

Motor Vehicle Block Exemption Regulation: looking forward

FIGIEFA's evaluation report

In April, FIGIEFA has released its own evaluation report of the Motor Vehicle Block Exemption Regulation (MVBBER), the legislative backbone for competition in the automotive aftermarket expiring in May 2023.

The purpose of this report was to complement FIGIEFA's input to the public consultation launched by the European Commission, by providing a systematic analysis of the efficiency of the MVBBER over the last years. To support its messages, and in particular the need to maintain and modernise a sector-specific competition legislation, numerous hands-on examples and evidences provided by Members have been incorporated.



FIGIEFA report looks in greater details to the functioning of the clauses impacting the daily business of the independent aftermarket in general and spare parts distributors in particular, namely the trade of spare parts, the access to technical information, and the possibility to service cars within the independent aftermarket without invalidating per se the vehicle's warranty.

It also contains numerous recommendations on how to reinforce and improve the MVBBER considering new technology and business trends. These recommendations will serve as a basis for FIGIEFA's information work towards the European Commission, which is expected to analyse the different options for the future of the MVBBER in the upcoming months.

European Commission's evaluation report

On the 28th of May, the European Commission released its Evaluation Report on the operation of the Motor Vehicle Block Exemption Regulation (MVBBER). Mandated by the MVBBER itself, this report is a "looking backwards" exercise to evaluate the efficiency of the MVBBER over the last decade.

The report underlines that overall, the evidence suggests that the MVBBER regime is useful and remains relevant for stakeholders. Nonetheless, the evaluation has identified a number of issues, which may limit the effectiveness, relevance and coherence of the intervention.

Upon the publication of these findings, the European Commission will start the policy-making stage of the review, in order to decide by the 31st of May 2023 whether to renew the current regime, revise it or let it lapse.



[Read the European Commission's evaluation report](#)

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Focus: Access to data

Launch of the Coalition's S-OTP paper



On the 30th of March, a large coalition representing automotive dealers, aftermarket and consumers called on the European Union to take on board its proposal for a Secure On-board Telematics Platform (S-OTP) when legislating on access to in-vehicle data. In the detailed document, “Creating a level playing field for vehicle data access: Secure On-board Telematics Platform Approach”, publishers of technical information, body

repairers, dealers and workshops, garage equipment suppliers, tyre manufacturers, road patrols, parts distributors and leasing and rental companies, as well as consumers, provide technical and commercial arguments sustaining their recommendation. It is a solution guaranteeing true consumer choice, effective competition and free entrepreneurship in a secure and technology-neutral manner.

With the advent of the connected car, competition now starts in the vehicle where the ability to safely and securely access in-vehicle data, functions and resources determines the quality of the service. The intention of the S-OTP is therefore to ensure that consumers can still choose and rely on service providers, many of them SMEs, to benefit from innovative, competitive and affordable services and products, improving road mobility, safety and sustainability. To do so, service providers have to be able to compete with all mobility stakeholders, some of whom might be tempted to act as “gatekeepers” through proprietary access methods to in-vehicle data.

The S-OTP solution is based on some key characteristics, such as:

- Consumer is in full control regarding the access to in-vehicle data;
- A clear separation of duties, with free management of access control for all service providers, including vehicle manufacturers;
- Unmonitored and undistorted communication between in-vehicle services and their respective back ends;
- Independent customer contract/direct consent management and service offering without the interposition of the vehicle manufacturer;
- Standardised access to in-vehicle networks via safe and secure software interfaces enabling bi-directional communication with the vehicle;
- The ability to safely interact with the driver through the vehicles human-machine interfaces.

The S-OTP concept is in line with the European institutions’ ambitious goals to foster innovation, and facilitates the digital transformation of mobility and the deployment of a digital ecosystem of services. The initial concept has been enriched to take into account the increased (cyber-)security requirements, by including certification of service providers and a robust approach to the development of secure applications, which consumers and operators can choose to install in their vehicles.

The coalition of associations has fed this concept into the study conducted by TRL on behalf of the European Commission, and invite the European legislators to take into account this detailed and complete solution (which enables consumers, vehicles and independent businesses to go smarter, safer, greener) when assessing legislative options.



