NFDA
NATIONAL FRANCHISED DEALERS ASSOCIATION

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National Franchised Dealers Association (NFDA)

RESPONSE TO BEIS CONSULTATION:
Reforming Competition and Consumer Policy: Driving growth and delivering competitive markets that work for consumers

Background

The NFDA is the voice of franchised car and commercial vehicle dealers in the UK. It is the UK's leading representative body focused on the interests of franchised or authorised motor vehicle dealers and repairers.

The NFDA's members operate from thousands of dealerships and support hundreds of thousands of UK jobs. Indeed, while the number of people employed in automotive manufacturing in the UK amounted to 168,000 in 2018, the sector as whole accounted for 823,000 UK jobs in total, much of which concerns employment at the retail/aftersales (dealer) level.[1]

PART ONE: COMPETITION

1 **Question 1.** *What are the metrics and indicators the CMA and government could use to better understand and monitor the state of competition in the UK?*

1.1 The NFDA has previously worked with BEIS (specifically the Business Intelligence and Readiness Directorate) to assess the evolving sectoral impacts of the Covid-19 crisis on automotive retail. This involved the NFDA reporting to BEIS (based on a sample of NFDA members) on issues related to Demand, Supply, Workforce and Operations.

1.2 It is conceivable that this type of industry reporting (albeit adapted to consider different metrics) could be used to give an indication of the state of competition in different sectors (including automotive). In automotive retail, this might, for example, capture both structural changes[2] as well as, for example, details of published promotional activity.

1.3 Interestingly, between 1993 and 2011, the European Commission published annually a "Report on car prices within the European Union" (**Car Price Report**).[3] Each Car Price Report was, in part, intended to identify pre-tax price differentials between different Member States so as to identify and help remove barriers to intra-EU trade; however, the reports also served as a barometer of the state of competition in key EU car markets generally. The report was discontinued by the European Commission in 2011; however, it could be reintroduced domestically to track positive or negative trends in pricing.

1.4 The timing of any reporting initiative is important, as it is worth noting that the automotive retail sector is, at least for certain brands, anticipating a significant transition to an agency model

[1] SMMT, Motor Industry Facts 2019
[2] For example, nos. of automotive brands (and their ownership), noting recent consolidation at the manufacturing level; trends in the no. of dealership (sales and aftersales) sites to indicate network expansion or contraction; trends in the no. of dealer groups (i.e. the extent to which the retail sector is becoming increasingly fragmented or concentrated); and changes to major distribution models (e.g. from selective distribution to agency), which would reduce intra-brand competition
[3] https://ec.europa.eu/competition/sectors/motor_vehicles/prices/report.html

over the next few years. Manufacturers are seeking to exert greater control over the retail proposition and end pricing, which could result in substantially reduced levels of intra-brand (and some inter-brand) competition in due course.

Question 2. *Should the CMA have a power to obtain evidence specifically for the purpose of advising government on the state of competition in the UK?*

1.5 From a practical perspective, it would be important to ensure that industry reporting does not become a burden for smaller bodies with limited resources, or their members. In any event, these bodies are often willing to volunteer information (they do not need to be compelled to do so) – even outside the parameters of market studies and investigations - provided the information is reasonably available. In this regard, the NFDA would always encourage government and regulators to engage with it first, to see what information would be useful and accessible, before issuing statutory notices etc.

Question 3. *Should government provide more detailed and regular strategic steers to the CMA?*

1.6 Automotive retail has previously been overlooked by government in favour of manufacturing, despite domestic manufacturing contributing significantly less to the UK economy than retail in terms of revenues and employment. This might be attributable to competition policy in the automotive sector being driven from mainland Europe where a number of large manufacturers are concentrated, or it might be attributable to a more fragmented/less high-profile retail sector. In any event, the UK is now freer to adopt practices and policies that are more closely aligned to domestic considerations and consumer welfare.

1.7 With this in mind, the NFDA has no objection to the government giving strategic steers to the CMA; however, it should be informed by closer cooperation with <u>all</u> levels of the supply chain (not simply those in the strongest negotiating position/with the greatest resources) to ensure the relevant steer is as comprehensive as possible and in the interests of UK consumers.

1.8 In the automotive sector, it is, for example, vital that the government also considers the key contribution made by retailers to the adoption of practices and technologies that support its net zero commitments and its plan for a Green Industrial Revolution; it is far from a pure manufacturing issue and requires a joined-up approach across all industry participants.

