

RESPONSE TO CONSULTATION ON THE CMA'S PROPOSED RECOMMENDATION ON THE ASSIMILATED TTBER

INTRODUCTION OF INTERDIGITAL

InterDigital is a US corporation with headquarters in Wilmington Delaware and research centres in the UK, France, Canada and the US, which are engaged in the development of foundational wireless and video communications technologies. To that end, it focusses on innovation through advanced research, often collaborating or partnering with other research-focused organisations on specific projects.

For 52 years, InterDigital has been a key contributor to global wireless standards. It is also a key contributor to global video standards, conducting research in video, augmented reality, immersive content, and artificial intelligence technologies.

Recently named one of LexisNexis' top 100 leaders in sustainable innovation, InterDigital's research and standards leadership is helping to empower the future of video content and new media experiences while taking steps to drive awareness and provide solutions to mitigate the energy consumption and environmental impact of our video habits.

InterDigital has pioneered innovations in energy-aware display technology that can help reduce energy consumption of video screens by intelligently optimizing pixel brightness. Put simply, our Pixel Value Reduction (PVR) solutions balance the ability to reduce the brightness of an image, or amount of energy consumed, while optimizing the perceived visual quality to the viewer. The goal is to ensure the viewer can't perceive the small reductions in pixel brightness which add up to colossal energy savings across billions of screens and a multitude of devices worldwide.

Alongside innovations in energy aware media, InterDigital is also a leading contributor to the state-of-the-art video compression standard Versatile Video Codec (VVC), which is capable of a 40% reduction in bitrate on streamed video with no perceptible decrease in image quality, compared to the previous generation HEVC video codec. InterDigital's research and standards contributions empower new 2D and immersive media opportunities, alongside advocacy for codecs like VVC that enable large reductions in bitrates which can result in potentially huge energy savings across the video value chain.

Since the inception of the GSM network, patent licensing has been and remains a critical feature of the wireless communications sector as it enables continuous investment in newer and more advanced technologies. Firms such as InterDigital (i) create innovations in the upstream market for successive generations of wireless telecommunications (the 5G standard being the most recent) and (ii) contribute to the crafting of standards to ensure that such innovations facilitate interoperability whereby manufacturers of mobile devices can be confident that their devices can interact with other mobile devices. The royalties paid by manufacturers for use of the patented technology that forms part of the interoperable standards ensure that the innovator remains committed to further iterations of the technology and continues to focus on global interoperability.

As new generations of wireless telecommunications are released, users have the benefit of new and enhanced functionality and new products and services. The functionality of smartphones continues to develop apace with new cellular releases. The price of the latest enhanced equipment (which includes the licensing input costs) remains stable, whilst older functionality continues to decrease in price, with new smartphones that do not offer the most recent advances available at very low prices. Consumers continue to enjoy a remarkable rate of development and a wide and dynamic market by virtue of the standardisation system that is enabled by patent licensing. Details of the value generated by wireless telecommunications are available in the GSMA Mobile Economy 2025 report: <https://www.gsma.com/solutions-and-impact/connectivity-for-good/mobile-economy/europe/>

By contrast to other licensing models, a further feature of this sector is that the manufacturer enjoys use of the patented technology prior to conclusion of a licence with the innovator. The FRAND undertaking that innovators give to ETSI (for example) ensures that any market power the innovator may hold with respect to a patent reading onto a standard is neutralised.

Over 90% of InterDigital's cellular wireless and video inventions were developed in-house by its engineers. As explained above, in order to continue to fund its research and development efforts which contribute to the evolution of wireless, video and other standards, InterDigital licenses its worldwide portfolio of patents covering those standards.

Large numbers of the most prominent manufacturers globally, many of whom also participate in standardisation of the same technologies, have recognised the strength and quality of InterDigital's patent portfolio. Among its current and past licensees are companies such as Apple, Asus, Samsung, Sony, Ericsson, Google, Nokia, Panasonic, RIM/Blackberry, HTC, Huawei, LG Electronics, Pegatron, Wistron, Sanyo, NEC, Sharp, and Xiaomi.

