

REVIEW OF THE CURRENT REGIME FOR THE ASSESSMENT OF HORIZONTAL COOPERATION AGREEMENTS

Questionnaire for stakeholders

Explanatory remarks

In November 2000, the Commission adopted Regulation (EC) No 2658/2000 on the application of Article 81(3) of the Treaty to categories of specialisation agreements (Specialisation BER), Regulation (EC) No 2659/2000 on the application of Article 81(3) of the Treaty to categories of research and development agreements (R&D BER), and, shortly thereafter, guidelines on the applicability of Article 81 of the Treaty to horizontal cooperation agreements (Horizontal Guidelines). The Specialisation and R&D BERs will expire at the end of 2010.

In order to prepare the regime to be applied after that date and to ensure that it both reflects current market realities and provides for the possibility of competitor cooperation where it contributes to economic welfare without posing a risk for competition, the Commission invites stakeholders to present their views on their experiences in applying the two BERs and the accompanying guidelines in practice. Receiving feedback from stakeholders is a key element of this review. The Commission welcomes comments from the business community and their representatives as well as other stakeholders including industry associations and consumer interest associations who have had direct experience of the application of the current regime for the assessment of horizontal cooperation agreements.

Replies to this questionnaire should be communicated to the Commission by no later than **30 January 2009**. In your response, please indicate clearly your identity and that of any interest you represent. Please also specify whether you are, or are representing, a company, business association, consumer interest organisation, public authority, law firm, academic institution or individual, private individual or some other entity. Received contributions will be published on the Internet. However, information which is clearly marked "confidential" will be treated as such. You are kindly requested to identify them in your reply by putting them in a separate annex. You may alternatively consider providing a non-confidential version of your reply, which is the Commission's preferred option.

Responses should be addressed to the Commission at:

European Commission
DG Competition
Antitrust Registry
B-1049 BRUSSELS

or by email to comp-greffe-antitrust@ec.europa.eu

specifying the reference "HT.1407 – stakeholder input"

QUESTIONNAIRE

The R&D and Specialisation Block Exemption Regulations deal with joint R&D agreements and specialisation as well as joint production agreements respectively. The Horizontal Guidelines cover the following forms of cooperation between competitors: (i) R&D agreements; (ii) production and specialisation agreements; (iii) purchasing agreements; (iv) commercialisation agreements; (v) agreements on standards; and (vi) environmental agreements.

1. For each of the topics referred to above, please report any major problems raised by the application of the Specialisation and R&D Block Exemption Regulations and the Horizontal Guidelines. Please indicate also the sector in which such problems were encountered and the type of solution found, if any, to address the problems and results obtained.
2. For each of the topics referred to above, please report the competition issues in relation to which you found that the application of the Specialisation and R&D Block Exemption Regulations and the Horizontal Guidelines have proven to be very useful in order to protect competition.
3. According to your experience, do you consider that some of the provisions in the current Specialisation and R&D Block Exemption Regulations and/or parts of the text of the Horizontal Guidelines have become unsatisfactory in order to address issues inherent to the economic developments that have taken place at the national and European level? Please provide reasons for your response.
4. In light of the changes that you deem likely to occur in the European economies, do you believe that there are any specific horizontal competition "issues" not currently addressed by the current Specialisation and R&D Block Exemption Regulations or Horizontal Guidelines and that should be considered in the review (e.g., information exchange)? Please provide reasons for your response.