Question 4. *Should the CMA be empowered to impose certain remedies at the end of a market study process?*

Question 5. *Alternatively, should the existing market study and market investigation system be replaced with a new single stage market inquiry tool?*

1.9 The advantage of being able to impose remedies at the conclusion of a market study process (beyond the simple prospect of a market investigation absent UILs[4]) is speed. A market investigation and subsequent appeal process can take several years. Of course, the difficulty in being able to identify relevant issues and reliable remedies in the comparatively short timeframe of a market study is considerable (even if that timeframe were extended modestly). It is also important to note that structural remedies (to the extent that such remedies would be reserved for market investigations) are not necessarily more intrusive or far reaching than some behavioural remedies that might prohibit certain behaviours or business models.[5]

1.10 A new (single stage) market inquiry process might reconcile these challenges if framed correctly; however, before embarking on any such course of action (if such an option were developed), it would be appropriate for the CMA to engage (on each occasion) in a phase of industry consultation (through engagement with recognised industry bodies as well as other parties) to ensure that, from the outset, the scope of the relevant inquiry was focused and relevant. This industry consultation exercise ought to be repeated as the inquiry progresses to ensure it remains on track.

[4] UILs are not necessarily suitable in certain circumstances, particularly where a sector involves numerous parties
[5] Indeed, non-structural remedies considered by the CMA (then the Competition Commission) as part of the Private Motor Insurance market investigation could have rendered the credit hire industry unworkable

Question 6. *Should government enable the CMA to impose interim measures from the beginning of a market inquiry?*

Question 7. *Should government enable the CMA to accept binding commitments at any stage in the market inquiry process?*

Question 8. *Will government's proposed reforms help deliver effective and versatile remedies for the CMA's market inquiry powers?*

1.11 The NFDA has reservations with regard to extending the CMA's powers to the imposition of any interim remedy from the beginning of a market inquiry. At that stage of the process, the problems and potential solutions are less likely to be well understood and so forcing early changes in behaviour could feasibly prompt as many adverse consequences as it would resolve, as well as distorting market trends that the inquiry was intended to investigate in the first instance.

1.12 Separately, the NFDA considers that the CMA should be entitled to close a market inquiry at any point once commenced where either the sector is willing to agree to remedies that address identified concerns, or where market changes remove them.

Question 11. *Are there additional or alternative reforms to the current jurisdictional tests for the CMA's merger control investigations that government should be considering?*

Question 12. *What reforms are required to the CMA's merger investigation procedures to deliver more effective and efficient merger investigations?*

Question 13. *Should the CMA Panel be retained, but reformed as proposed above? Are there other reforms which should be made to the panel process?*

1.13 The application of the current UK thresholds (particularly the share of supply test) has previously led to a number of very small mergers in the automotive sector (the acquisition of single site dealerships in substantial financial difficulty) being investigated by the CMA. These transactions did not give rise to substantive concerns but although subsequently cleared, the intervention process created significant cost, timing and administrative burdens for the businesses involved (some of which have very limited resources and must act quickly).

1.14 It follows that revising the jurisdictional thresholds upwards makes sense (although a £100m turnover threshold would make relatively little difference). As regards share of supply, the problem is not the 25% (combined[6]) threshold itself; it is the uncertainty over the product and geographic frame of reference to which it can be applied that causes difficulties and costs for smaller businesses planning transactions.

1.15 A measure that might go some way to addressing some of the challenges that are created by the share of supply test (and the wide discretion afforded to the CMA to exert jurisdiction) would be the application of wider exceptions to merger fees[7] where the transaction is below a certain size or is cleared at Phase 1.

1.16 Another measure that the government should consider as an exemption to the notification or merger fee regime is where the parties involved generate only very limited profits (relevant to turnover) or have no real say in their competitive proposition, for example, where both acquirer and target are controlled by the same manufacturer under agency contracts; indeed, the anticipated transition to agency arrangements in some parts of the UK automotive retail sector may render future merger control in this space redundant (as all competitive dimensions will be determined by the manufacturer anyway).

Question 14. *Should the jurisdictional requirements of the Chapter I and Chapter II prohibitions be changed so that they apply to all anticompetitive agreements which are, or are intended to be, implemented in the UK, or have, or are likely to have, direct, substantial, and*

[6] For the avoidance of doubt, the NFDA would not be supportive of any change to the share of supply test that did not maintain the requirement for the transaction to give rise to an increment in share

[7] Current merger fees are too high or, at least, should be revised so that smaller parties/transactions do not subsidise the cost of larger and more complex matters

foreseeable effects within the UK, and conduct which amounts to abuse of a dominant position in a market, regardless of the geographical location of that market?

