

New law to make doing business simpler while protecting consumers

- The government is replacing EU exemptions from competition law for agreements between producers, distributors and retailers with bespoke rules better suited to the UK
- the move follows expert advice from the Competition and Markets Authority, the UK's competition regulator
- a technical consultation on the wording of the legislation is now open until 16 March 2022

A new law will help UK firms do business while maintaining strong protections for consumers, the government has announced today (Monday 21 February).

Currently, the UK has retained EU rules that exempt businesses from competition law in certain circumstances. The government has received expert advice from the UK's Competition and Markets Authority which recommended a new, bespoke competition law exemption for the UK, replacing the retained EU rules which expire on 31 May 2022.

The new rules will ensure competition law does not impose unnecessary burdens, encouraging so-called 'vertical agreements' which are agreements between companies at different levels of the supply chain, such as farmers and grocers.

These vertical agreements benefit consumers by encouraging efficiencies, investment and innovation. Benefits of the new UK system include:

- removing wide retail parity obligations from the exemptions. These obligations specify that a product or service may not be offered on better terms on any other indirect sales channels, including through intermediaries, such as other distributors or online platforms. For example, currently a travel agent might require a hotel not to offer its rooms on any other sales channel at a better price or on better terms and conditions, limiting the incentives for travel agents to compete
- creating a more level playing field for high streets and brick-and-mortar retailers by expanding the exemptions to cover agreements that treat online and offline sales differently. This includes charging the same distributor a higher price for products intended to be resold online than for products intended to be sold offline
- more flexibility for businesses to design their distribution systems, for example by allowing a business to combine distribution rights by allowing multiple retailers of its product in one geographical area while having an exclusive arrangement with another retailer in another area

The government is [consulting on the legal wording of the exemption](#). The Competition and Markets Authority will publish further guidance to accompany this legislation, the CMA Verticals Guidance, in due course.

The Business Secretary can make a 'block exemption order' to exempt types of agreements from competition law because their anti-competitive effects are outweighed by their benefits.

Following EU Exit, 7 EU block exemptions were retained in UK law, with 6 due to expire in coming years. The Competition and Markets Authority (CMA) last year reviewed the retained Vertical Agreements Block Exemption Regulation (retained VABER) which expires in May 2022. It then recommended that BEIS replace it with a Vertical Agreements Block Exemption Order (VABEO), making certain amendments to the current regime tailored to the needs of UK consumers and businesses. Most respondents to the CMA's consultation, from across different industries and sectors, agreed with the CMA recommendation to make such a block exemption.

Vertical agreements are for the sale and purchase of goods or services between businesses operating at different levels of the production or distribution chain, for example, between manufacturers and wholesalers or retailers. As they are therefore not between direct competitors, such agreements are generally considered to be benign or pro-competitive.

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.