



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to vertical restraints block exemption regulation

September 2009

About Consumer Focus

Consumer Focus is the statutory organisation that champions the interests of consumers across England, Wales, Scotland, and, for post, Northern Ireland.

We were formed through the merger of three organisations – energywatch, Postwatch and the National Consumer Council (including the Scottish and Welsh Consumer Councils).

Through campaigning, advocacy and research, we are the voice of the consumer in private and public sectors by working to secure fairer markets, greater value for money, and improved customer service.

Consumer Focus and competition policy

Although Consumer Focus is a new body, the UK organisations that were merged to create it (see above) have a significant track record in engaging with competition policy issues on behalf of consumers. This includes distribution agreements, monopolies and mergers, abuse of dominant positions, price discrimination and intellectual property issues. The former National Consumer Council was actively involved in EU competition policy issues, both in its own right and as a member of BEUC.

The provisions of Article 81(3) are of particular relevance to Consumer Focus in that certain practices prohibited under Article 81(1) can be declared not to apply where they contribute to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit. We therefore have a particular concern on behalf of consumers, both in relation to the draft regulation and the proposed new guidance, and to the processes by which the Commission evaluates what is a fair share of any benefits to consumers of exemptions under 81(3).

Introduction and summary

Consumer Focus welcomes the opportunity to contribute to the Commission's policy development in this key area for consumers.

We recognise that the Commission has generally taken a robust approach to enforcing the Treaty Articles on competition policy, to the benefit of consumers. We urge it to continue to do so. We note that some sectors of industry are using the economic recession as a pretext for demanding changes to the Regulation and Guidelines which would allow them to avoid competitive pressures.

Consumer Focus urges the Commission to resist pressure for a retreat into protectionist policies. These would serve to delay the onset of economic recovery, as well as adversely affecting consumers.

We also urge the Commission to ensure that markets can be driven by the nature of *actual* consumer demand, and that they are not constrained by limitations imposed by suppliers and distributors to provide the type of markets that they think consumers *ought* to want.

In addition to our detailed comments, we would particularly like to highlight the following:

- **Internet sales:** the internet provides an extraordinary opportunity to introduce - at long last - a single market in which consumers can shop easily cross-border for goods and services, and in which competitive businesses can grow by meeting their needs. This single e-market needs to extend not just to electronic goods, music, books and films, transport and tourism services, but also to a much broader range of goods and services
- We support the Commission's aim of removing limitations on the opportunities for consumers to purchase goods or services online in any Member State that they choose. We generally agree with the Commission's overall approach to the difference between active and passive sales over the internet. We support the proposed measures to make it easier for consumers to shop cross-border on the internet, although we have some concerns about possible loopholes in the text
- However, we are disappointed that the Commission has missed this important opportunity to update Community policy in order to reflect how the market is actually operating, and will increasingly operate in future. This runs counter to the single market aims which the Commission itself has set out in successive Community consumer action programmes. Online shopping and online information searching are now widespread, but the proposed legislation and guidelines do not reflect this
- We would like to see a new hardcore restriction on any limitations on the freedom to supply goods and services online, where the intention is solely discriminatory and aimed at partitioning the market. Under this heading we would include practices such as minor and unnecessary modifications to products intended for different markets, in order to create territorial protection
- We would also like to see the Commission adopt a broader strategy aimed at eliminating price discrimination online and to tackle the problem of fragmentation of IP rights across the EU27

- **The 'bricks and mortar' requirements:** We strongly oppose the proposed right to impose 'bricks and mortar' requirements. We see no justification for allowing manufacturers to require bricks and mortar operations to be established before allowing retailers to sell over the internet. To do so would significantly undermine the growth of internet shopping and adversely affect efficiency, consumer choice and competition in the single market
- **Hardcore exemptions:** We are concerned about the potential relaxation of the approach to exemptions under 81(3). We recognise that most provisions in the proposal go some way towards minimising the potential harmful effects of vertical restraints, but we are concerned that some of the proposals may leave the opposite affect.
- **Resale price maintenance:** We are strongly opposed to any moves that would allow any form of resale price maintenance, particularly during a period of economic recession
- **Protection for 'new' products:** We see no justification in principle for allowing 'new' products protection from competition for two years. This is a potential major loophole. Manufacturers would be able to introduce so-called new products on a frequent basis in order to enjoy the anti-competitive advantage of the exemption, and to segment and price-discriminate between European consumers and across European markets
- **'Free-riders':** We are thoroughly unconvinced by the 'free rider' arguments put forward, which we regard as being driven by a desire to restrict consumer-benefiting price competition
- In addition, we think that the processes by which the Commission evaluates what is **a fair share of any benefits to consumers** of exemptions under 81(3) needs to be strengthened, including to identify any detriment to consumers

The draft regulation: detailed comments

Preamble 10

The new text introduces the presumption that vertical agreements should not be exempt if they 'are more likely than not to restrict competition and harm consumers'. This shifts the balance in favour of consumers, and is welcome.

