



# The Review of the Technology Transfer Agreement Regime

**Luc Peepkorn\***

Principal Expert Antitrust Policy

DG Competition

Directorate A – Policy and Strategy

Tilburg - 15 June 2012

\* The views expressed are those of the speaker and do not necessarily reflect those of DG Competition or the European Commission

# Outline

## Introduction

## Consultation

- General
- Scope
- Market share thresholds
- Hardcore restrictions and excluded restrictions
- Settlements
- Patent Pools

## Timetable

# Introduction

## Background

- Enabling Council Regulation 19/65/EEC
- TTBER 772/2004 and TTGuidelines
- Effects-based approach
- Expiry of the TTBER in April 2014

## The Review so far

- Internal working groups
- Consultation
- Régibeau Study

# Public Consultation

## General

- 39 replies mainly from law firms, law and industry associations but also a few companies and citizens commented
- Majority indicated that the current system works well
- Suggestions for improvements in both the TTBER and Guidelines

# Consultation (2)

## Scope

- Extension of TTBER to patent pools, copyright and trademarks?
- Software licensing: distinction between (re)production and distribution

## Market share thresholds

- Definition of technology market
- Market share calculation
- Level
- Alternatives

# Consultation (3)

## Hardcore restrictions

- Simplification
- Streamline with other BERs
- Competitors: reciprocity and non-reciprocity
- Non-competitors: (even) more lenient treatment?

## Excluded restrictions

- Grant back clauses
- No challenge clauses

# Consultation (4)

## Settlements

## Patent pools

- General appreciation of policy
- Essentiality
- Additional guidance on pool conditions?

# Timetable

- June/July 2012: Decision of the Commissioner how to go ahead
- End of 2012: Drafting of potential new Guidelines and/or TTBER and consultation with other Services and Member States
- Spring/Summer 2013: second public consultation
- Before April 2014: Final adoption