



Computer & Communications Industry Association (CCIA) Feedback on the European Commission Inception Impact Assessment for the Revision of the two Block Exemption Regulations for horizontal cooperation agreements and the Horizontal Guidelines 5 July 2021

The Computer & Communications Industry Association (CCIA) welcomes this opportunity to provide comments to the European Commission (EC) Inception Impact Assessment for the Revision of the two Block Exemption Regulations for horizontal cooperation agreements and the Horizontal Guidelines (HBER).

CCIA represents large, medium, and small companies in the high technology products and services sectors, including computer hardware and software, electronic commerce, telecommunications, and Internet products and services. CCIA is committed to protecting and advancing the interests of our members, the industry as a whole, as well as society's beneficial interest in open markets, open systems and open networks.

CCIA supports the HBER's objective to increase legal certainty for companies that cooperate in ways that do not harm the competitive process. Our views on specific aspects of the IIA are below:

- CCIA agrees with the need to ensure that the HBER accurately reflects case law as developed over time.
- A focus on SMEs is warranted since they tend to have fewer resources and experience dealing with the complexities of competition law and are thus best placed to benefit from the HBER. Nevertheless, market share thresholds of the HBER should in most circumstances already cover most SMEs.
- With regards to facilitating more beneficial R&D agreements by all types of market participants, CCIA supports the Commission's intention to explore limitations to the requirement(s) of full access to the results and/or access to pre-existing know-how. Market participants often decide to take on projects, such as R&D expenditure, where the necessary costs to earn a return on an investment, the market value of the investment, and the appropriability of that investment, are hard to predict. Facilitating this risk-taking by allowing some restraints can, overall, increase economic output and innovation. CCIA agrees with the Commission's concern that mandated access and forced sharing can have a chilling effect on the conclusion of horizontal cooperation agreements, which could be beneficial to consumers and may contribute to increasing innovation, research and competitiveness in the EU.

- With regards to new market developments, CCIA supports additional guidance on assessing unproblematic data pooling and data sharing arrangements, and clearer definitions of terms particularly as related to digital technologies which sometimes require significant investment but which are not necessarily protected by patents, copyrights, or other intellectual property rights.

We look forward to further contributions in support of the Commission's efforts to increase legal certainty with the HBER.