1.17 Yes.

Question 15. *Should the immunities for small agreements and conduct of minor significance be revised so that they apply only to businesses with an annual turnover of less than £10 million?*

Question 16. *If the immunity thresholds are revised for agreements of minor significance, should the immunity apply to a) any business which is party to an agreement and which has an annual turnover of less than £10 million or b) only to agreements to which all the business that are a party have an annual turnover of less than £10 million?*

1.18 Revising the immunity thresholds downwards is too blunt a change and risks harming businesses that are often unable to resist the demands of much more powerful negotiating partners on whom they depend.

1.19 In the automotive sector, even the largest retail businesses rely heavily on manufacturers. With this in mind, more radical reform is required and the NFDA would invite the government to consider further refinements to the substantive provisions of the Competition Act 1998, which might involve the introduction of the concept of 'relative dominance'.

1.20 This concept is part of other well-established and respected competition regimes, such as France and Austria; indeed, the concept was explored in the automotive context as part of a recent high-profile case involving a dealer and Peugeot Austria.[8] In sectors characterised by significant imbalances in bargaining power, the adoption of such a concept might help address important issues pre-emptively.

1.21 As far as the UK is concerned, the concept of economic dependence has already been acknowledged by the CMA in the form of the Groceries Supply Code of Practice, which provides protections for small producers whose supply chains are largely dependent upon very large supermarket customers. The NFDA considers there is a case for the UK competition regime to provide similar protection for authorised motor dealerships in the UK who are often economically dependent on a single or a few vehicle manufacturers, typically based in the EU or other territories. Such an approach would provide a very real opportunity to address market imbalances that could lead to poor outcomes for UK consumers in the form of higher prices, less choice and reduced convenience.

1.22 Indeed, the NFDA would go further than this and argue that tailored sector specific (retained) block exemptions, together with better and stronger guidance, are essential in ensuring that UK businesses are empowered to compete to their fullest potential and deliver the benefits and efficiencies set out in the government's ambitious plans.

1.23 As far as the automotive sector is concerned, the NFDA would argue for comprehensive block exemption reform which recognises that an independent automotive retail sector is key to the preservation of healthy competition and consumer welfare. Preserving the competitive independence of dealers (and addressing the application of indirect and economic restrictions) that might otherwise stifle innovation is critical to this aim. This can best be achieved through improved sector-specific block exemption regulation tailored for the UK (as opposed to the EU) economy. The government and the CMA need to be more ambitious in this area rather than relying on historic EU texts and very generalised rules that do not account for the issues affecting certain key sectors.

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[8] The FCA's decision (finding an abuse of dominance by Peugeot vis-à-vis its dealer Büchl GmbH) was upheld by the Austrian Supreme Court (17 February 2021, ref. 16Ok4/20d) - https://www.bwb.gv.at/en/news/detail/supreme-cartel-court-confirms-breach-of-ban-on-abuse-of-dominance-in-relation-to-new-car-distributio

Question 24. *What is the appropriate level of judicial scrutiny for decisions by the CMA in Competition Act investigations?*

Question 25. *What is the appropriate level of judicial scrutiny for decisions by the CMA in relation to non-compliance with investigative and enforcement powers, including information requests and remedies across its functions?*

1.24 In the interests of justice, the NFDA considers that the current remit and powers of the CAT (and its right to hear a full appeal on the merits) is entirely consistent with a proportionate, transparent and accountable investigative regime. Any dilution of the CAT's function or the scope of its competition reviews would, in the NFDA's view, represent a significant backward step.

PART TWO: CONSUMER RIGHTS

About car subscription services

As the future of mobility takes shape, consumers are increasingly looking for alternatives to traditional vehicle ownership models. One such alternative is a car subscription service (**CSS**), under which consumers pay a fixed monthly fee in return for a car of their choice and coverage of all the incidental costs associated with driving a vehicle (e.g. insurance, breakdown cover, road tax etc.) Some CSSs enable consumers to switch their vehicle mid-contract, while the terms of the service may vary between packages in certain other respects, for example in relation to a maximum number of monthly miles.