InterDigital is a long-standing proponent of amicable negotiation and arbitration for the conclusion of licensing agreements in order to obtain fair compensation for its groundbreaking research.

INTERDIGITAL'S ENGAGEMENT IN THE UK

InterDigital has a long-standing commitment to the UK, having established a London office in 2013 which houses the Wireless Lab Europe (WLE) division. The WLE is a leading player in the standards-driven wireless research and innovation and contributes to the development of global wireless standards and InterDigital's patent portfolio. More than 75% of InterDigital's UK employees have PhDs and more than 95% have engineering or master's degrees.

In addition to researching foundational technologies, InterDigital's UK office has a strong track record for earning leadership positions and fostering consensus in future wireless standards as well as facilitating collaborative tech development in the UK and European innovation ecosystems. InterDigital's WLE actively holds more than 25 peer-elected leadership positions in ETSI, IETF, WWRF and related standards bodies, and in the past decade, WLE has been awarded more than 20 EU and UK-funded projects on 5G and 6G, collaborated with more than 100 partners across Europe, and leveraged cumulative funding exceeding \$150M.

Question 1: Do you agree with the CMA's proposed recommendation to the Secretary of State to make a Block Exemption Order to replace the retained TTBER with the Recommended TTBER, rather than letting it lapse without replacement or renewing it without varying the retained TTBER?

InterDigital concurs with the provisional view of the CMA set out at paragraph 1.25 to the Consultation Paper that:

" not replacing the Assimilated TTBER with a similar block exemption order would risk creating legal uncertainty and increasing compliance costs for technology transfer licensing in the UK. This in turn could risk undermining innovation, investment and growth in the UK."

More specifically, insofar as the Recommended TTBER will apply to the licensing of SEPs (which are generally licensed on a global basis), InterDigital supports the CMA in this provisional view. For the CMA to take a radical approach in diverging from a settled regulatory position would, in InterDigital's view, be inconsistent with the CMA's own policy in the digital area – notably that of the '4Ps' – which includes predictability. More recently, in its draft strategic steer to the CMA, the UK government emphasised economic growth as paramount:

This steer sets out how the government expects the CMA to support and contribute to the overriding national priority of this government – economic growth. The steer

applies to all aspects of the CMA's activity over which it has discretion, including how it engages with people and businesses affected by its work. Investment is a critical driver of growth, and the government expects the CMA's approach to clearly, and unambiguously, reflect the need to enhance the attractiveness of the UK as a destination for international investment.¹

While InterDigital is aware that block exemptions may have a 'strait jacket' effect on commercial arrangements, it is clear that the EU will maintain in place a block exemption for bi-lateral technology agreements by adopting revisions to the current TTBE on its expiry on 30 April 2026². To remove the benefit of a parallel equivalent in the UK would not be conducive to encouraging an investment friendly environment in the UK. The markets for the investment, creation and exploitation of technology are invariably interlinked with those in the EU – or to the extent they are not inter-linked, are in competition with one another. It would be sub optimum for companies such as InterDigital with a long-standing interest in continued investment and collaboration both in the UK and the EU to have to straddle two separate regulatory regimes, without any clear benefit or justification. It would also be unfortunate if it were the EU regime that was offering predictability and legal certainty and not the UK.

