Basic information

1997/2022(COS) COS - Procedure on a strategy paper (historic)	Procedure completed
Competition policy: vertical restraints. Green Paper **Subject** 2.60.01 Trade restrictions, concerted practices, dominant positions	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	ECON Economic and Monetary Affairs, Industrial Policy	THYSSEN Marianne (PPE)	18/12/1996
Council of the European Union			

Key events

Date	Event	Reference	Summary
21/01/1997	Additional information		Summary
22/01/1997	Non-legislative basic document published	COM(1996)0721	Summary
17/02/1997	Committee referral announced in Parliament		
03/07/1997	Vote in committee		Summary
03/07/1997	Committee report tabled for plenary	A4-0242/1997	
18/07/1997	Debate in Parliament		
18/07/1997	End of procedure in Parliament		
22/09/1997	Final act published in Official Journal		

Technical information

Procedure reference	1997/2022(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 148
Stage reached in procedure	Procedure completed
Committee dossier	ECON/4/08580

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A4-0242/1997 OJ C 286 22.09.1997, p. 0008	03/07/1997	
Text adopted by Parliament, single reading		T4-0417/1997 OJ C 286 22.09.1997, p. 0326-0347	18/07/1997	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(1996)0721	22/01/1997	Summary
Non-legislative basic document	COM(1999)0101	28/04/1999	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR0114/1997 OJ C 244 11.08.1997, p. 0038	11/06/1997	
EESC	Economic and Social Committee: opinion, report	CES0769/1997 OJ C 296 29.09.1997, p. 0019	09/07/1997	Summary

Competition policy: vertical restraints. Green Paper

1997/2022(COS) - 18/07/1997 - Text adopted by Parliament, single reading

In adopting the report by Mrs Marianne THYSSEN (PPE, B) on the Green Paper on vertical restraints in EC competition policy (agreements between producers and retailers), Parliament expressed the view that it was necessary to formulate clear policy guidelines in a manner ensuring legal certainty for an effective, consistent and cost-efficient competition policy which promoted consumer interests and the competitiveness of European undertakings, with specific attention being paid to small and medium-sized undertakings. In general, Parliament agreed with the Commission that a large number of agreements between SMEs should be excluded from the scope of the Union's competition rules. It noted that businesses were on the whole opposed to the use of the market share approach, which was regarded as not generally applicable and as being attended by insufficient legal certainty; Parliament therefore called on the Commission to examine the possibility of including parameters other than market share as threshold values. Parliament advocated a system whereby the bottom segment of the market would be exempt, on the basis of the 'de minimis' notice, from the provisions of Article 85(1) of the EC Treaty. Parliament recommended: - that block exemptions should leave room for more flexibility without, however, disturbing the balance between the contracting parties; - that consideration be given to the insertion of a criterion based on market share and above which vertical agreements would enjoy only an easily rebutted presumption of compatibility with the block exemptions; - that consideration be given to a suspension of the application of the block exemption scheme above a certain market share, except for undertakings with an annual turnover below a level to be specified; - that enterprises which concluded agreements that did not comply with the block exemption criteria should retain the option of individual notification. The report also called on the Commission to investigate the possibility of adopting a number of reference decisions in relation to which subsequent applications could be assessed. Lastly, taking the view that competition may be restricted not only by vertical restraints but also by vertical integration, Parliament asked the Commission to carry out a comparable assessment of the impact of the two strategies on competition.

Competition policy: vertical restraints. Green Paper

1997/2022(COS) - 22/01/1997 - Non-legislative basic document

OBJECTIVE: The Green Paper offers a re-evaluation of the subject of vertical restraints in Community competition policy (exclusive distribution, exclusive purchase, selective franchising and distribution) with the aim of revising the rules. SUBSTANCE: The Commission's analysis shows that,

given their considerable effects, positive or negative, on market integration, vertical restraints are of major importance for Community competition policy. While the policy has proved itself successful over more than thirty years, a review is now necessary for the following reasons: - the single market legislation is now largely in place; it is therefore possible that in future, obstacles arising from the private sector (e.g. agreements between companies) will be more likely to threaten the unity of the internal market than impediments of a public nature; - the three regulations governing exclusive purchase, exclusive distribution and franchising are about to expire; - there have been major changes (especially thanks to the use of information technology) that may have implications for Community policy on vertical restraints. The Commission also stresses that distribution, the sector most affected by vertical restraints, represents a significant part of the internal market. it employs 22 m persons (15.6% of the total active population), represents 12.9% of value added and accounts for 4.5 m enterprises (29.4% of all undertakings). All companies need distribution, and quality and efficiency of service are crucial factors for consumer choice. However, distribution, while a dynamic sector, is also characterized by barriers to entry which tend to bolster the market power of certain distributors in oligopolistic markets. While there are examples of distributors moving outside their 'home' market and some Europe-wide chains are emerging, distribution, particularly at the retail level, is still largely national. The Commission asks whether this national character - linked to the need for economic integration of supply chains, a tendency now reinforced by the economies deriving from information technology - has implications for its competition policy. The Green Paper sets out the existing economic and legal framework governing vertical restraints, and summarizes the results of a preliminary inquiry targeted on producers, retailers, professional organizations, consumer associations and experts. This exercise has enabled the Commission to define four (non-exhaustive) options for the future direction of Community policy on vertical restraints: - Option 1 - retention of the current system, with its advantages in both material and procedural terms (possibility of a global economic assessment of the benefits of agreements; favouring of market integration; possibility of creating innovatory forms of distribution; notification system; 'one-stop shop'; legal security; etc); - Option 2 - wider block exemptions: this would make the block exemption arrangements more flexible, and would extend the range of beneficiaries. In this case, either a block exemption Regulation for selective distribution would be adopted or there would be an arbitration procedure for disputes concerning admission to such distribution systems. The special arrangements for beer and petrol supplies would be made more flexible; - Option 3 - more focused block exemptions: this option would restrict the existing block exemptions to companies with a market share under a certain threshold (e.g. 40%), - Option 4 - reduction of the scope of the provision banning agreements: this option would introduce, for parties with a market share under 20%, a (rebuttable) presumption of compatibility with Article 85(1) of the EC Treaty ('negative clearance presumption').

Competition policy: vertical restraints. Green Paper

1997/2022(COS) - 09/07/1997 - Economic and Social Committee: opinion, report

The Committee welcomes the green paper because it initiates a revision process in an area of great sensitivity for competition policy, company competitiveness and single market integration. The Committee hopes that solutions will be devised for SMEs which facilitate their re-inclusion within the scope of the block exemption regulations, thereby helping them to measure up to market globalization. The current block exemption regulations, which are certainly too rigid and often difficult to interpret, should be revised and adjusted in a flexible way. The Committee would indicate the need for clarification of and coordination between the Commission's Notice on Agreements of Minor Importance ("de minimis", COM(96) 722 final) and the options set out in the green paper, especially Option IV which provides for rebuttable presumption of compatibility with Article 85(1) up to the 20% market share threshold.