Exemptions: threshold (Article 2.2)

We note that the proposed applicable threshold is €50 million, unchanged from the 1999 regulation. The effect of this is potentially to bring more vertical agreements within the scope of the regulation, to the benefit of consumers, and we support this proposal.

Exemptions (Article 2.5)

We support the exclusion of the car sector from this block exemption, as we believe that this sector contains a series of pernicious anti-consumer franchise agreements which need specific remedies. However, we are not convinced that such agreements are not also present in other sectors. We would therefore welcome analysis by the Commission to identify whether these restrictive features of this sector are also present in other retail sectors and to identify the benefits and detriment to consumers.

Market share (Articles 3 and 8(g))

We understand the intention behind the Commission proposal to take into account the market share of both the supplier and the buyer but we question how this will operate in practice. It may introduce some uncertainty into business arrangements and it may be difficult for some parties to estimate the market share of their trading partners. In any case, market share may change substantially over relatively short periods of time. As a remedy this appears to us to be disproportionate, and it may be more productive for the Commission to set out the actual practices which it seeks to prevent.

The draft guidelines: detailed comments

Applicability of Article 81 to vertical agreements (Paragraph 6)

We would generally agree that the degree of market power at any single level of the market, either producer or buyer, is likely to be a significant indicator of potential competition problems.

However, we are concerned that the proposal does not appear to address the possibility of markets where a large number of suppliers have similar agreements that have the effect of creating a network of market-foreclosing agreements. For example, we may see a trade association advise individual members, who do not possess unilateral market power, on contracts that taken together have the effect of creating a barrier to consumer choice and cross-border commerce.

We note with interest that the Commission itself noted the importance of this form of network in its review of the Block Exemption on the distribution of new motor vehicles. Such networks need not be organised. Indeed, most examples of such contracts are likely to emerge from a well established 'culture' within any given sector. For example, perfume manufacturers tend to use similar distribution methods and so are likely to place the same restrictions on retailers. While no one firm may have market power, in a collective sense, the sector as a whole places restriction on retailing that have the same effect as the exercise of unilateral market power by a monopolist.

Applicability of Article 8 (Paragraph 7)

Again, we note the apparent presumptive focus on unilateral actions, but we suggest that the Commission should also take account of the impact of networks of similar or identical agreements on the ability of consumers to access goods either within their borders or from other EU Member States.

Safe harbour created by the Block Exemption Regulation (Paragraph 23)

As for Paragraphs 6 and 7 above, we draw attention to the potential impact of a network of similar agreements in a sector that creates uniformity in contracting that restricts competition.

We note that the Commission itself recognised this issue when considering network effects in the new car distribution market. The concerns raised in that instance are applicable in other sectors.

For instance, the Commission was concerned that producers may apply artificially high costs on its retailers as a way of discouraging them from supplying more than one marque (brand), thus restricting competition. We note with concern the Commission's apparent ease with 'bricks and mortar' requirements that create precisely the same artificial cost inflation problem that rightly concerned the Commission.

We fail to see what the difference is between networks of competition-restricting conditions that artificially inflate costs. Producers will argue that such restrictions are designed to enhance the consumer experience, but consumers are rarely allowed to choose between different distribution mechanisms to allow them to place a value on such

agreements. We are concerned that the Commission is taking too sanguine a view of the cumulative effect of a series of artificial cost-inflating conditions that have the effect of stifling incentives to compete in the marketplace.

For example, we may face a market where every manufacturer requires that all retailers maintain bricks and mortar stores and undergoes expensive fittings investment. The rationale for this may be the provision of 'service' to consumers. The end result is that the internet as a distribution channel is hampered. This is because either existing retailers cannot easily offer price competition – both because their costs are inflated and because they have been forced to carry out significant sunk cost investments. This reduces their willingness to risk upsetting their supplier by selling to consumers outside of their 'official' area. Ignoring the cumulative network effect of individual agreements in an industry runs the risk of missing a serious restriction on consumer choice and competition.