Question 2: In your response to our questions, where possible please indicate the size of your business (or those businesses you represent) in terms of number of employees:

- Less than 10 employees
- Between 10 and 50 employees
- Between 50 and 250 employees
- More than 250 employees

Question 3: In your response to our questions, where possible please indicate the industry in which you consider your business (or those businesses you represent) operates (using SIC codes if known):

- Agriculture, forestry, fishing
- Mining and Quarrying
- Manufacturing (Please specify)
- Electricity, gas, steam and air conditioning supply,
- Water supply; sewerage, waste management and remediation activities
- Construction
- Wholesale and Retail Trade, repair of motor vehicles and motorcycles
- Transportation and storage

¹ <https://www.gov.uk/government/consultations/draft-strategic-steer-to-the-competition-and-markets-authority/strategic-steer-to-the-competition-and-markets-authority>, 13 February 2025

² https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14477-EU-competition-rules-on-technology-transfer-agreements-revision-_en

- Accommodation and food service activities
- Information and communication
- Financial and insurance activities
- Real estate activities
- Professional, scientific and technical activities
- Administrative and support service activities
- Public administration and defence; compulsory social security
- Education
- Human health and social work activities
- Arts, entertainment and recreation
- Other service activities

Question 4: In your response to our questions, where possible please indicate how long your business has been in operation (or if you are an advisor, generally how long the businesses you represent have been in operation).

InterDigital, Inc. is a US corporation with headquarters in Wilmington, Delaware which was founded in 1972, became a publicly traded company in 1981 and is now a significant commercial research, innovation, and engineering organisation, with research centres in the US, Canada, France, and England. We refer to the Introduction above for more information in relation to InterDigital's business activities, including in particular its UK activities.

Question 5: Relative to current arrangements, if the Assimilated TTBER were allowed to expire without replacement, how much (if at all) would this impact your business or the businesses you represent? Please provide reasons for your view.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

While InterDigital does not make use of the Assimilated TTBER, as noted above, a radical departure by the CMA from an established regime would create unnecessary uncertainty in what is already a challenging business environment.

Question 6: Relative to current arrangements, if the Assimilated TTBER were allowed to expire without replacement, how would this impact consumers? Please provide reasons for your view.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- **Moderate negative impact**
- Significant negative impact

InterDigital considers that its own interests and those of consumers are strongly aligned. This is because InterDigital generates foundational technology which is used, in part, to create new standards. Those standards make new technical functionality available (for instance in new generations of cellular and video codec standards) which is then built into new products and services of many kinds. Wireless communications have very pervasive beneficial effects in virtually all societies, and continue to develop apace through the research efforts of companies such as InterDigital.

Question 7: Do you agree with the CMA's Proposed Recommendation not to include 'utility models' in the definition of 'technology rights' in the Recommended TTBER?
Yes

Question 8: Do you agree with the CMA's proposal to add copyright in data and database rights, but not data, in the definition of 'technology rights' in the Recommended TTBER?
Yes, data licences should be eligible for block exemption in some circumstances. This should follow the EU decision in order to avoid a split regime within Europe.

Question 9: Do you have any suggestions for how data could be covered in a definition of 'technology rights' in the Recommended TTBER?
No

Question 10: Do you agree with the CMA's Proposed recommendation to include the definitions of 'active sales' and 'passive sales' used in Article 8(7) of the VABEO in the Recommended TTBER?
No opinion

Question 11: Relative to current arrangements, if the CMA's Proposed Recommendation for definitions in the Recommended TTBER were to be adopted, how do you anticipate that this would impact your business or those that you represent? Please describe the scale of any legal or expert advice needed (e.g. time spent with consultants).

- Significant positive impact
- Moderate positive impact
- **Negligible impact**
- Moderate negative impact
- Significant negative impact

Question 12: Do you agree with the CMA's proposal not to recommend any change in the distinction between competing and non-competing businesses set out in the Assimilated TTBER? Please provide reasons for your view.

No opinion

Question 13: Do you agree with the CMA's proposal not to recommend any change in the distinction between reciprocal and non-reciprocal agreements currently set out in the Assimilated TTBER? Please provide reasons for your view.

No opinion

Question 14: If the CMA were to recommend removing the distinction between competing and non-competing businesses currently set out in the Assimilated TTBER, what impact would this have on your business or the businesses of those you represent? Please describe the scale of any impact (e.g. as a result of time spent with consultants).

