

EXPLANATORY MEMORANDUM TO
THE COMPETITION ACT 1998 (VERTICAL AGREEMENTS BLOCK
EXEMPTION) ORDER 2022

2022 No. 516

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This order is a block exemption order under section 6 of the Competition Act 1998 (“the Act”). It gives effect to the Competition and Markets Authority’s recommendation that the Secretary of State should make an order that specifies certain categories of vertical agreements to exempt them from the prohibition in Chapter I of the Act which prohibits agreements between firms that prevent, restrict or distort competition.

2.2 The purpose of the order is to ensure that businesses are not prevented or disincentivised from entering into agreements that the Competition and Markets Authority (CMA) considers to be overall beneficial and not anticompetitive.

2.3 The order replaces a similar block exemption, the retained Vertical Agreements Block Exemption Regulation (EUR 2010/330)¹ (“the retained VABER”) which was made under EU law and retained in UK law after the UK’s withdrawal from the EU. The retained VABER expires on 31 May 2022.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the entirety of the United Kingdom.

4.2 The territorial application of this instrument is the entirety of the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Act prohibits agreements between undertakings that prevent, restrict or distort competition (known as the Chapter I prohibition). Section 9 of the Act sets out the conditions under which such an agreement is exempt from the Chapter I prohibition.

¹ <https://www.legislation.gov.uk/eur/2010/330>.

This general exemption requires businesses to self-assess to consider whether they meet the statutory criteria which can lead to a reluctance to rely on the provision.

- 6.2 Section 6 of the Act provides that the Secretary of State, on the advice of the CMA, may make a block exemption order covering agreements which fall under a particular category of agreements that are likely to be exempt under section 9 of the Act. Such an order may impose conditions or obligations subject to which the block exemption is to have effect. An agreement which falls into a category specified in a block exemption order (and that does not breach any of the conditions specified in the block exemption order) will not be prohibited under the Chapter I prohibition, providing greater certainty for a business.
- 6.3 By avoiding the need for businesses to self-assess whether their agreements comply with competition law, block exemptions can reduce compliance costs for businesses and increase their confidence to engage in transactions that have a benign or beneficial effect on competition.
- 6.4 A similar approach exists under EU law. The European Commission can make block exemption regulations, exempting certain categories of agreement from the Article 101(1) Treaty on the Functioning of the European Union (TFEU) prohibition (which is equivalent to the Chapter I prohibition in UK law). Before the UK's withdrawal from the EU, these block exemption regulations also applied in respect of the Chapter 1 prohibition as 'parallel exemptions' under section 10 of the Act. Following the UK's withdrawal from the EU, the UK retained the EU block exemption regulations and so the EU Vertical Agreements Block Exemption Regulation (VABER) (EUR 2010/330) became the retained VABER under UK law. The retained VABER expires on 31 May 2022.
- 6.5 The retained VABER is the first of a set of retained block exemption regulations to expire. The other retained block exemptions will be reviewed in due course:
- Research and development agreements (horizontal cooperation) – expires 31 December 2022
 - Specialisation agreements (horizontal cooperation) – expires 31 December 2022
 - Motor Vehicle vertical agreements – expires 31 May 2023
 - Liner shipping consortia agreements – expires 25 April 2024
 - Technology transfer agreements – expires 30 April 2026
 - Rail, road and inland waterways transport – no expiry date

7. Policy background

What is being done and why?

- 7.1 Competition law and its enforcement ensures that market failures are prevented or remedied by prohibiting agreements between businesses that prevent, restrict or distort competition. This can include, for example, price-fixing, dividing up markets or obligations to supply a product exclusively to a particular buyer. In so doing, competition law protects UK businesses and UK consumers from illegal, anticompetitive behaviours across the economy.
- 7.2 However, certain types of agreements – which would ordinarily be captured by this prohibition – are generally considered to be beneficial and not anticompetitive. This includes vertical agreements that meet certain conditions. Vertical agreements are

agreements or concerted practices entered into between two or more undertakings each of which operates, for the purposes of the agreement or the concerted practice, at a different level of the production or distribution chain and relating to the conditions under which the parties may purchase, sell, or resell certain goods or services.

