All market participants must be treated equally regardless of when the vehicle is acquired: *There is no differentiation in the conditions applied to discounts.*	· Detrimental to lower income individuals who wait for a particular vehicle model to become obsolete with a view to purchasing it at a lower price.

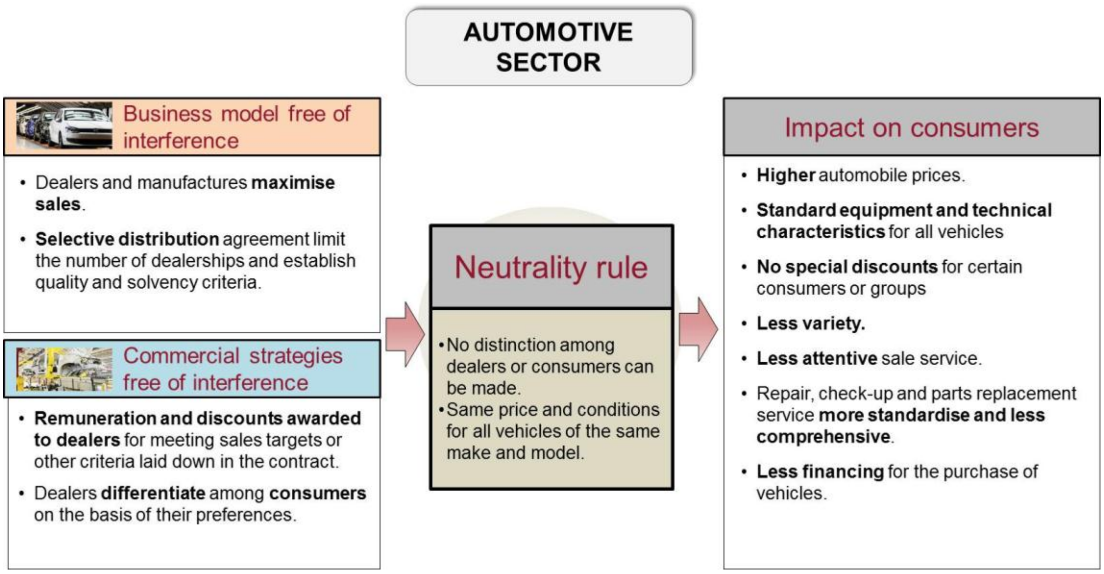
Main results and conclusions

The main victims of net neutrality would be consumers of vehicles as car dealers would be unable to differentiate among them.

As a result, price negotiations and special offers, price discounts, after-sales service promotions, finance conditions tailored to consumers' needs, accessories and technical features adapted to car owners would all be lost. The entire industry would suffer; manufacturers and dealers would both fail to reach their targets and consumers would be unable to access the market under the same conditions as at present. It would even mean that some consumers would no longer be able to buy a car. Moreover, competition in the sector would be compromised since there would be no incentive for dealers to offer more competitive prices by obtaining higher remuneration from manufacturers.

Many of the instruments used to efficiently manage the stock of vehicles would be diminished. This would increase the operational risk arising from the vehicle acquisition and remuneration/discount system established under contract between manufacturers and dealers. To counter this risk, dealers would need to increase their return on investment by raising the price of vehicles and offering lower quality sales and after-sales services while pushing a percentage of consumers out of the market. All of this would do serious damage to the economy in general.

Figure 2: Summary of the effect of the "neutrality rule" on the automotive industry



Source: Created in-house.

2. Annex I: Description of the business model of the automotive market

The automotive sector is a key part of the Spanish economy given its relative weight in the industrial sector, generation and maintenance of employment and its indirect and induced effect on other sectors of the economy. Moreover, the automotive sector is vitally important to Spain's trade balance as motor vehicles are a key export.

According to data provided by the Spanish Association of Automobile and Truck Manufacturers (Spanish acronym ANFAC) in its 2013 annual report,[3] the automotive industry was the third largest exporter, behind the capital goods and agri-food sectors, accounting for 16% of Spain's total exports. It accounted for 10% of GDP and provided direct and indirect employment for 1.8 million people. Total turnover in 2013 was €40.25 billion, approximately 11% year-on-year.

According to the 2012 FACONAUTO report, the retail distribution market is comprised of 2,908 dealers (2,761 devoted to SUVs and passenger cars and 169 to industrial vehicles) and directly employs 103,253 workers.[4] Also, the 2,970 sub-distributors and secondary network of official service centres linked to official dealers generate 27,156 direct jobs.

i) Description of the business model, relevant market analysis

The automotive sector is made up of major vehicle manufacturers offering a wide array of vehicles and striving to adapt to the needs of different customers and differentiate themselves from their competitors. The top ten makes are Volkswagen, Opel, Seat, Renault, Peugeot, Ford, Citroen, Nissan, Toyota and Audi.[5]

Car and commercial vehicle dealers are typically SMEs and take responsibility for sales and distribution and after-sales servicing of vehicles.

Each automaker tries to deploy a network of dealers large enough to reach most consumers but without issuing an excessive number of sales licenses so that dealers' business remains profitable. Another important aspect is brand image which is why manufacturers make special efforts to get dealers to provide quality sales and after-sales service. To that end they set minimum standards in terms of number of salespeople, square meters of floor space, number of vehicles on display, number of mechanics in the service centre, etc.