[Read the detailed paper](#)

AFCAR presentation on S-OTP at the UN



On the 26th of May, Ronan McDonagh, FIGIEFA Technical Director, together with partners from AFCAR, the Alliance for the Freedom of Car repair in the EU, presented the Secure On-board Telematics Platform (S-OTP) solution to a working

group of experts of the United Nations Economic Commission for Europe (UNECE).

Ronan McDonagh and AFCAR Members insisted that UNECE must continue proposing technology neutral solutions, and not a specific solution such as the so-called Extended Vehicle. Indeed, ISO 20080, ISO 20077 and ISO 20078, as industry-led standardisation initiatives, do not sufficiently address all stakeholders’ needs and use cases. Ronan McDonagh underlined that topics related to remote access to in-vehicle data are not suitable for mutual recognition and harmonisation at UNECE or global level and that there are currently ongoing advanced discussions on access to in-vehicle in several regions and countries.

FEDA convinces the French government to avoid a national go-it-alone on access to data

On the 15th of April, the French government released a new legislation on the access to in-vehicle data under certain circumstances. Unlike its original intent, it didn’t include access to data for the repair, maintenance, diagnostics or technical inspection. FEDA had indeed strongly advocated against the initial draft for this kind of access, which was based on a (restricted) business-to-business approach, putting de facto the vehicle manufacturers in a privileged position and putting the competitiveness of independent, multi-brand businesses at risk. Also, any separate national legislation on the topic might have been not fully aligned with the dedicated legislation in preparation at EU level, which would have created detrimental legal uncertainties. This positively legitimises even further the need for a quick adoption at European Union’s level of a legislation on the matter.



[Learn more](#)



FIGIEFA feedback on the Digital Markets Act

In the context of the Digital Services Act package, the European Commission has recently published the Digital Markets Act (DMA) proposal – a regulatory instrument dedicated to set rules addressing very large online platforms which act as gatekeepers. The objective of the DMA proposal is “to ensure a contestable and fair digital sector in general and core platform services in particular, with a view to promoting innovation, high quality of digital products and services, fair and competitive prices, as well as a high quality and choice for end users in the digital sector.”

Over the past years, in the digital market, only few online platforms (e.g. Google and Amazon) have emerged as essential elements of today’s digital economy where they act as intermediary of the transaction between consumers and businesses. These platforms have a major impact insofar as they control access to and have gained a well-established position in digital markets, enabling them to act as gatekeepers. The emergence of these gatekeepers have brought some problems in terms of unfair business practices between consumers and businesses and weak contestability and competition in the platform markets. Furthermore, various national rules in the European Union are emerging in partial response to the problems identified, resulting in fragmented regulation and oversight. This is why the European Commission decided to act and published this proposal.

Considering the importance of the issue, FIGIEFA has provided a feedback to the public consultation launched in December 2020 by the European Commission on this DMA proposal. In this

detailed and substantiated feedback, FIGIEFA welcomed the DMA proposal, but also drew attention to the specific needs in the automotive aftermarket where vehicle manufacturers act as gatekeepers to their brand-specific aftermarkets. Vehicle manufacturers have here a dual role, as they are direct competitors to independent operators. In order to enable competition in the automotive aftermarket, a European legislation on effective access to in-vehicle data, with specific legal and technical requirements, is therefore needed.

The FIGIEFA input to the debate was and is important, because the European Commission is currently holding discussions at political level on access to in-vehicle data to decide whether a sector-specific or a horizontal legislation would be more appropriate, and whether a high level legislation such as the DMA could be sufficient. Considering the very specificities of the automotive aftermarket and its economic importance, in particular for consumers, FIGIEFA insisted that the European Commission should pursue its work on a sector-specific legislation, using as a basis the repair and maintenance provisions from the Type-Approval Regulation 2018/858. This way, sector specific rules for the automotive aftermarket would take precedence over the more general DMA rules in case of a conflict between those rules.

 [Learn more on the DMA](#)

FIGIEFA presentation at the Portuguese Council Presidency workshop on the Data Governance Act

On the 14th of April, upon invitation from the Portuguese Presidency of the Council of the European Union, Sylvia Gotzen, FIGIEFA Chief Executive, participated to a workshop on the Data Governance Act (DGA) proposal of the European Commission, which brought together over 70

digitalisation experts from the European Union’s Member States. The objective was to present the specific challenges of the automotive aftermarket in the digital era and related recommendations, and to discuss the impact of the DGA proposal.