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

No opinion

Question 15: If the CMA were to recommend removing the distinction between reciprocal and non-reciprocal agreements currently set out in the Assimilated TTBER, what impact would this have on your business or the businesses of those you represent? Please describe the scale of any legal or expert advice needed (e.g. time spent with consultants).

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

No opinion

Question 16: Do you agree with the CMA's proposal to recommend that the Recommended TTBERO should not apply to agreements establishing technology pools or LNGs, but instead to consider whether to cover such issues in guidance? Please provide reasons for your answer.

InterDigital agrees with the CMA's proposal not to grant block exemption with respect to either technology pools or LNGs. To recap, in its Consultation on the CMA's Proposed Recommendation on the Assimilated TTBER the CMA states that:

...given the absence of relevant case law, and lack of consensus on these matters in the academic literature, the CMA does not consider that it is currently in a position to reach a view on whether and when such arrangements constitute categories of

agreements that are likely to satisfy the exemption criteria set out in section 9 of the CA98. [para.3.46]

The CMA reasons that the European Commission has 'discussed' technology pools in their technology transfer guidelines (the "EU TTGs") and that arrangements for the establishment of technology standards are covered in the CMA's Guidance on Horizontal Agreements. The CMA states that it 'therefore' proposes to consider providing guidance on agreements relating to technology pools and LNGs. Whilst this is logical so far as concerns technology pools it provides no basis for the introduction of LNGs to the CMA's Guidance.

InterDigital concurs with the CMA's conclusion that it is in no position to opine as to the availability of exemption criteria for LNGs. This is so not only due to the lack of academic commentary and jurisprudence, but also to the CMA's (and other regulators') lack of experience of such arrangements in the SEP licensing arena. The CMA recognises that it is in no position to articulate a case for or against the availability of block exemption for LNG's; in InterDigital's view that is because there is no available basis on which to articulate the effect of LNGs on the relevant markets and the effect on consumers, both in the long and short term. Further, for reasons that InterDigital expands upon below, it does not consider that the conditions for block exemption can, in any event, possibly be met.

By contrast, there is ample observable empirical evidence of the positive functioning and effects of patent pools in SEP licensing markets. See in that respect, paragraph 245 to the European Commission Guidelines on technology transfer:³

"Technology pools can produce pro-competitive effects, in particular by reducing transaction costs and by setting a limit on cumulative royalties to avoid double marginalisation. The creation of a pool allows for one-stop licensing of the technologies covered by the pool. This is particularly important in sectors where intellectual property rights are prevalent and licences need to be obtained from a significant number of licensors in order to operate on the market. In cases where licensees receive on-going services concerning the application of the licensed technology, joint licensing and servicing can lead to further cost reductions. Patent pools can also play a beneficial role in the implementation of pro-competitive standards.

The apparent conflation by the CMA of two such very different models (patent pools and LNGs) in its thinking is concerning and would ignore differences between the two types of arrangements and the regulatory treatment that they have been afforded to date. This conflation also appears at Questions 17 and 18.

At paragraph 3.39 (footnote 54) of the Consultation on the CMA's Proposed Recommendation on the Assimilated TTBER the reader is referred to the European Commission's publication "Group of Experts on Licensing and Valuation of Standard Essential Patents 'SEPs Expert Group' (E03600): Contribution to the Debate on SEPs" for an explanation of LNGs. It should be noted that this publication is controversial – indeed one member of the group saw fit to file a dissenting opinion for publication that is critical of the group's processes and approach (see Annex 2 of the report). The description of the LNG proposal referred to does not have consensus; the "level of support" star rating that accompanies each proposal records the level of support expressed by those who supported the proposal to some degree. Thus, a proposal with a high star rating received strong support from at least some members of the group, even if it was strongly opposed by others; one therefore cannot infer any level of consensus from this review system. In effect, the report comprises a repository of widely varying proposals, all of which received support to at least some

³ Guidelines on the application of Article 101 of the Treaty on the Functioning of the European Union to technology transfer agreements, OJ [2024] C 89/3.

extent (if only from those experts who proposed them); however, it does not confer consensual expert authority on any of the proposals it contains.