Vertical agreements containing provisions on intellectual property rights (IPRs) (Paragraphs 31-45)

We are concerned about the lack of clarity on the application of agreements with IPRs provisions under the proposal which can lead to further divisions of already heavily segmented EU markets for online content. The complexity of IPR restrictions has hampered the growing consumer demand for online goods and services in the EU by erecting territorial barriers and leading to price discrimination. For example the Commission's investigation into Apple's practices of operating its online iTunes stores in Europe found the company guilty of applying price discrimination to UK consumers, but allowed territorial restrictions placed by Apple in some EU member states as compatible with Article 81 of the vertical agreement¹. The iTunes case illustrates the complexity of the problem and hence greater clarity is required to determine conditions under which vertical agreements with IPR clauses are eligible under the exemption.

Hardcore restrictions (Paragraphs 47 et al)

We are very concerned at the proposal to introduce the principle that hardcore restrictions may be rebuttable. This would appear seriously to undermine the credibility of the Regulation, and indeed of the Commission's reputation for enforcement of EU competition policy. At a time of economic recession, it is even more important to protect consumers by taking a firm stand against anti-competitive practices.

We make some further comments on this issue in relation to resale price maintenance (Paragraphs 219 – 225).

An outright ban on sales on health and safety grounds (Paragraphs 50 and 54)

We understand the reasons for the proposal in Paragraphs 50 and 54. However, we see this as a potential loophole for abuse and we would like a reference to non-discrimination, Article 36 and existing Community mechanisms for removing unsafe products from the market.

¹ <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/22>

Freedom to use the internet to advertise or to sell products (Paragraph 52)

We welcome the Commission's proposal to ban (as hardcore restrictions of passive selling) requirements on exclusive distributors concerning:

- consumers' access to websites
- the automatic re-routing of customers to other websites
- the non-acceptance of credit cards
- limits on the proportion of overall sales made over the internet
- requiring a distributor to pay a higher price for products intended to be resold by the distributor online than for products intended to be resold off-line

However, while this proposal is welcome, it would not prevent exclusive distributors from carrying out the same practices on a voluntary basis. Consumer Focus regards these practices as wholly incompatible with a single market and we urge the Commission to take action against them more broadly.

Requiring a distributor to limit the proportion of overall sales made over the internet (Paragraph 52)

Consumer Focus is very concerned that Footnote 29 runs counter to the spirit and objective of the regulation and indeed it would effectively undermine the beneficial restrictions spelled out in Paragraph 52.

It could clearly provide an opportunity for suppliers to 'encourage' retailers not to operate a successful internet business at all. To give an example:

Case study 1: Restricting supplies

An online operation in Austria becomes well known to German consumers (by word of mouth/internet recommendation) as a reliable and competitive source of goods. The growing number of German consumers choosing to use that operator encourages it to move to focus efforts on its internet division.

However, the supplier takes advantage of the footnote in the guidelines (that allows suppliers to dictate volume or value sales in the offline channel, and to ensure that the retailer 'remains consistent with the supplier's distribution model') and restricts supplies to that operator. This has the effect of restricting the ability of the operator to sell to consumers over the internet to consumers both inside and outside the specified geographic market.

We strongly urge the Commission to delete this footnote. We regard it as wrong in principle. As worded it has the potential to hamper the growth of online selling, undermine competition, and limit the ability of consumers to exercise their rights in the Single Market.

Selective distribution and online sales (Paragraphs 54-57)

As set out in the introduction, Consumer Focus urges the Commission to ensure that markets can be driven by the nature of actual consumer demand. In Paragraph 52, the Commission says that 'every distributor must be free to use the Internet to advertise or sell products': we agree.

However, some of the proposed guidance in this section would enable suppliers and distributors to introduce restrictive measures to such an extent as to negate the statement of principle set out in Paragraph 52. The outcome would be the kind of static market that suppliers and distributors think consumers ought to want, rather than a market driven by actual consumer demand.

Quality standards for internet sites (Paragraph 54)

We are very concerned by the potential for anti-competitive behaviour that could be opened up under Paragraph 54.

The reference to the quality standards that manufacturers may require in the sale of goods over the internet is very vague. If such standards are simply that a product must be photographed in certain way, or must contain links to 'official' sites, then there may be no problem for consumers. However, if such a site requires consumers to visit a physical site then this may well be a masked restriction designed to stop cross-border consumption.

If the Commission proposes to keep a reference to quality standards in the guidance, we would suggest that there should be a proper definition of what would and what would not be regarded as a reasonable requirement, based on comprehensive and independent research into consumers' expectations.