Sylvia Gotzen emphasised that in instances where data holder (as single source provider for data, functionalities, and customer interaction) is directly competing with independent service providers, sector specific rules are vitally important. The DGA will focus on

voluntary data sharing, which is already an important step. However, it is not a sufficient instrument to allow effective competition in the aftermarket of ‘connected vehicles’ and automobile mobility services, where vehicle manufacturers themselves and independent operators are directly competing.

Sylvia Gotzen also expanded on the intended role for intermediaries, which are central to the DGA proposal. An intermediary as such and alone is not likely to foster the Digital Single Market, and related expectations shouldn’t be too high. There might be a positive potential if intermediaries undertake the task of ‘digital business brokers’, by fostering the creation of data and functions standards, encouraging data exchange and hosting large catalogues of supported applications, or acting as technical enablers of the data exchange (if required so by the third parties). However, robust legislation is necessary, especially in cases where dominant market players refuse data sharing from the outset.



Focus: Cybersecurity

European Commission's path towards cybersecure interoperability of spare parts

On the 6th of May, at the occasion of a Technical Committee for Motor Vehicles (TCMV), a body bringing together representatives of the European Union's Member States, the European Commission proposed to update the Type Approval Regulation 2018/858 to technical progress. It intends to include "provisions on secure access to OBD (security certificates) together with obligations for a (vehicle) manufacturer to share cybersecurity relevant information necessary for manufacturing/installation of replacement parts". This was supported by a large number of Member States, thanks to the awareness-raising efforts of FIGIEFA and AFCAR on the implications of the cross-referencing of the UNECE Cybersecurity Regulations R155 and R156 into European legislation, and their consequences for the independent automotive aftermarket.

As a next step, there will be a Motor Vehicle Working Group (MVWG) meeting on the 30th of June 2021 during which FIGIEFA will have the opportunity to officially present concerns of the sector regarding this transposition and current issues your companies are facing in the name of 'cybersecurity'. It will be the opportunity to recommend to Member States and to the European Commission possible suggestions for solutions.

FIGIEFA workshops on cybersecurity

On the 16th of March and on the 22nd of April, FIGIEFA organised webinars tailored for FIGIEFA Members on the impact of cybersecurity on the distribution and production of spare parts. These events offered an opportunity to exchange with Members and give them background information on the impact of the UNECE Regulation 155 on Cybersecurity and on how it will apply in the European Union and impact actors from the independent automotive aftermarket. The webinars addressed the issue from a legal, technical, political and practical approach with a particular focus on parts production and distribution.

Even though the UNECE Regulation 155 is directly applicable for vehicle manufacturers and their contracted suppliers, it has a cascading impact on the independent aftermarket. Members confirmed that this is a dramatic paradigm shift for the aftermarket and its independent operators. The UNECE Regulation R155 on Cybersecurity has indeed the potential to close the access to the vehicle and restrict the production of cybersecure relevant spare parts.

With this information, FIGIEFA will continue monitoring and accompanying the transposition of this UNECE Regulation 155 into EU law. In parallel, FIGIEFA will launch a call for experts for Members and create an internal working group to feed technical input for the activities at European Union's level.

ENISA takes on board FIGIEFA recommendations

On the 5th of May, ENISA, the European Union's cybersecurity agency, released its "Recommendations for the Security of Connected and Automated Mobility (CAM)".

This report aims to identify the main challenges and to propose actionable recommendations for the different stakeholders involved in the CAM ecosystem to enhance the level of security and resilience of CAM infrastructures and systems. Challenges in the CAM ecosystem arise from the whole lifecycle, therefore this report points to detailed challenges that the stakeholders are facing across Europe. The recommendations proposed by ENISA aim to guide all CAM ecosystem stakeholders and to contribute to the improvement and harmonisation of cybersecurity in the CAM ecosystem in the European Union. They will also influence the way the UNECE Regulation 155 will be cross-referenced into European legislation.