2 **Question 30.** *Do you agree with the description of a subscription contract set out at Figure 8 of the Consultation? How could this description be improved?*

2.1 Figure 8 of the Consultation defines a Subscription contract as follows:

> *The term "subscription" is used in this consultation to mean a contract between a consumer and trader over a period of time for the supply of goods (magazines, beauty products, food boxes) a service (gym membership, online dating site membership, web hosting) or digital content (digital music, eBooks, computer games).*

2.2 While the NFDA does not have any preliminary concerns regarding the definition of "subscription", it is concerned that BEIS does not appear to distinguish between subscription contracts for digital content (for example film or music streaming) and contracts which involve the supply of goods (particularly, high value goods) and/or services.[9]

2.3 In the latter case, subscription services for the supply of (non-consumable) goods can involve traders assuming a level of risk in the contract that is quite different to digital content providers – particularly if the contract involves a consumer taking temporary possession of goods for the duration of the subscription. This is notably the case with a CSS, which can entail the consumer taking possession of a high value asset, such as a vehicle, in return for a monthly fee that is just a fraction of the price of that asset. In addition to insuring the goods, the trader must ensure that the goods are returned undamaged at the end of the contract.

2.4 Accordingly, the NFDA believes that a "one size fits all" approach for all subscription services could lead to distortions in certain markets and the imposition of rules that are not appropriate for the sector and place a disproportionate burden on traders. For example, as far as digital content is concerned, the ability for content providers to seamlessly cease supply when a subscription service is cancelled by the consumer clearly sets it apart from a CSS under which

[9] The NFDA notes that some subscription contracts involve the hybrid supply of goods and services. For example a CSS involves the supply of goods (a vehicle) and services (breakdown cover, insurance etc.)

a vehicle would need to be recovered and inspected by the trader in the event of a consumer cancellation. This is directly relevant to the proposed additional "easy exit" rights referred to at Questions 39-40 of the Consultation.

2.5 The NFDA does acknowledge that many subscription services for goods involve products that are of relatively low value (e.g. beauty boxes or repeat "auto-ship" orders of certain products) and, as such, limiting any additional rights exclusively to digital content may not be the correct approach. Instead, BEIS may wish to consider including carve-outs for specific types of subscription contracts where the level of commercial risk assumed by the trader does not justify rights such as streamlined exit provisions for the consumer. Such an approach would be consistent, for example, with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, where regulation 28 sets out the limits on application of the 14-day cancellation rights for certain types of contracts.

3 **Questions 31 – 32.** *How would the proposals of clarifying the pre-contract information requirements for subscription contracts impact traders? Would it make it easier or harder for traders to comply with the pre-contract requirements? And why?*

3.1 The NFDA acknowledges BEIS' proposals in relation to the provision of clear pre-contract information for subscription contracts. The NFDA supports transparency and notes that the BEIS proposals are consistent with the pre-contract information requirements that already exist under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

4 **Question 33.** *How would expressly requiring consumers to be given, in all circumstances, the choice upfront to take a subscription contract without autorenewal or rollover impact traders?*

4.1 The NFDA has no objection in principal to the requirement for traders to proactively remind consumers that their fixed-term subscription contract is due to expire and roll-over into a new term (or a month-by-month rolling contract) unless cancelled.

4.2 However, a requirement to force consumers into making a binary choice between either (i) a fixed-term contract that automatically expires or (ii) a contract that auto-renews (or continues on a rolling basis) upon expiry would be disproportionate in the NFDA's view.

4.3 It is the NFDA's position that the risks associated with inert consumers remaining bound to subscriptions they do not want can be addressed via improved transparency and placing an obligation on traders to proactively remind consumers when the contract is due to expire. Not only would requiring traders to offer at least two different contract types during the sign-up process risk causing confusion to consumers, it would not necessarily deliver an outcome that is in consumers' interests.

4.4 For example, busy consumers may well value the option of a subscription contract continuing on a rolling basis when the initial term expires as it gives them time to make a decision or, alternatively, to continue to receive the services without any further action on their part. Provided that the consumer has flexibility and control (for example to exit upon provision of a reasonable notice period following expiry of the initial term) the NFDA does not see a need for a more onerous regulatory intervention that could, in effect, require many subscription providers to offer products that they do not currently offer.

4.5 Moreover, as far as CSSs are concerned, the NFDA considers that the risks of consumers being caught in "subscription traps" are likely to be low in practice given that, by and large, consumers are less likely to passively maintain a CSS given the relative prominence that driving and vehicle ownership has in consumers' lives.