- 7.3 As referred to in paragraph 6.4, prior to the UK’s withdrawal from the EU, block exemption regulations made by the European Commission which exempt certain categories of agreement from the Article 101(1) TFEU prohibition were applied to the Chapter I prohibition as “parallel exemptions”. The EU VABER was retained in UK law after EU Exit and therefore forms part of UK law. As it expires in May 2022, the CMA reviewed the retained VABER for the purpose of making a recommendation to the Secretary of State about whether to replace it and, if so, how.
- 7.4 The CMA recommended that the Secretary of State replaces the retained VABER with a block exemption order under the Act. This recommendation was based on a review of the retained VABER and its effect on UK markets. It drew on relevant evidence from an EU evaluation of the EU VABER and related Guidelines on Vertical Restraints (the EU Vertical Guidelines), to which the CMA and UK stakeholders contributed. The CMA also gathered additional evidence relating specifically to the application of the retained VABER in the UK to supplement the evidence obtained during the EU evaluation. This evidence was gathered by the CMA during roundtables and bilateral meetings with interested parties, including businesses, law firms and economists, industry associations, and consumer organisations.
- 7.5 In June 2021, the CMA published a draft recommendation and consulted on it publicly for five weeks.² 37 responses from a wide variety of stakeholders were received and carefully considered, resulting in the CMA’s final recommendation submitted to the Secretary of State on 13 October 2021 and published on 3 November 2021.³
- 7.6 The CMA found that the evidence it gathered during its review shows that a vertical agreements block exemption is a relevant and useful tool for businesses. The CMA also noted that it is beneficial in particular to have a ‘safe harbour’ for categories of vertical agreements that are considered likely to satisfy the requirements for exemption under section 9, as such agreements will often generate benefits through promoting efficiencies, promoting non-price competition, and/or promoting investment and innovation.
- 7.7 Allowing the retained VABER to expire without replacing it could lead to significant increased uncertainty among businesses and potentially fewer benign or economically beneficial vertical agreements being made. This order thus helps to avoid future harm to businesses and consumers alike.
- 7.8 A vertical agreements block exemption has benefits for businesses. Firstly, it provides legal certainty by assuring businesses that their vertical agreements comply with competition law. Secondly, it avoids placing on businesses the burden of scrutinising many essentially benign vertical agreements. Thirdly, it ensures consistency of

² <https://www.gov.uk/government/consultations/retained-vertical-agreements-block-exemption-regulation-consultation>.

³ <https://www.gov.uk/government/consultations/retained-vertical-block-exemption-regulation>.

approach by providing a common framework for businesses to assess their vertical agreements against.

- 7.9 In addition, the block exemption also ensures that the CMA does not need to scrutinise essentially benign agreements and allows the UK's competition authority to effectively use its resources to enforce competition law across the UK by targeting more detrimental forms of anti-competitive agreements and practices.
- 7.10 The order gives effect to the CMA's recommendation to replace the retained VABER broadly in line with the status quo. It does however introduce some important amendments to improve on the current legal framework and to tailor the block exemption to the UK market and the interests of businesses and consumers in the UK.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.11 The retained VABER exempts from the Chapter I prohibition categories of vertical agreements and concerted practices which are assumed to confer sufficient benefits to outweigh any potentially anti-competitive effects. By virtue of satisfying the conditions of the retained VABER, such vertical agreements are automatically exempt from the Chapter I prohibition.
- 7.12 The exemption in Article 2 of the retained VABER is subject to conditions regarding market share (see 7.13), hardcore restrictions (see 7.14-7.15) and excluded restrictions (see 7.16-7.17). The CMA is also entitled to withdraw the benefit of the retained VABER in respect of individual agreements under section 10(5)(d) of the Act.

Market share threshold

- 7.13 The parties to the vertical agreement under consideration must have market shares of 30% or less on the relevant market at each level of the supply chain to qualify for the block exemption (Article 3 of the retained VABER).