Over the last months, FIGIEFA had been involved in the consultation process for the drafting of these recommendations. As a consequence, several concerns of the independent automotive aftermarket and of parts distributors have been taken into account and were addressed. In particular, the automotive aftermarket operators have been recognised as important actors of the CAM ecosystem (point 1.2 of the report). Therefore, their need to receive cybersecurity relevant information has been included. In particular, it is highlighted that independent aftermarket operators must receive interoperability information so that independent replacement parts can be made compatible with the cybersecurity management strategy of the vehicle (points 2.4 and 2.5).



[Read the full Recommendations](#)

FIGIEFA interviewed on cybersecurity



The Jornal das Oficinas, a Portuguese magazine dedicated to the automotive aftermarket, published a two-steps interview of FIGIEFA on cybersecurity in its April and May editions. In this interview, FIGIEFA presents in greater detail how the Cybersecurity Regulations adopted at UNECE level have an impact on the entire aftermarket value chain, and explains the FIGIEFA work ahead to ensure that their transposition into European Union's legislation takes into account the specific needs of the independent automotive aftermarket.



[Read the first part of the interview](#)



[Read the second part of the interview](#)

Focus: Competition

European Parliament calls for more and better competition

On the 24th of February, the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO) released an opinion on the state of competition in the European Union, especially in a more and more digitalised landscape. Its recommendations are, to a large extent, positively echoing FIGIEFA's messages on a number of issues.

According to this opinion, existing competition rules (and in particular the Vertical Block Exemption Regulation) do not adequately meet the needs of a functioning single market, making it necessary for the European Commission to correct irregularities in particular in the digital market. It stresses the important role of ex ante regulation in complementing and strengthening ex post enforcement of competition law.

Modern rules and a better oversight should in particular ensure that markets characterised by large platforms acting as digital gatekeepers remain fair and competitive for innovators, businesses and new market entrants. IMCO therefore called on the European Commission to ensure and promote fair and secure access to data for all market participants, both in the Digital Markets Act and in its competition law enforcement practices, taking into account the issues of confidentiality and protection of trade secrets, as well as relevant European data protection legislation. In particular, it should empower consumers to control their data and provide them with additional rights in terms of data portability and interoperability, as laid down in European Union law, in order to ensure that the single market for data is based fair competition.

In this document, Members of the European Parliament noted that regulatory obligations must be proportionate and must in no way aim to create unjustified administrative barriers that prevent the further strengthening of the single market and fair competition. This could have wider implications for ongoing debates on cybersecurity and data privacy, which should not be used as a pretext to hinder competition.

IMCO also recommends that the European Commission takes into account the effects of access to personal and financial data when assessing market power, since data is a source of considerable economic power and leverage.

Members of the European Parliament also put some political pressure on the European Commission, asking it to report to the European Parliament on the effectiveness of the application of structural remedies in European antitrust competition law cases, and on the challenges posed to them.

The European Parliament finally stressed the need to guarantee fair competition in sectors that are essential to the everyday life of citizens. This could apply to road mobility, which is central to most Europeans.

This opinion was presented by Andrus Ansip, Vice-President of IMCO and former Vice-President of the European Commission in charge of the Digital Single Market. It will contribute to the wider ongoing debate on the Single market, competition and digitalisation of services.



[Access the full report](#)

Design protection: European Commission's consultation open

On the 29th of April, the European Commission launched a public consultation for the review of European Union's rules on industrial design enshrined in the Community Design Regulation and in the Design Directive. With this consultation, the European Commission seeks to obtain views of all those affected by design protection in Europe on selected issues and potential policy options and their impacts.

FIGIEFA and ECAR, the European Campaign for Car Repair, of which FIGIEFA is a member, will submit their input to this consultation, open until the 22nd of July, reaffirming the need to secure a Repairs Clause at European level.

A Repairs Clause rightly gives manufacturers full protection over the design of their new vehicles and in no way restrains the vehicle manufacturers from free and fair competition in the repairs market through tied or independent garages and body shops. However, this protection is not extended to the corresponding visible spare parts in the aftermarket. It thus leaves consumers free to repair their vehicles as they wish and with the spare parts of their choice. It ensures the full right to produce, commercialise and service any vehicles with competitive body parts and avoids thereby creating deleterious spare parts monopolies.