Contracts between manufacturers and dealers are vertical. The types of vertical contracts and concerted practices in the vehicle distribution sector are regulated by the European Union which believes that these types of vertical agreements can improve economic efficiency.

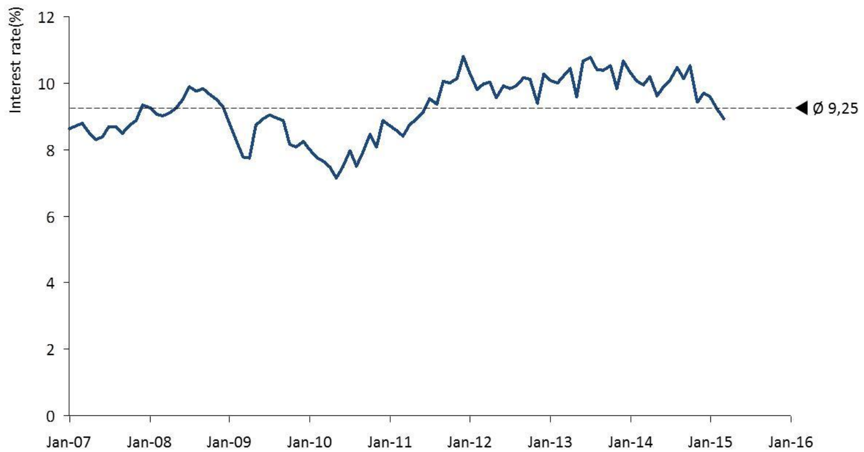
[3] Most recent report published by ANFAC.
[4] FACONAUTO report on automotive dealerships in Spain, 31 December 2012.
[5] Press release from May 2015 on passenger cars from AFNAC, FACONAUTO and Ganvam.

Following are the types of distribution agreements that can be found:

- **Selective distribution** system: the manufacturer sells its product, information and training to those dealers or service centres is has selected by applying a series of quantitative and qualitative criteria.
- **Exclusive distribution system:** the manufacturer designates a sales territory corresponding to each official dealer and guarantees that no competitor of the same brand will set up operations in that area.
- **Multi-brand distribution system:** the dealer sells new cars manufactured by several different automakers at the same premises. In this case, clearly differentiated areas of the showroom need to be set up to respect the image that each manufacturer intends to convey.

Another fundamental aspect of the automotive sector is financing. Dealers offer consumers the possibility of financing their purchase. Consumer credit offered by dealers typically ranges from 12 to 48 months. Interest rates in the vicinity of 9% are set by dealers.

Evolution of the reference interest rate in financing of automobiles



Source: Bank of Spain; in-house.

Distribution contracts agreed with the manufacturer define the dealer's geographical area or area of responsibility which typically define the relevant local market. Despite this fact, when customers are actively seeking the best deal, they tend to look beyond the geographical limits of the closest dealership. A car is a consumer durable and its purchase will usually stretch family budgets to their limit. For consumers, it is one of the most significant purchases they will make ranking second only to the purchase of a home. They therefore go to great lengths in analysing vehicles able to meet their needs and getting the most attractive prices on those vehicles and the best sales terms.

ii) Description of how revenues, costs and profit maximisation work together.

The goal of the automotive sector is to maximise the number of vehicles sold and minimise financing costs of stock. Since profit margins, especially in the case of dealers, are small due to the high level of competition among dealers and brands, business is mostly based on volume, i.e. the maximum number of sales at the lowest possible cost. This means that dealers must assume a great deal of risk with leverage reaching two times the firm's own resources.

Financing capacity within the sector plays a key role in this process of cost leadership with a view to maximising profitability. Automakers maximise profits by taking advantage of the financing capacity of their dealerships. For their part, dealers try to maximise their profits by offering financing to their customers as this allows them to increase their profit margin through the financial costs imposed on buyers.

iii) **Description of differentiation mechanisms.**

Automakers use different strategies with dealers to increase factory turnover of vehicles, improve their financial position and enhance their brand image. Most of these practices are related to differential pricing and remuneration for achieving sales targets. The most common are:

i) Volume discounts.

ii) Discounts based on the type of vehicle purchased.

iii) Discount based on a mix of volume and type of vehicle purchased.

iv) Discount for repeat purchases of vehicles over time.

v) Remuneration based on customer satisfaction.

vi) Remuneration based on investment in advertising.

vii) Remuneration based on distribution capacity.

On the retail side, dealers also employ various business strategies to take best advantage of consumer surplus. The most common are:

i) Volume discounts.

ii) Financing for the purchase of a vehicle.

iii) Increase advertising efforts to promote the make and the dealer.

iv) Foster consumer loyalty.

v) Offer novel after-sales services.

vi) Differentiate depending on the use made of the vehicle (business, renting, private).

vii) Offer discounts for obsolescence of certain vehicle models.

viii) Include different accessories.

On the demand side, price differentiation practices can benefit consumers in terms of lower prices and the proliferation of different types of services. These strategies help to enhance vehicle quality and spark new services allowing brands and dealers to differentiate themselves. They also provide incentive to consumers to acquire information thus contributing to increased competitiveness among dealers.

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