Horizontal cooperation agreements: application of competition rules

2000/2154(COS) - 21/09/2000 - Text adopted by Parliament, single reading

In adopting its report drafted by Mr. Jonathon EVANS (EPP-ED, UK), the Parliament welcomed the Commission's proposal to assess horizontal co-operation agreements on the basis of an economic approach, within the context of the Commission's wide-ranging reform of competition policy, but urges the Commission for improved clarification of the provisions governing whether horizontal or vertical guidelines should be applied. However, it expresses its concern at the opinion chosen by the Commission for dealing with horizontal restraints, which differs from that used for vertical restraints. In this case, instead of a single exemption regulation by category, there are two specific draft regulations which do not cover all the exempted restraints, together with a set of guidelines covering many agreements not referred to in the regulations, which implies different legal treatment for various types of agreement. Parliament considers that some of the agreements included in the guidelines, such as those on purchasing and marketing agreements, should be included in an exemption regulation by category. It believes that the maximum duration for exemption in cases where the results are jointly exploited should be increased from five years as proposed in the regulation to ten years in order to provide legal certainty and security to the parties in respect of significant R&D projects. The Commission is invited to consider the new drafts as an intermediate step in the development of a comprehensive block exemption regulation for horizontal restraints. Concern is expressed at the Commission's proposed exclusive use of market share as the measure of market power, and calls on the Commission to examine additional means of more accurately assessing such market power. Parliament calls on the Commission to make it perfectly clear, by including them in the guidelines, that reciprocal or unilateral agreements on supply ('trade supplies') are not affected by the ban laid down in Article 81 (1). It recognises the need to prevent the re-nationalisation of EU competition law and urges the Commission to discourage national competition authorities from undertaking a second consideration of such exempted agreements under their own national law. It expresses its concern that guidelines 122 and 141 set an arbitrary market power threshold of 15% and urges the Commission to increase this threshold to a minimum figure of 20%. It also calls on the Commission to increase the length of the transitional period for introduction of these regulation to two years.