[Access the public consultation](#)



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Focus: Environment

Zero pollution action plan

On the 12th of May, the European Commission adopted an Action Plan "Towards a Zero Pollution for Air, Water and Soil", as a key component of the European Green Deal. Its ambition for 2050 is to reduce air, water and soil pollution to levels no longer considered harmful to health and natural ecosystems and to create a toxic-free environment.

This is translated into key 2030 targets to speed up reducing pollution at source. These targets include, among others:

- improving air quality to reduce the number of premature deaths caused by air pollution by 55%;
- reducing by 25% the EU ecosystems where air pollution threatens biodiversity;
- improving water quality by reducing waste, plastic litter at sea (by 50%) and microplastics released into the environment (by 30%);
- reducing the share of people chronically disturbed by transport noise by 30%;
- significantly reducing waste generation.

With this Plan, the European Commission intends to rethink the way goods and services are designed, produced, delivered, performed and/or used and disposed of, in order to promote solutions and processes preventing pollution at the source. The European Commission also wants to reinforce some key principles: notably, that EU environmental policies should be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay.

This Action Plan aims at providing a compass to mainstream pollution prevention in all relevant European Union's policies, to step up implementation of the relevant European legislation (e.g. REACH or the upcoming Euro 7) and to identify possible gaps. It will also influence how the 2021-2027 multiannual financial framework and the financial programme NextGenerationEU will be dispatched.

Also, from 2022 onwards, the European Commission will also encourage public and private sector operators to make 'zero pollution pledges' to promote best available, 'near-zero waste' options, and in general products and services proven to be less polluting over their whole life cycle, with a focus on Ecolabel products and services, including less toxic chemicals and materials. The aim is to provide consumers and customers with more offers and information on cleaner options.

On the 4th of June, the European Commission will launch the Zero Pollution Stakeholder Platform, to effectively mainstream the zero pollution agenda, help create co-ownership, promote collaboration and foster integrated solutions and actions that maximise synergies with decarbonisation and post-COVID 19 recovery efforts. It will also be a platform for the exchange of best practices and best available techniques to reduce pollution.



[Discover the full Action Plan](#)

Provisional agreement on the European Climate Law

On the 21st of April, the Council of the European Union, bringing together the 27 national governments, and the European Parliament reached a provisional political agreement on the European Climate Law. This agreement will still be subject to approval by the Council and Parliament, before going through the formal steps of the adoption procedure.

By 2050, the European Union should be climate-neutral, and achieve negative emissions after 2050. By 2030, net greenhouse gas emissions should be reduced of at least 55% in comparison to 1990. The European Commission might as well propose an intermediate climate target for 2040, if appropriate.

Also, the European Commission will engage with sectors of the economy that choose to prepare indicative voluntary roadmaps towards achieving the Union's climate neutrality objective by 2050.

The European Commission would monitor the development of such roadmaps, facilitate the dialogue at EU-level, and share best practices among relevant stakeholders.

It is important to highlight that the agreement includes "the competitiveness of the Union's economy, in particular SMEs and sectors most exposed to carbon leakage" as one of the key elements the European Commission shall consider when proposing the European Union's climate target for 2040. This is an amendment proposed by SMEUnited, of which FIGIEFA is a member, which was approved by the European Parliament and kept during the negotiations.



[Learn more](#)

Other EU news

LEDs in the aftermarket

In May, FIGIEFA was invited to participate, as an observer, to the European Commission's Forum for the Exchange of Information on Enforcement. This forum is a body established in 2020 as part of the Type-Approval Regulation 2018/858, and in which national type approval authorities share information related to market surveillance and the enforcement of type approval regulation.

During this May session, the Forum discussed aftermarket LED lighting products, following discussions on the matter at UNECE level. There is currently a UNECE Regulation 37 which sets requirements for incandescent lamps for automotive use. There is also another Regulation 128 for LED lamps. It was decided at UNECE level that replacement LED lamps for the aftermarket should be subject to an updated version of Regulation 37 (and not 128). The reason is to allow drivers to replace old incandescent lamps with LED ones, which are safer and have lower power consumption. However, European national type approval authorities have serious concerns about this issue, as there are currently a lot of low cost components coming from non-European countries, which are of very poor quality and would not meet the mandated performance requirements. On the product packaging, manufacturers typically declare they are 'not for use in on-road vehicles', but in practice this is impossible to enforce.