Hardcore restrictions

- 7.14 The vertical agreement also must not contain any hardcore restrictions (Article 4 of the retained VABER). Hardcore restrictions are provisions in agreements that are in general considered to be serious restrictions of competition. If a vertical agreement contains one or more hardcore restrictions, the entire agreement falls outside of the retained VABER and does not benefit from the block exemption. The agreement would not automatically be considered to be in breach of the Chapter I prohibition and could still satisfy the conditions for individual exemption in section 9 of the Act. Given the seriousness of hardcore restrictions, however, an agreement containing these restrictions would be highly likely to fall within the Chapter I prohibition and unlikely to meet the conditions for individual exemption. Parties are, though, entitled to rebut this presumption by submitting efficiency claims to demonstrate pro-competitive efficiencies that outweigh the likely harm.
- 7.15 Hardcore restrictions under the retained VABER include Resale Price Maintenance⁴, territorial and customer restrictions (i.e. restrictions of the geographical area into

⁴ Article 4(a) of the retained VABER. Resale Price Maintenance are restrictions of the buyer's ability to determine its sale price, without prejudice to the possibility of the supplier to impose a maximum sale price or

which, or the customers to whom, a buyer can sell), and measures restricting online sales⁵.

Excluded restrictions

- 7.16 The vertical agreement must not contain any excluded restrictions (Article 5 of the retained VABER). Excluded restrictions are provisions in agreements for which it cannot be assumed with sufficient certainty that they fulfil the conditions for individual exemption. The relevant agreement provisions would not be covered by the block exemption. Unlike hardcore restrictions, if excluded restrictions can be severed from the rest of the agreement, the remaining vertical agreement may still benefit from the retained VABER.
- 7.17 Excluded restrictions under the retained VABER include direct or indirect non-compete obligations that are indefinite or have a duration that exceeds five years.⁶

Why is it being changed?

- 7.18 The retained VABER expires on 31 May 2022. Having undertaken consultation, the CMA has concluded and recommended to the Secretary of State that further provision should be made for a block exemption in respect of vertical agreements, in the form of a block exemption order made under section 6 of the Act. While the CMA has recommended that the new provision should in large part preserve the existing exemption for vertical agreements, it has also identified some important amendments to improve on the current legal framework and ensure that the exemption is most effective and appropriate for the UK market.
- 7.19 The retained VABER originated with an EU regulation which was adopted on 1 June 2010. Since then, there have been many changes in the UK market. These market changes include the exponential growth of online sales and services, increased price transparency and monitoring, access to a wider customer base, and increased direct-to-customer sales. There has also been a rise in the number of online platforms acting as intermediaries and/or making direct sales.
- 7.20 In addition, the original EU VABER was adopted with a view to market conditions across the EU and did not reflect specific characteristics of the UK market. Following the UK's withdrawal from the EU, the Secretary of State and the CMA are now able to take account of specific UK market conditions and the interests of UK customers and UK businesses.

recommend a sale price, provided that they do not amount to a fixed or minimum sale price as a result of pressure from, or incentives offered by, any of the parties.

⁵ This includes direct measures like blanket bans preventing distributors from selling through the internet as well as indirect measures like charging the same distributor a higher price for products intended to be resold online than for products intended to be sold offline (dual pricing) or imposing criteria for online sales that are not overall equivalent to the criteria imposed in brick-and-mortar stores in the context of selective distribution.

⁶ Article 5(1)(a) of the retained VABER. A non-compete obligation is any direct or indirect obligation causing the buyer not to manufacture, purchase, sell or resell goods or services which compete with the contract goods or services, or any direct or indirect obligation on the buyer to purchase from the supplier or from another undertaking designated by the supplier more than 80 % of the buyer's total purchases of the contract goods or services and their substitutes on the relevant market, calculated on the basis of the value or, where such is standard industry practice, the volume of its purchases in the preceding calendar year.

What will it now do?

- 7.21 The order makes provision for a block exemption for vertical agreements which meet the specified conditions, for a period of six years. The conditions largely follow the existing approach in the retained VABER, with the following modifications.