Requiring a bricks and mortar presence (Paragraph 54)

We are dismayed at the suggestion that suppliers should be allowed to require a bricks and mortar presence before internet commerce can take place. This is a very significant and serious requirement that in our view cannot be justified. There appears to have been no analysis of the potential impact on consumers, economic growth and the development of the single market.

One of the advantages of the internet is the low start up costs for e-tailers and the fact that it offers a channel which consumers can access in a different manner than the physical world – and across the single market. At its best e-commerce can change the economics of a sector and offer consumers better access, prices and choice.

If a 'bricks and mortar' requirement had been applied in music and book retailing, consumers would have been denied enormous welfare gains and the sectors concerned would not have been able to evolve into more efficient and dynamic world operators.

We see serious scope for abuse if the requirement for 'bricks and mortar' investment is allowed to go ahead. Allowing manufacturers to freeze the development of the European market by requiring 'bricks and mortar' investments before allowing e-tailing would represent a major blow to innovation and competition in the European marketplace and harm consumer, retail and indeed manufacturer interests. We urge the Commission to delete this proposal.

Case study 2: The 'free rider' argument

It is relevant in this context to discuss the 'free rider' argument, raised elsewhere in the guidelines. The music industry provides a good example, in that the entire online music market could cease to operate if the major record labels decided to place a bricks and mortar requirement on its retailers.

In the days before digital downloading, consumers accessed music by listening to the radio, reading reviews and visiting record shops to listen to samples of albums or indeed request samples from shop workers. This is analogous to many sectors (minus radio) where consumers gain an understanding of products by reading reviews, looking at adverts and visiting shops to view/sample products.

The classic 'free riding' argument argues that shops/manufacturers invest time and money to inform and educate consumers. If untrammelled access by discounters (the old target of the 'free riding' argument) or e-tailers (the new target) is allowed then (so the argument goes), existing shops and manufacturers will lose out and cease to invest in information provision and consumers will lose out.

This argument was always rather vague and in many cases specious. It is made more so when one considers that the argument relies on a static assessment both of what consumers want in terms of information and how they want to access it. The provision of information to consumers is as much an active market as the provision of the goods or services to which it is tied. For example, perfume houses regularly place sample strips in magazines. Such a move potentially diverts consumers away from sunk cost store investments and is an example of 'free riding'. Websites provided by branded goods manufacturers regularly provide information that otherwise would only be available through bricks and mortar stores.

The music industry has (slowly) adapted to the 'free riding' problem by finding new ways to engage with consumers. It has been forced by consumer behaviour to adapt to new channels and not enforce a 'free rider' argument and require all e-tailers to have bricks and mortar operations before selling online. Similar arguments can be made for booksellers. It would be easy for book publishers to argue that bricks and mortar stores are required to allow consumers to read a few pages of a book, or browse the dust jacket, or get a sense of other books published in the same genre. The internet initially did not offer samples, or decent write ups. Indeed it was some time before reviews were published online. However, consumer demand and a more relaxed view of 'free riding' has allowed the online market to develop and offer consumers choice and indeed access to a wider range of goods and publishers. As a result a non-acceptance of the 'free riding' argument has allowed the book and music markets to evolve. It has allowed consumers to access many more products in many more different ways and it is in the early stages of changing the nature of that marketplace. This benefits consumers and rewards innovation in product and service provision in ways that markets are supposed to.

Perhaps the weakest element of the 'free riding' argument is that it is in the interests of retailers and manufacturers themselves. What is clear from the evolution of markets is that consumer driven markets will reward innovation and punish those that do not move to meet consumer demand. At its worst the acceptance of the 'free riding' argument encourages those that wish to retard innovation and deny consumers the right to purchase products and services in the manner that they wish to. It effectively freezes markets in aspic and rewards the most backward operators in the marketplace. In short is it not in the interests of the retail and manufacturing sector.

The most pernicious problem raised by uncritical acceptance of the 'free rider' argument is that it encourages manufacturers and retailers to over-invest in unproductive and inefficient marketing and store provision as a means of discouraging existing retailers from engaging in price focused competition. One of the most effective ways of

discouraging e-tailing is to require large sunk-cost investments that are assessed in an arbitrary manner by the manufacturer.