In June 2024, the German Bundeskartellamt published its decision to "tolerate" an automotive licensing negotiation group (ALNG) proposed by certain German vehicle manufacturers⁴:

InterDigital notes that this decision is described by the Bundeskartellamt as "ground breaking" and was widely reported as controversial. Whilst the decision emphasises that licensors must be free to choose whether to negotiate with the ALNG, InterDigital observes that the economic and market strength of such a group may be sufficient to effectively oblige licensors to negotiate with it, rendering any apparent "choice" illusory. It remains to be seen what market effects this group may have.

In stark contrast to LNGs, technology pools are a model for patent licensing that has been employed for many decades and for which there is ample decisional practice and guidance in the US and EU as to its compatibility with antitrust/competition law. See, for instance, section 4.4 (paras. 244-273) of the EU TTGs and the business review letter dated July 28, 2020 provided by the US DoJ concerning a proposal by Avanci LLC⁵.

To be clear, patent pools and LNGs are wholly unlike. There is a complementarity between essential patents that read onto technology standards, as opposed to competitiveness. Accordingly, the European Commission and other competition authorities have recognised that SEP pools do not fall into the ambit of the competition rules provided the elements that are coordinated and jointly sold within pools are not objects of competition, but complementary to one another⁶.

Further, patent pools stand on the public terms to which their members are committed. For the pool to succeed, the terms it offers to prospective licensees must be an attractive alternative to individually negotiated licences with some or all of the members. The pool terms must also be sufficiently attractive to licensors so that sufficient licensors choose to be members to render the pool commercially attractive to prospective licensees. The pool terms are the same for all licensees and are set by an independent pool administrator when the pool is established so a pool does not permit any degree of collusion between patent owners.

Moreover, pools are innately pro-competitive because if they are not, then they do not succeed. No licensor can compel a pool licence, nor can any prospective licensee compel any variation in the terms offered. Bilateral licensing remains available and is subject to FRAND where SEPs are concerned.

Thus, patent pools are a well-established and stable feature of the SEP licensing landscape where there is NO balancing of harmful effects against benefits. Indeed, pools such as those in which InterDigital participates provide a well-established model which enures for the benefit of all market participants. This is especially true for SMEs: pools afford SME patent owners the opportunity to license their patents and obtain income when a licensing programme would normally be beyond their resources, and pools level the playing field for SME implementers by offering a rate that is the same for all licensees (and which has been set taking into account the negotiation power of large implementers). This is a dynamic that has evolved with the consensus of both the innovator and implementer communities, and not as a consequence of self-interested pressure by a particular cohort. Moreover, such a model has emerged without any concerns as to competitive harms.

⁴See https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2024/10_06_2024_ALNG.html

⁵ <https://www.justice.gov/atr/page/file/1298626/dl?inline=>

⁶ See the US Department of Justice Business Review Letters issued by the patent pools for MPEG LA (June 26, 1997) and Avanci. (July 28, 2020) <https://www.justice.gov/atr/business-review-letters-and-request-letters>.
<<https://www.justice.gov/archive/atr/public/busreview/215742.htm>>.

With respect to InterDigital's own experience of patent pools, it is a member of the following programs on the Avanci platform:

- (a) Vehicles Licensing Program 2G/3G/4G,
- (b) Smart Meters Licensing Program 2G/3G/4G,
- (c) Aftermarket Auto Licensing Program 2G/3G/4G, and
- (d) 5G Connected Vehicle Licensing Program.

It is also a member of:

- (e) the Premier BD patent pool (blue ray technology);
- (f) the Uldage patent pool (Japanese DTV standard).