Territorial and customer restrictions

- 7.22 As noted above, vertical agreements that restrict the geographical area into which, or the customers to whom, a buyer can sell are treated as hardcore restrictions in the retained VABER. These territorial restrictions will continue to be treated as hardcore restrictions by virtue of Article 8(2)(b), (c) and (d) of the order as this supports consumer choice across all parts of the UK and promotes intra-brand competition. Existing exceptions in the retained VABER to be carried forward ensure that agreements can continue to benefit from the block exemption in cases where territorial and customer restrictions are likely to bring about efficiencies that outweigh any reduction of intra-brand competition and consumer choice.
- 7.23 However, the order will make certain changes to the current regime with the aim of giving businesses more flexibility to design their distribution systems according to their needs. Specifically, the list of exceptions to the hardcore restriction will be revised to permit the following to be included in agreements captured by the block exemption:
- the combination of exclusive⁷ and selective distribution⁸ in the same or different geographical areas;
 - shared exclusivity in a geographical area or for a customer group by allowing the allocation of a geographical area to more than one distributor; and
 - the provision of greater protection for members of selective distribution systems against sales from outside the geographical area to unauthorised distributors inside that geographical area.
- 7.24 These changes will bring additional agreements into the scope of the block exemption and therefore offer increased business opportunities and foster innovation by making it possible to design a broader range of distribution systems.

Indirect measures restricting online sales

- 7.25 Online distribution channels are effective channels for reaching a greater number and variety of customers than traditional distribution channels. In principle every distributor should therefore be allowed to use the internet to sell products since this is a reasonable way to allow customers to reach the distributor.
- 7.26 The retained VABER provides for preferential treatment for online sales. Certain online sales, such as the sales from a distributor's own website, are treated as a form of passive sales. Passive sales are sales by distributors responding to unsolicited

⁷ Exclusive distribution means a distribution where the supplier sells his products only to one distributor for resale in a particular geographical area. At the same time the distributor is usually limited in his active selling into other (exclusively allocated) geographical areas.

⁸ Selective distribution means a distribution where the supplier undertakes to sell the contract goods or services, either directly or indirectly, only to distributors selected on the basis of specified criteria and where these distributors undertake not to sell such goods or services to unauthorised distributors within the geographical area reserved by the supplier to operate that system (Article 2(1)).

requests from individual customers and restrictions on passive sales are hardcore restrictions under the retained VABER. Moreover, any blanket bans – preventing distributors from selling through the internet at all – are considered to restrict competition ‘by object’ and are hardcore restrictions not exempted by the retained VABER.

- 7.27 Other indirect measures restricting online sales are also considered to be hardcore restrictions under the retained VABER, including:
- charging the same distributor a higher price for products intended to be resold online than for products intended to be sold offline – ‘dual pricing’; and
 - imposing criteria for online sales that are not overall equivalent to the criteria imposed in brick-and-mortar stores in the context of selective distribution – the ‘equivalence principle’.
- 7.28 This preferential treatment of online sales at EU level was first introduced when online distribution was still at a developmental stage and was seen as an industrial policy tool to achieve market integration within the EU single market.
- 7.29 Evidence collected by the CMA, as well as by the European Commission, shows that in the context of a selective distribution system, it is necessary to provide offline distributors with the necessary incentives to invest in promoting products and to prevent free-riding by online distributors that focus mainly on price, without offering comparable pre-sales services. The need for the current treatment of indirect measures restricting online sales is removed by market developments such as the exponential growth of online sales, additional costs incurred and increased challenges faced by brick-and-mortar retailers, and the existence in case law of sufficient safeguards against outright online sales bans.
- 7.30 The order therefore takes the following approach:
- dual pricing will no longer be regarded as a hardcore restriction of competition; and
 - the imposition of criteria for online sales that are not overall equivalent to the criteria imposed on brick-and-mortar shops in a selective distribution system will no longer be regarded as a hardcore restriction.
- 7.31 This means that dual pricing and the imposition of criteria for online sales that are not overall equivalent to the criteria imposed on brick-and-mortar shops will be possible under the VABEO. At the same time, sufficient safeguards remain in place against anticompetitive outright online sales bans. These changes may help contribute to a more level playing field between online and bricks-and-mortar retailers.

Parity obligations

- 7.32 Parity clauses are obligations that require one party to an agreement to offer the other party goods or services on terms that are no worse than those offered to third parties.
- 7.33 The retained VABER does not refer to parity obligations, meaning that it is not a hardcore restriction and that the block exemption covers parity obligations in vertical agreements. However, parity obligations have become more common in recent years and in the context of agreements involving online platforms, have been the focus of close scrutiny by the CMA. Over the past decade there has been increased scrutiny of parity obligations that relate to terms offered by suppliers on the different sales channels they use. Following the growth of e-commerce, their use has particularly

been observed in the context of online platforms, such as price comparison websites and online travel agents.

