Competition: categories of agreements and concerted practices, art. 85(3) of the EC Treaty (amend. regul. 19/65/EEC)

1998/0287(CNS) - 30/09/1998 - Document attached to the procedure

OBJECTIVE: to extend the scope of the block exemption with regard to vertical agreements (extension of the authorisation provided for by Regulation (EEC) No 19/65). SUBSTANCE: the proposal for a Council Regulation proposes extending the scope of the authorisation provided for by Regulation (EEC) No 19/65 to permit the Commission to declare by regulation that certain categories of agreement are exempt from Article 85(1) of the Treaty: this applies to all types of vertical agreement between two or more undertakings, each operating at a different stage of the economic process, in respect of the supply and/or purchase of goods for resale or processing, or in respect of the marketing of services, including exclusive distribution agreements, exclusive purchasing agreements, franchising agreements, selective distribution agreements and combinations thereof. The block exemption would not apply to vertical agreements concluded between actual or potential competitors, unless they are, on the one hand, non-reciprocal agreements none of the parties to which have an annual turnover exceeding ECU 100 million or, on the other hand, the agreement is between an association of retailers and its members, or between such an association and its suppliers, unless the members of the association are small or medium-sized enterprises as defined in the annex to Recommendation 96/280/EC. In due course, it is intended that an exemption regulation should be adopted for all types of vertical agreement which, based on a broader concept, would be aimed at identifying vertical restrictions, or combinations thereof, which, if implemented, would entail loss of the benefit of block exemption ('black' clauses). The proposal also indicates that all exemption regulations concerning vertical agreements which are adopted under the powers granted to the Commission by the Council must specify the criteria, such as the level of the market share thresholds, for identifying the circumstances in which, having regard to the economic effects of the agreements concerned, the block exemption regulation is no longer applicable. Finally, the proposal specifies the circumstances in which the competent authorities of the Member States may withdraw the benefit of the block exemption.