5 **Question 39 – 40.** *Do you agree that the process to enter a subscription contract can be quicker and more straightforward than the process to cancel the contract (in particular after any initial 14 day withdrawal period, where appropriate, has passed)? Would the easy exiting proposal, to provide a mechanism for consumers that is straightforward, cost-effective, and timely, be appropriate and proportionate to address the problem described?*

5.1 In principle the NFDA supports the mechanism for exiting subscription contracts being clear, user-friendly and easy to exercise.

5.2 However, as noted above, the NFDA considers that subscription services for digital content may be better-suited for more streamlined, automated exit mechanisms given that the trader often has the ability to seamlessly cease supply remotely. The supply of a car is quite different and early cancellation could be hugely expensive for a trader from a residual value point of view, this in turn could affect the costs of supplying such services (which could be passed on to consumers in the form of higher prices) and, as a result, their accessibility.

5.3 The NFDA is concerned that if the BEIS proposals are implemented as proposed (i.e. without distinguishing between different types of subscription services) this could result in some traders taking on a disproportionate level of risk in cases where the subscription contract involves high value goods being transferred to the consumer for the duration of the contract. Any exit mechanisms would need to reflect the mutual obligation on the consumer to return the goods to the trader.[10]

6 **Question 41**. *Are there certain contract types or types of goods, services, or digital content that should be exempt from the rules proposed and why?*

6.1 As noted above in response to Question 30, the NFDA consider there would be a strong case for exempting CSSs from certain aspects of the BEIS proposals for subscription services. While the NFDA has no objection in principle to CSSs being subject to general transparency requirements (for example in relation to pre-contract information), the high value nature of the subscription and level of risk assumed by traders means that in practice the service needs to be assessed differently to other (e.g. digital content) subscriptions.

6.2 Rather than diluting the proposed protections for more standard / low risk digital content subscriptions (or low value consumable goods subscriptions), the NFDA considers that a bespoke carve-out from the proposed mandatory "easy-exiting" mechanisms as well as restrictions on auto-rollover would be appropriate for the motor vehicle sector.

6.3 The NFDA would be happy to engage with BEIS on how any such partial exemptions should be drafted.

PART THREE: CONSUMER ENFORCEMENT

7 **Q55**. *Do you agree with government's proposal to empower the CMA to enforce consumer protection law directly rather than through the civil courts?*

7.1 BEIS acknowledges in the Consultation that the existing regime for consumer law enforcement is working well. The NFDA shares this view and does not believe that the Consultation sets out a compelling argument as to why handing further sweeping powers to the CMA is necessary or proportionate.

7.2 The NFDA notes that in addition to the CMA's existing consumer regulatory role, the retail automotive sector is already subject to consumer regulation from Trading Standards, the Advertising Standards Authority (**ASA**) and, as far as consumer credit is concerned, the Financial Conduct Authority. This already has the potential to give rise to conflicting guidance and advice to the sector but, in terms of CMA enforcement, the industry can at least be assured that the CMA's current approach is to work with traders in the first instance to rectify perceived consumer law breaches, with court action only used as a last resort.

7.3 The NFDA further notes that local authority Trading Standards bodies have taken enforcement action against dealers in the automotive sector in recent years and this already serves as a powerful deterrent as far as consumer law compliance is concerned. From the NFDA's perspective, there is no apparent need to widen the CMA's existing powers in the way

[10] A CSS (which could, on cancellation, involve the return of a high value asset that has depreciated in value) is different from many other subscriptions, which tend to involve the trader either switching off a cancelled service (e.g. digital content) or simply ceasing to send further products (e.g. the next edition of a monthly magazine or the following week's food box etc.).

proposed by BEIS. Indeed, the spectre of draconian administrative fines from the CMA may weaken dealers' incentives to have candid discussions with regulators regarding emerging consumer compliance issues.

7.4 The NFDA does not believe that the mere fact that the CMA already possesses the power to impose administrative penalties for competition law breaches necessarily means that the same powers should be added to its consumer enforcement toolkit. This is because, unlike competition law, there is already an extensive enforcement regime for consumer protection that includes the ASA, local authority Trading Standards and National Trading Standards. The need for further powers in the space therefore needs to stand up to independent scrutiny.

7.5 Finally, the automotive sector would also require clarification as to how extending CMA enforcement powers in the consumer law space would work with the existing Primary Authority Scheme, particularly if national enforcement of consumer protection legislation increasingly moves from local Trading Standards to the CMA. For example, if a national dealership receives assured advice from its Primary Authority on a particular consumer protection issue, would that assured advice also provide comfort that the CMA would not impose a fine on the dealer if it's interpretation of the law happens to conflict with the dealer's Primary Authority?