- 7.34 In order to reflect these developments and to provide greater certainty regarding their treatment under UK competition law, parity obligations are specifically addressed in Article 8(2)(f) of the order.
- 7.35 Parity obligations can be either wide or narrow. Wide parity obligations typically specify that a product or service may not be offered on better terms on any other channels (including, for example, a supplier's own website or through other intermediaries, such as other distributors or online platforms). By contrast, narrow parity obligations involve an agreement only that better terms will not be offered on a party's own sales channel (for example, a supplier's own website), without stipulating conditions for sales via other channels. Competition concerns have primarily been identified in relation to wide parity obligations.
- 7.36 Based on the CMA's experience of scrutinising parity obligations in its casework, the Government is concerned that wide retail parity obligations soften competition between horizontal competitors and reduce the incentives of intermediaries (such as online platforms) to compete on price, to innovate, or to enter markets and expand.
- 7.37 In line with the CMA's recommendation, the order therefore treats wide retail parity obligations as hardcore restrictions, meaning that agreements containing wide retail parity clauses will no longer be block exempted, and businesses will no longer benefit from this coverage. Likewise, any anti-competitive harms previously arising from wide retail parity obligations will be mitigated.
- 7.38 In order for the hardcore restriction to be implemented effectively, the hardcore restriction will also apply to measures that have the same effect as a wide retail parity obligation contained in a contractual provision. Such equivalent measures will include any course of action, including entering into agreements or engaging in concerted practices, which have the object of replicating the anti-competitive effects of a wide retail parity obligation.
- 7.39 The hardcore restriction will relate to wide retail parity obligations only. Wide retail parity obligations are defined as restrictions by reference to any of the supplier's indirect sales channels (whether online or offline, for example online platforms or other intermediaries), which ensure that the prices or other terms and conditions at which a supplier's goods or services are offered to end users on a sales channel are no worse than those offered by the supplier on another sales channel.
- 7.40 Parity obligations can apply to retail markets (referred to as retail parity obligations) and business-to-business markets. Wide parity obligations that apply to business-to-business markets are not to be treated as hardcore restrictions under the order. Although these parity obligations could potentially soften competition between intermediaries in a similar way as in business to consumer (i.e. retail) markets, the overall competitive harm and direct effect on consumers is less clear and will depend on the complexity of the vertical supply chain and the strength of competition downstream.
- 7.41 The hardcore restriction will apply to both online and offline intermediaries. While previous enforcement activity focused on online platforms, based on the advice of the CMA, Government considers that wide retail parity obligations in online and offline sales channels should be treated in a consistent manner, given:

- the theories of harm are the same for both online and offline intermediaries and therefore it would be inconsistent to treat them differently;
- no credible evidence was provided during the consultation that efficiencies stemming from the use of wide retail parity obligations in offline markets are any greater than in online markets; and
- the treatment of these clauses as hardcore restrictions does not prevent businesses from adopting them provided the conditions for individual exemption are met.

7.42 Finally, narrow parity obligations are not to be included on the list of hardcore or excluded restrictions, given the possible efficiencies that may result from their use in particular markets (as in the retained VABER).

Other provisions

7.43 Article 13 (as provided for by section 6(6)(c) of the Act) gives the CMA the power to cancel the block exemption in respect of a particular vertical agreement if it determines that it is not one which is exempt from the Chapter 1 prohibition as a result of section 9 of the Act.

7.44 Articles 12 and 14 include further provisions introducing an obligation to provide information to the CMA in connection with relevant vertical agreements as well as specifying how the CMA is to give notice in writing of information requests, decisions or proposals made under the order. These powers are necessary to allow the CMA to examine vertical agreements that meet the conditions of the block exemption but that the CMA believes may or may not meet the criteria for exemption under section 9 of the Act.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This is the first instrument made under the powers in section 6 to the Act that deals with vertical agreements. It replaces a piece of retained EU law that expires on 31 May 2022. As a result, the need for consolidation does not arise.