Membership of these pools increases the number and variety of entities under licence to InterDigital patents by broadening the licensing environment, to the benefit of licensors and licensees alike.

By contrast, the risk of competitive harms are inherent in the very construct of a LNG model which, with its collusive inception, necessarily will lead to a collusive outcome, not least because its task is to negotiate. For that reason, it is quite correct that there is and should remain inherent inequality as between the regulatory treatment of the two models.

Question 17: What impact would have it have on your business or those you represent if the Recommended TTBE0 applied to agreements establishing technology pools or LNGs? Please provide reasons for your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

As noted above, the premise of this question is flawed in particular as it relates to SDOs and standards. The conflation of two such different models in this question is not helpful as two very different analyses apply.

Technology pools

In relation to technology pools, an appropriately articulated negative clearance, in line with established EU thinking within CMA guidelines, would produce moderate positive impact (insofar as the market for licensing of standards is a global one) as the CMA position would accord with established regulatory positions elsewhere. As such, this would be reassuring to InterDigital that the UK regulatory regime was one that engaged with the need to encourage predictability and was not an 'outlier.'

LNG's

By contrast, the very genesis of a LNG involves collusion between competitors, in that they combine their purchasing. The activity of an LNG will also be potentially problematic, as its purpose is to negotiate on a collective basis. Therefore, a case by case economic analysis would need to be pursued to ensure that

the LNG in question would not produce an unwarranted distortion(s) of competition, with no economic benefits that could not be achieved by other means, and with resulting benefit to consumers (both in the long and short term).

InterDigital would therefore expect to suffer significant negative impact from any negative clearance of an LNG, whether by virtue of the CMA guidelines or the Recommended TTBER itself. The issue concerning multi-party agreements described above also arises.

Question 18: What impact would have it have on consumers if the Recommended TTBER applied to agreements establishing technology pools or LNGs? Please provide the reasoning behind your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

Please see the responses to Questions 6 and 17 above. Further, and as noted above, the premise of this question is flawed in particular as it groups technology pools and LNGs together.

Question 19: Do you agree that the Recommended TTBER should retain the Assimilated TTBER's market share thresholds in respect of product markets but that in respect of technology markets, instead of having a market share threshold, the block exemption in the Recommended TTBER would apply subject to the condition there be at least three other independently controlled technologies substitutable for the licensed technology? Please provide reasons for your answer.

No. InterDigital's view is that the consideration of market shares in the relevant technologies held by the parties to a licence is a useful but crude proxy for determining market power and the actual or potential effect of the agreement at issue. To exclude a safe harbour based on technology market shares, but to include one for the relevant product markets would be an artificial distinction in what is already a crude analysis. Further, it is not clear why an arbitrary distinction would be drawn in affording legal certainty to restrictive agreements to the extent they produce an effect on product markets, but no safe harbour is at all afforded where agreements (also or only) produce an effect on technology markets. This would greatly reduce the scope and utility of the Recommended TTBER.

Question 20: Would the approach proposed in question 19 be as effective as the existing market share threshold for technology markets in assessing the level of market power held by the parties to the agreement? Please provide reasons for your answer.

No; while consideration of market share is a crude proxy for measuring effect on competition of an agreement, the counting of four alternative technologies as a means to exclude agreements that do not merit automatic exemption is even more crude and could yield an arbitrary result. Markets can be highly competitive even where there are fewer than four competing technologies.

Question 21: Would the approach proposed in question 19 in practice provide greater legal certainty and be easier to apply than one which involves retaining the Assimilated TTBER's market share thresholds for both product and technology markets and providing further clarity about such thresholds in guidance? Please provide reasons for your answer.

No; for the reasons given above.