8 **Q57**. *What processes and procedures should the CMA follow in its administrative decision-making to ensure fair and proportionate administrative decisions?*

8.1 The NFDA would expect the CMA's administrative decision-making to be subject to robust internal scrutiny by way of an objective and independent panel that is prepared to challenge the relevant case team before imposing large monetary penalties.

8.2 Further, the NFDA would expect the regime to make provisions whereby traders are still given an opportunity to settle cases by way of voluntary undertakings that address the CMA's substantive concerns. As a general proposition, the NFDA believes that the CMA should only move to impose monetary penalties as a last resort in cases where a trader has failed to bring its activities in line with consumer laws following an initial intervention by the CMA.

9 **Q58**. *What scope and powers of judicial scrutiny should apply in relation to decisions*

9.1 If the BEIS proposals are implemented, the NFDA believes that, as with competition infringement decisions, traders should have the right to a full appeal on the merits following the imposition of any monetary penalty. This is vital to ensure that CMA decisions can be properly scrutinised by the courts, which in turn should improve the integrity and probity of the CMA's decision-making and investigative process.

9.2 In the absence of full independent judicial scrutiny, it is not clear how the CMA could be properly held to account as regards the exercise of its significant administrative enforcement powers.

10 **Q61**. *Would the proposed fines for non-compliance with information gathering powers incentivise compliance? What would be the main benefits, costs, and drawbacks from having an option to impose monetary penalties for non-compliance with information gathering powers?*

10.1 The proposed fines are excessive and inappropriate, these fines will be used to intimidate businesses into settling spurious claims at an early stage. Given the significant turnover yet relatively modest profit margins if these fines were to be levied on a franchised dealer, it has the real potential to harm the viability of the business, this is further compounded by the fact that many dealers have not yet fully recovered from the covid 19. These are the wrong measures at the wrong time.

11 **Q65**. *What more can be done to help vulnerable consumers access and benefit from?*

11.1 ADR should always be considered to be a last step in the resolution process, more work needs to be done by government to inform vulnerable consumers of how to appropriately address a dispute before it reaches the final stage.

12 **Q66**. *How can regulators and government balance the need to ensure timely redress for the consumer whilst allowing businesses the time to investigate complex complaints?*

12.1 Complicated Complaints in the motor industry frequently take a substantial duration of time for retailers to properly investigate. These complaints regularly involve the need for either or both parties to seek expert reports and guidance. During the pandemic there have been many reports of consumers taking longer than usual to respond to disputes.

12.2 Our view before the pandemic emerged was that motor retailers needed more time to investigate a complaint. We welcome this opportunity to highlight this point to Government again. The NFDA now believe more than ever that the time taken to respond to claims is increased. The impact of the pandemic is still clearly being felt, having a detrimental impact on motor retailers' ability to receive and respond to cases effectively. Furthermore, retailers are still subject to sometimes unreasonable dispute deadlines.

13 **Q67**. *What changes could be made to the role of the 'Competent Authority' to improve overall ADR standards and provide sufficient oversight of ADR bodies?*

13.1 The NFDA think the accreditation of new and existing ADR bodies needs to be more robust. Utilising the Competent Authority in a oversight responsibility role, ensuring ADR accredited bodies are acting in a proper manner. It is also apparent that in the retail motoring sector, as well as others, ADR should be made mandatory as was recommended in the recent BEIS Impact Assessment Report. The Competence, expertise and impartiality of the ADR provider should be a critical and essential requirement of initial and ongoing approval.

14 **Q71**. *How can Government best encourage businesses to comply with these changes?*

14.1 The best way to encourage businesses to comply with changes has not been through punitive and onerous measures. The value of ADR schemes for retailers is that they also provide ongoing training, advice and sectoral insight which assist businesses in understanding their obligations and how best to meet them. This is how the Government will get business to comply with changes. Government is also in the unique position to raise awareness amongst both consumer and retailers, the best way to encourage compliance would be through education outreach programmes, seminars, and conferences. Disproportional fines are anti-business and rarely yield desired results for consumers.

15 **Q72**. *To what extent do you consider it necessary to open up further routes to collective consumer redress in the UK to help consumers resolve disputes?*

15.1 NFDA believes the current measures in place do not require any further update. By expanding the routes collective consumer groups can seek redress leads to the very real possibility of an unprecedented wave of challenges to retailers.