10. Consultation outcome

10.1 The CMA consulted on its proposed recommendation to the Secretary of State regarding the retained VABER in 2021. It received 37 responses from a wide variety of stakeholders, the vast majority of which, from across different industries and sectors, agreed that that the CMA should recommend to the Secretary of State that he should make a block exemption order to replace the retained VABER.

10.2 The CMA subsequently published the outcome of the consultation, its final recommendation to the Secretary of State and the consultation responses in full which can be viewed at: <https://www.gov.uk/government/consultations/retained-vertical-agreements-block-exemption-regulation-consultation>.

10.3 The Department for Business, Energy and Industrial Strategy subsequently consulted on a draft version of the order from 21 February to 16 March 2022 to make sure it delivers the policy correctly and effectively. 16 responses were received, primarily

from competition lawyers, businesses and business representative organisations. Respondents welcomed the introduction of the VABEO and the opportunity to provide comments on its draft. While generally content that the VABEO achieved the intended outcome, certain improvements to the technical drafting were proposed. On the basis of consultation responses, the drafting of the VABEO was then refined and improved. More information about the consultation, including a detailed summary and the Government's response, can be found at: <https://www.gov.uk/government/consultations/draft-vertical-agreements-block-exemption-order>.

11. Guidance

- 11.1 The CMA will publish detailed guidance on the application of the VABEO when the order enters into force. The guidance will be available at <http://www.gov.uk/cma> or by writing to the CMA, The Cabot, 25 Cabot Square, London E14 4QZ.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies of the order is limited relative to the baseline option of renewing the block exemption unchanged and preserving the status quo. Most of the changes introduced by the order outlined above would create limited costs and benefits, with the main impact likely coming from the removal of certain provisions from the scope of the block exemption. The main cost is to comply with the change to treat wide retail parity obligations as hardcore restrictions of competition. In the short run, this is likely to lead to a small net direct cost to business resulting from obtaining legal and expert advice to comply with the new rules. Some online businesses could also face an ongoing reduction in their advantage resulting from the block exemption being expanded to allow it to cover agreements that treat online and offline sales differently, including charging the same distributor a higher price for products intended to be resold online than for products intended to be sold offline. Relative to the status quo, the policy should level the playing field between online sales channels and offline channels by removing one advantage currently afforded to online channels. This is likely to benefit some retailers through their offline channels. We consider that online-only retail channels could lose part of their competitive advantage relative to offline retail channels, but this depends on actions taken by businesses as well as a change in the behaviour of consumers. Given existing safeguards against blanket online sales bans, and the inherent competitive advantages retained by online channels outside of the scope of the block exemption, consumers relying on these channels should be offered a sufficient degree of protection in terms of price and choice, but this depends on the future actions taken by businesses.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

- 13.3 The basis for the final decision on what action to take to assist small businesses is that small businesses will benefit from its provisions where they engage in vertical agreements where such agreements satisfy the criteria set out in the block exemption. Where some of the changes the order makes compared to the retained VABER may introduce costs, small businesses are likely to be affected to a much lesser extent than large businesses. Only businesses in a limited set of markets that have relatively large market shares are likely able to impose relevant potentially anticompetitive provisions that could fall out of scope of the amended block exemption (e.g. parity obligations). In light of the very limited costs for small businesses, we do not consider that further specific action is required to minimise regulatory burdens on small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is for the CMA to oversee its implementation. It will keep under review its application and effectiveness in achieving its policy and operational objectives.
- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Parliamentary Under Secretary of State Paul Scully has made the following statement:
- It would not be appropriate to make provision for review within the order. The order will expire after six years. This provides an opportunity for the CMA to conduct a further review of the regime for vertical agreements in advance of the order's expiry, taking account of market developments since the last review and any representations about it which are made to the CMA. The CMA is then expected to make a recommendation to the Secretary of State about whether and how to replace the block exemption order when it expires.

15. Contact

- 15.1 Felix Lee at the Department for Business, Energy and Industrial Strategy Telephone: 0207 215 2139 or email: felix.lee2@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Alesha De-Freitas, Deputy Director for Competition Policy, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Parliamentary Under Secretary of State Paul Scully at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.