Basic information

2000/2154(COS) COS - Procedure on a strategy paper (historic)	Procedure completed
Horizontal cooperation agreements: application of competition rules **Subject** 2.60 Competition	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	ECON Economic and Monetary Affairs	EVANS Jonathan (PPE-DE)	24/05/2000
Council of the European Union			

Key events

Date	Event	Reference	Summary
27/04/2000	Non-legislative basic document published	N5-0304/2000	Summary
03/07/2000	Committee referral announced in Parliament		
29/08/2000	Vote in committee		Summary
29/08/2000	Committee report tabled for plenary	A5-0217/2000	
20/09/2000	Debate in Parliament		
21/09/2000	Decision by Parliament	T5-0403/2000	Summary
21/09/2000	End of procedure in Parliament		
17/05/2001	Final act published in Official Journal		

Technical information

Procedure reference	2000/2154(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/5/12862

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A5-0217/2000 OJ C 135 07.05.2001, p. 0012	29/08/2000	
Text adopted by Parliament, single reading		T5-0403/2000 OJ C 146 17.05.2001, p. 0020-0106	21/09/2000	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	N5-0304/2000 OJ C 118 27.04.2000, p. 0003-0039	27/04/2000	Summary

Horizontal cooperation agreements: application of competition rules

2000/2154(COS) - 27/04/2000 - Non-legislative basic document

PURPOSE: in this Communication concerning competition rules applicable to horizontal cooperatio agreements, the Commission invites all interested parties to submit their comments regarding the following three texts: - a draft block exemption Regulation on the application of Article 81 (3) of the treaty to categories of specialisation agreements, - a draft block exemption Regulation on the application of Article 81 (3) of the treaty to categories of research and development (R&D) agreements, - draft guidelines on the applicability of Article 81 (3) to horizontal cooperation agreements. CONTENT: the review of the competition rules applicable to horizontal cooperation agreements started in 1997 with a wide§ranging consultation of European companies. It showed that industry regards the existing block exemption Regulations as too focused on legal clauses, and that there is a need for clearer guidance on the assessment of those categories of cooperation which are not covered by any block exemption. The draft documents thus aim to give better guidance to market participants. They will replace the fragmented and partly outdated notices and regulation in this area. The review is also an essential pillar in the Commission's attempts to modernise competition policy. The draft block exemption Regulations are intended to replace the existing Regulation on Specialisation and R&D. In comparison with the existing Regulations, the drafts are designed to be more user§friendly, with greater clarity and an increased scope of application. The new block exemptions will replace the existing system of specifically exempted 'white list' clauses by a general exemption, for companies holding no significant market power, of all conditions under which undertakingss pursue R&D and specialisation agreements. However, 'hardcore' restrictions (price-fixing, output limitation or allocation of markets or customers) will generally remain prohibited. The market share threshold for exemption is set at 20% for specialisation agreements, and at 25% for R&D agreements. The draft guidelines complement the draft block exemption Regulations. They are applicable to R&D and production agreements not covered by the block exemptions as well as to certain other types of competitor collaboration (e.g. joint purchasing, or joint commercialisation). The Guidelines describe the general approach which should be followed when assessing horizontal cooperation agreements and set out a common analytical framework. This should help companies to assess with greater certainty whether or not an agreement is restrictive of competition and, if so, whether it would qualify for an exemption.

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.