

overall purpose and objectives of the Draft Code. Secondly, Ford will provide its detailed comments, in **Annexure "A"**, on the various commitments set out in Items 4 to 9 of the Draft Code.

7. Ford's in-principle comments are as follows:

7.1. The underlying premise of the Draft Code, i.e. that the market is characterised by competition concerns arising from agreements between OEMs and dealers, insurers, and repair and maintenance service providers, which have the effect of substantially lessening or preventing competition and which have created barriers to entry in the automotive industry as set out in Clause 2 of the Draft Code (*Purpose and Objectives of the Code of the Conduct*), does not appear to be supported by empirical evidence. In this regard, apart from anecdotal evidence, Ford has seen no evidence which has been presented and there has been no finding that any conduct alleged to exist is in contravention of the Competition Act, No. 89 of 1998 (as amended) (the "**Competition Act**"). It is therefore not clear how significant these alleged competition concerns are which the Commission seeks to address.

7.2. In fact, it is Ford's view that the broad automotive market is competitive and is characterised by large numbers of players at all levels of the market, including large numbers of OEM's, large numbers of dealers and large numbers of repairers.

7.3. Regarding the extent of the Draft Code, there are other pieces of legislation in South Africa that address some of the issues raised in the Draft Code (and also already create obligations) including the BEE legislation and the Consumer Protection Act. While Ford has no concern with the Commission seeking to work together with the regulators established by the aforementioned legislation, it seems to Ford that the Commission has adopted an approach of delving into matters that may fall more appropriately within the remit of the foregoing regulators.

7.4. In addition, Ford believes that it is essential to balance the need for inclusive growth/opening up the market against very real safety, liability and commercial sustainability issues. It is imperative that the Commission, in seeking to achieve its outcomes, must have due regard to all safety, liability and commercial sustainability issues. Furthermore, there must be accountability and measurability in terms of the commitments made and the participants that wish to participate in the process.

7.5. Finally, it is important that the ultimate code of conduct must be in line with international norms and standards since all OEM's are global businesses and any commitments, to receive the necessary buy-in, must be capable of practical implementation within a global business model.

8. In light of the foregoing principles, attached hereto as **Annexure "A"** are Ford's comments on Items 4 to 9 of the Draft Code. The various commitments have been classified as follows:

8.1. **Green:** Commitments which Ford has no objection to implementing;

- 8.2. **Amber:** Commitments which Ford has no objection to implementing subject to the acceptance of the amendments as suggested by Ford; and
- 8.3. **Red:** Commitments which Ford believes cannot be implemented for various reasons.
9. Please do not hesitate to contact us should you have any questions. We look forward to any future engagements with the Commission regarding the process. In this regard, we believe that it would be useful to have a detailed engagement to explain all the underlying issues set out above and in the annexure hereto.
10. Kindly acknowledge receipt.

Yours sincerely

Jocelyn Katz and Wade Graaff

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[Transmitted electronically without signature]