As there is currently no regulation of aftermarket products in force, UNECE's proposal is to update Regulation 37 to cover aftermarket LED solutions. Once this happens parts can get type approval and be officially certified for use. It means that in the future, the product packaging of LED lights for aftermarket should mention their type approval number. This will be required once the updated UNECE Regulation 37 comes into force in Europe. The timeline for this to happen is still to be confirmed. National authorities however are not fully satisfied with such a solution, as it is very difficult to them to enforce this regulation in practice. Indeed, national authorities, technical inspectors or the police cannot easily verify if a type approved component is being used on a vehicle.

Progress on this regulation will be monitored, as it is likely to impact the distribution of aftermarket lighting products.

New VAT and customs rules for e-commerce

As of the 1st of July, new VAT and customs rules will apply to e-commerce rules. The aim of these changes introduced by the European Commission is to simplify the existing VAT obligations and reduce the administrative burden for businesses engaged in cross-border online sales.

Everyone in the e-commerce supply chain is affected, from online sellers and marketplaces and platforms both inside and outside the European Union.

Towards new rules on hired vehicles for good transport

On the 3rd of June, European Union's national governments agreed on a general approach on revised rules for the use of hired vehicles for goods transport. The revision aims to clarify the current rules, ensure a uniform regulatory framework and ease the restrictions on the use of such vehicles.

Member States will not be allowed to restrict the use on their territory of a vehicle hired by a company established in another Member State, provided that the relevant registration and other rules in that member state are complied with.

European Union's Member States countries will have to incorporate the new provisions into their legislation by the 21st of August 2023.



[Read the text of the agreement](#)

EU Digital COVID Certificate

On the 20th of May, the European Parliament and the Council of the European Union, which brings together the governments from European Union's Member States, reached an agreement on the deployment of a EU Digital COVID Certificate. The aim of this certificate is to facilitate safe and free movement of citizens in the European Union during the COVID-19 pandemic.

This EU Digital COVID Certificate is a digital proof that a person has either been vaccinated against COVID-19, received a negative test result or recovered from COVID-19. When travelling, the holder of a EU Digital COVID Certificate should in principle be exempted from free movement restrictions.

Some countries already started issuing and using it, and it will become available in all European Union's Member States as of the 1st of July 2021. Iceland, Liechtenstein, Norway and Switzerland will also join this initiative.



[Learn more on the EU Digital COVID Certificate](#)

Transactions covered by the new changes include distance sales of goods within the European Union carried out by suppliers or deemed suppliers; domestic sales of goods by deemed suppliers; supplies of services by sellers within and outside of the European Union to consumers in the European Union; and distance sales of goods imported from third territories or third countries carried out by suppliers and deemed suppliers, except for goods subject to excise duties.



[Get ready for the new rules](#)



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Members news

France - Press campaigns on liberalisation of captive parts and on low-emission zones



FEDA has launched a far-reaching media campaign to raise awareness on the cost for consumers of captive spare parts. Similarly, FEDA is conducting intensive work to inform policy makers and citizens of the potential consequences of low-emissions zones in larger cities, which could have detrimental effects for a number of drivers. [More...](#)

Poland - Swift transition for SDCM management



Alfred Franke, long-time President of SDCM (and former FIGIEFA Board Member), decided to not run for another term, but will continue supporting the association. To honour his merits, the SDCM General Assembly nominated him "Honorary President". It also appointed Krzysztof Soszyński from Inter Cars S.A. as President, and Tomasz Bęben, who joined SDCM back in 2016, as managing director. [More...](#)

Turkey - 11th Aftermarket Conference



The Turkish automotive sector met at the 11th annual Aftermarket Conference. During this unique event dedicated to the aftermarket, participants discussed innovations in the automotive industry, upcoming opportunities, and challenges at both global and national levels. [More...](#)

United Kingdom - Mark Field appointed as IAAF Chief Executive



IAAF has appointed Mark Field as its new chief executive, succeeding Wendy Williamson who is retiring later this year. Mark Field has worked with the IAAF through the Federation's PR representative, Impression Communications, for the past nine years and will assume chief executive responsibilities from the 1st of July 2021. [More...](#)



The "FIGIEFA is working for you" video is available for you and your members with subtitles in your language on our [Youtube](#) and [Vimeo](#) channels!

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