We note that in every market the concept of 'free riding' has been raised by manufacturers to justify restrictions on new commercial challenges that consumers have valued. These have varied from cross-channel ferries and duty-free services to supermarkets and dedicated discounters. In every case the argument has been undermined by the activities of the manufacturers themselves as they adapt to the demands of consumers to access their products in different ways and in different locations. Consumers who want to get a perfume know well that they should be allowed to buy it from the location of their choice, and should not be forced to use one chosen by the manufacturer.

Indeed, there is a more convincing case to be made that what might be called 'reverse free-riding' exists, with consumers seeking information online but deciding to go and look at the actual products in a shop because they need to see what it looks like, and then buying in-store. This works well for brands with a large online presence. It is likely to be a factor for consumers buying certain types of products, for example some items of clothing and top-of-the range cameras and binoculars. The key issue is that consumers should be able to choose whether to buy on-line or in-store.

If consumers want 'advice' they will choose to shop at those stores that provide it. If they wish to seek that advice from 'official' suppliers and then shop online to get a better price then they are simply expressing their preference for price over information. This choice will then drive change in the marketplace. Existing suppliers will either have to rebalance their offer, lowering prices or offering some other innovation (such as in-house coffee shops in bookstores) or exit the market. This is the normal operation of the marketplace.

Every product or service is a combination of item and information. If there is a market for both parts of the offer then suppliers, assuming a degree of efficiency in both elements, will find alternative ways to supply consumer demand. The burgeoning growth of review sites, e-tailers linking their sites to consumer driven reviews and indeed the printed press indicates that there are many ways for consumers to access advice and information.

It is inconsistent and disappointing that the Commission appears to have been swayed by the free-rider argument, which it rightly rejected when looking at the new car sector. We urge the Commission to stick to its original policy and to defend the consumer interest and the promotion of consumer welfare.

Protection for new products (Paragraph 56)

We question the apparent assumption that protection is an essential prerequisite for innovation.

We are also concerned by the vague wording. It is not clear whether the Commission is seeking to protect manufacturers of a totally innovative product or item for a period of two years, or if it seeks to extend this to all 'new' products from all manufacturers irrespective of their originality.

The Commission will be aware of the work carried out on the price decline curves for electrical goods that shows how much steeper these price decline curves have become with the increase in competition and with more open trade with China in particular. If the Commission wishes to set an artificial two-year time period to allow manufacturers to protect themselves from competition, then we see no consumer gain from this.

We recognise that manufacturers of totally new and innovative products may wish to protect their investments in the marketplace. However this is a commercial problem for them rather than a policy issue for the Commission.

If a product is genuinely innovative and gains quick acceptance with consumers as such, then it is likely to do well. If consumers find a shortage or see that the price differences with a neighbouring country are significant enough to warrant shipping it into the country from abroad then they may choose to purchase elsewhere.

In our view, such a situation occurs with every product launch and is part of the price assessment made by the manufacturer. If they choose to launch a product at a significantly higher price in Belgium after offering it in France then they should not be protected from consumer arbitrage simply because they have only just released it in Belgium. If the Single Market is to operate properly then consumers should be allowed to access products in the Single Market through passive sales irrespective of the age of the product.

Allowing a two year period of protection in such a vague manner will also encourage manufactures to produce wasteful 'me-too' products to gain protection from such a provision. It will also encourage them continually to alter existing products to gain protection as a 'new product'. This will create a rolling restriction on the Single Market that will harm competition and consumer choice in a significant manner.

Withdrawal of the block exemption and removal of the block exemption regulation (Paragraph 71)

We are pleased to see that the possibility of parallel networks of vertical restrictions is considered a problem by the Commission. As we have highlighted in our response to Paragraphs 6, 7 and 23, we see networks of similar or identical agreements as having a negative impact on the ability of consumers to access goods either within their borders or from other EU Member States. The 'fine fragrance' market is a well-known example, but the problem occurs in other sectors where brands dominate, particularly at the top end of the market.

We would encourage the Commission to undertake a series of market studies into the operation of such parallel networks in the Single Market, focusing on the key sectors for retail consumers.

Negative effects of vertical restraints (Paragraphs 96) and 97

We agree with Commission's typology of competition problems associated with vertical restraints outlined in Paragraph 96.

We fully agree with the Commission when it states (Paragraph 97) that:

'Foreclosure, softening of competition and collusion at the manufacturer's level may harm consumers in particular by increasing the wholesale prices of the products, limiting the choice of products, lowering their quality or reducing the level of product innovation. Foreclosure, softening of competition and collusion at the distributors' level may harm consumers in particular by increasing the retail prices of the products, limiting the choice of price-service combinations and distribution formats, lowering the availability and quality of retail services and reducing the level of innovation of distribution.'