Question 22: Do you agree with the CMA's proposal that the Recommended TTBER should retain the two year grace period established in the Assimilated TTBER? Please provide reasons for your answer.
No opinion

Question 23: How would the CMA's proposal that the Recommended TTBER should retain the Assimilated TTBER's market share thresholds in respect of product markets but that in respect of technology markets, instead of having a market share threshold, the block exemption in the Recommended TTBER would apply subject to the condition there be at least three other independently controlled technologies substitutable for the licensed technology impact your business or those you represent? Please provide reasons for your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

The change would render assessment under the Recommended TTBER less reliable and the result could be arbitrary. This could undermine the effectiveness of the Recommended TTBER, with unknown effects.

However, the Recommended TTBER is not, in the main, of relevance to InterDigital's activities. As a developer of IPRs that are integrated into global wireless, video and other standards, and available on FRAND terms, InterDigital rarely concludes bilateral agreements that fall within the ambit of Chapter 1 of the Competition Act 1988 such as would require block or individual exemption pursuant to Section 9 or the Recommended TTBER.

By contrast, the CMA guidelines are capable of having a profound impact on InterDigital's activities, for all the reasons explained above and in particular with respect to LNGs.

Question 24: How would this proposal impact your business or those you represent in comparison to the two other options discussed above with respect to market share thresholds? Please provide reasons for your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

Question 25: How would this proposal impact consumers in comparison to the two other options discussed above with respect to market share thresholds? Please provide reasons for your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact

- Moderate negative impact
- Significant negative impact

Please see the answer to question 23 above.

Question 26: How would the CMA's proposal that the Recommended TTBER should retain the two year grace established in the Assimilated TTBER impact your business or those you represent? Please provide reasons for your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

No opinion

Question 27: Do you agree with the CMA's Proposed Recommendation that the Recommended TTBER should retain the hardcore restrictions set out in Article 4 of the Assimilated TTBER, including with respect to active and passive sales restrictions?

No opinion

Question 28: How would the CMA's Proposed Recommendation that the Recommended TTBER should retain the hardcore restrictions set out in Article 4 of the Assimilated TTBER, including with respect to active and passive sales restrictions, impact your business or those you represent? Do you think that the block exemption would be used differently if the hardcore restrictions were altered? Please provide the reasoning behind your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact
- Moderate negative impact
- Significant negative impact

No opinion

Question 29: How would the CMA's Proposed Recommendation that the Recommended TTBER should retain the hardcore restrictions set out in Article 4 of the Assimilated TTBER, including with respect to active and passive sales restrictions, impact consumers? Please provide the reasoning behind your answer.

- Significant positive impact
- Moderate positive impact
- Negligible impact

- Moderate negative impact
- Significant negative impact

No opinion

Question 30: Do you agree with the CMA's proposal that the approach to the treatment of grant backs in Article 5 of the Assimilated TTBER be retained in the Recommended TTBER? Please provide reasons for your view.

No opinion

Question 31: If you disagree with this proposal, please discuss how – if at all – the Recommended TTBER should deal with grant backs, providing your reasons when doing so.

No opinion

Question 32: Do you agree with the CMA's proposal to recommend that the approach to the treatment of termination on challenge clauses in Article 5 of the Assimilated TTBER be retained in the Recommended TTBER? Please provide reasons for your view.

No opinion

Question 33: If you disagree with this proposal, please explain how – if at all – the Recommended TTBER should deal with termination on challenge clauses, providing your reasons when doing so.

No opinion

Question 38: Are there any other provisions you think should be included in the Recommended TTBER that would improve technology dissemination in the UK?

No.

Question 39: The CMA invites views on the above proposed recommendations for the Recommended TTBER in respect of transitional provisions, cancellation and obligations to provide information.

No opinion

Question 40: Do you agree with the CMA's Proposed Recommendation that the Recommended TTBER should have a 12 year duration? If you disagree, do you have a suggestion for what the duration should be?

Please provide reasons for your answer.

Yes, provided it is drafted in terms that are technology-proof.