BRITISH BEER & PUB ASSOCIATION

Vertical Agreements Block Exemption Order

BBPA consultation response: March 22

Background

The British Beer & Pub Association represents brewers accounting for over 90% of UK beer production as well as pub operators that own around 20,000 pubs. Established in 1904, the BBPA is the leading trade body representing brewers and pub operators in the UK.

We welcome the replacement of the EU Block Exemption with this UK Order. The EU Block Exemption has been very important for the members of the BBPA for many years. In particular, it underpins the symbiotic relationship between pubs and other on-trade establishments, brewers and pub companies which is the backdrop to the many innovative trading relationship that have developed in the industry. The beer tie has existed for centuries and has always been shown to support a competitive market. Exclusive purchase arrangements continue to remain an important tool today to ensure that there continues to be healthy investment in the on-trade. Indeed, the beer tie is critical to the survival of many of our member companies. BBPA members have been responsive to important changes in the market and trading arrangements have evolved in a way that has encouraged competition and comprehensively met customers' demands.

Comments of the draft SI

We believe the current drafting of the Order reflects the policy intent in line with CMA recommendations and most importantly the Order retains the key principles for the EU Block Exemption that are vital to the smooth operation of the tied pubs model in the UK.

We would, however, make one important observation and that is in relation to **the proposed length of just 6 years for the new block exemption** to run with an expiry date of June 2028. **This does not provide sufficient certainty for longer term investments and planning.** The EU proposals continue to be for a 12-year period, recognising that many distribution arrangements last much longer than 6 years and a 6-year period means that from year 4 most arrangements will go way beyond it.

We believe a 12-year term would provide parity, certainty and give greater confidence to business to invest, consistent with wider European regulation. This is particularly pertinent currently where the business environment is so challenging and where greater stability is crucial. **To this end we would suggest an amendment to Section 16 and the expiry date extended to June 2034.**

Guidelines

We are also aware that the exemption itself is deceptively complex to apply, and that this practical exercise has been greatly assisted by the EU Commission's Vertical Guidelines. We therefore welcome proposals for the development of the CMA's own guidance to reduce the risk of any misunderstandings about the approach and policies of enforcement body.

As guidelines are central to the efficient operation of the exemption scheme, we look forward to these being published and the ability to provide feedback on these before they are finalised.

BBPA
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