We are concerned about the potential relaxation of the approach to exemptions under 81(3). We recognise that most provisions in the proposal go some way towards minimising the potential harmful effects of vertical restraints, but we have a number of concerns with some of the other proposals, in particular in relation to allowing requirements for bricks and mortar investment and a two year protection for new or

copycat products. These would create or reinforce precisely these restrictions on competition that the Commission seeks to address.

Category management (Paragraphs 205-209)

We note the new provisions under which the Commission will assess category management agreements. We question how far category management agreements excluding competing products would be in the interests of consumers. In particular we see a potential problem at the large retailer level, where large suppliers seek to limit competitors' access to the market.

We would therefore like to see some independent analysis of how category management agreements are working in practice and of their impact on consumers, focusing on the key economic sectors for retail customers.

Resale price restrictions (Paragraphs 219-225)

Consumer Focus agrees with the Commission's view that resale price maintenance (RPM) should be regarded as a hardcore practice. At a time of economic recession, it is even more important to protect consumers by taking a firm stand against anti-competitive practices. We are pleased that the recent Leegin decision in the USA has had no impact on the Commission's view, which we share, of RPM as an anti-consumer restriction on competition.

We are surprised and disappointed therefore that the Commission goes on to undermine its own position by setting out conditions under which RPM might be permitted.

In particular, we see no justification in principle for allowing 'new' products protection from competition for two years. And in terms of what is proposed, we see the wordings and definitions, including the definition of what is a 'new' product, as too wide and insufficiently precise and thus open to abuse.

Manufacturers would be able to introduce so-called new products on a frequent basis in order to enjoy the anti-competitive advantage of the exemption. It would encourage manufacturers to segment and price discriminate between European consumers and across European markets by claiming 'newness' and by staggering product launches across different countries. As previously discussed, we are thoroughly unconvinced by the 'free rider' arguments put forward, which we regard as being driven by a desire to restrict consumer-benefiting price competition.

Evaluating the consumer interest

Consumer Focus urges the Commission to strengthen the processes by which it evaluates what is a fair share of any benefits and identifies any detriment to consumers of exemptions under 81(3). The focus must be on actual consumer outcomes in the market, based on independent monitoring and research.

Consumer Focus applauds DG COMP for having taken a lead in creating a post specifically to improve liaison with consumers. While this has been a welcome development, it also carries with it the risk of creating a silo: that is, the consumer interest in competition policy may be seen within the DG as the specific responsibility of the liaison officer, rather than of the DG as a whole.

We suggest therefore that, separately from the discussions on the draft regulation and in a wider context, consideration be given to further initiatives to integrate the consumer interest more closely into competition policy. We would like to suggest two possible areas.

A formal EU consumer competition forum

Firstly, we see a potential value to the Commission in establishing a formal EU consumer competition forum in which consumer organisations could raise issues, including what are fair shares of any benefits to consumers of exemptions under 81(3), directly and informally with the Commission.

A potential model already exists with FIN-USE, the independent expert forum of user experts in the field of financial services set up by the Commission in 2004 to help it meet the need to improve policy-making in the field of financial services by including a user perspective. FIN-USE responds to the European Commission's request for opinions and recommendations on initiatives affecting users of financial services in the Internal Market. FIN-USE also proactively seeks to identify key financial services issues which affect users in the Internal Market.

A consumer competition forum should be given the resources necessary to commission its own independent research where necessary, subject to safeguards to avoid duplication with the Commission's own research.

A fast-track procedure

Secondly, there could be a fast-track procedure to enable a designated and representative EU consumer body to bring (subject to safeguards) complaints to the Commission on a formal basis about anti-competitive practices causing consumer detriment, with the Commission undertaking to give a response within a set time. Such a procedure should recognise the relative imbalance between the resources of consumer bodies and industry lobbies, and the fact that consumer bodies do not have access to confidential commercial data held by companies. An instrument on these lines already exists in the UK.

Consumer Focus's response to Vertical restraints block exemption regulation

If you have any questions or would like further information about our response please contact Marzena Lipman, Senior Policy Advocate, by telephone on 020 7799 7981 or via email: marzena.lipman@consumerfocus.org.uk

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Consumer Focus

(ID 55973692370-21)

4th Floor
Artillery House
Artillery Row
London
SW1P 1RT

Tel: 020 7799 7900

Fax: 020 7799 7901

Media Team: 020 7799 8005 / 8006