



**The 2023 Reforms to Self-
Assessment of Horizontal
Cooperation**
2023年横向合作自我评估改革

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To aid in Self-Assessment, the Commission Produces aids of various sorts

为帮助自我评估，委员会提供了多种帮助手段

Regulations

规章

Guidelines and Notices: indicate how the Commission will interpret and deal with certain matters (sets up “reasonable expectations”: C-189/02 P (etc) *Dansk Rørindustri* ¶¶ 209 – 213)

指南和注意事项：说明委员会将会如何解释和处理某些事项

（建立合理预期：C-189/02 P (etc) *Dansk Rørindustri* ¶¶ 209 – 213）

Purchasing Agreements (Guidance)

2023 Addition 采购协议（指南）2023年版

New: recognition of the section describing the difference between legitimate joint purchasing alliances and buyer cartels: form and transparency are key.

更新：对合法联合采购和买方卡特尔之间区别部分的承认：形式和透明度是关键。

Buyer cartels (a restriction of competition "by object"): (1) no negotiations with the supplier and (2) coordinate the purchasers' individual behaviour on the purchasing market. Joint negotiation: if purchasing conditions by buyers in genuine purchasing agreements (buyers make it clear to suppliers that the negotiations are conducted jointly on behalf of participating buyers. (Not a restriction by object--the effects need to be assessed on a case-by-case basis.)

买方卡特尔（“目的违法”竞争限制）：（1）没有与供应方协商；（2）与采购方在采购市场上的个人行为相协调。

联合谈判：买方在真正的采购协议中提出采购条件（买方向供应商明确表示谈判是代表参与的买方联合进行的。）（这不是一项目的违法限制--需要根据个案情况评估其效果）。

Commercialisation Agreements: 2023 Addition

商业化协议：2023年版

New--bidding consortia: clarifying when companies may form consortia to submit joint tenders

更新--投标联合体：明确公司何时可以组成联合体共同投标

This allows parties to execute projects that they would not be able to undertake individually (taking advantage of economies of scale, specialisation)

这使参与方能够执行它们无法单独执行的项目（利用规模经济和专业优势）

Sustainability Agreements 可持续性协议

2023 Guidance: New guidance on how to self-assess sustainability agreements

2023年指南：为如何自我评估可持续性协议提供新指引。

Note broad understanding of "Sustainability": includes more than environmental initiatives, extends to social objectives (e.g. labour and human rights)

注意对“可持续性”的广义理解：不仅包括环保举措，还延伸至社会目标（如劳工和人权）。

To aid in self-assessment 为帮助自我评估

New Guidance takes wide view of consumer benefits,
including: 最新指南广泛考虑消费者的利益，包括:

- (i) individual use value (product quality or variety); 个体使用价值（产品质量或品种）；
- (ii) individual non-use value (consumers' experience with the product is not directly improved, but consumers value the impact of their sustainable consumption on others); and 个体非使用价值（消费者对产品的体验没有直接改善，但消费者重视其可持续消费对他人的影响）；
- (iii) collective benefits (objective benefits accrue to a wider part of society--not just in the relevant market) 集体利益（客观利益惠及更广泛的社会群体，而不仅仅是相关市场）

A new “soft safe harbour” for sustainability standards 可持续性标准的新“软安全港”

Six conditions: 六个条件

- transparency and all interested competitors must be able to participate;

透明度及所有感兴趣的竞争者必须能够参与

- voluntary participation;

自愿参与

- freedom to adopt a higher standard (although minimum standard can be imposed);

接受更高标准的自由（尽管最低标准可以强制使用）

- no exchange of commercially sensitive information;
没有交换商业敏感信息
- open and non-discriminatory access;
公开与非歧视机会
- the sustainability standard must not lead to a "significant" increase in price or "significant" reduction in quality of the products, or the combined market share of the participants must not exceed 20% on any relevant market affected by the standard.

可持续发展标准不得导致产品的价格“显著”上涨或质量“显著”下降，或参与者在受该标准影响的任何相关市场的综合市场份额不得超过20%。

Note: The EC's view of benefits is not as broad as that taken by the UK and Dutch competition authorities who may consider benefits for wider society as a whole – rather than only those for the consumers of the products in the relevant markets.

注：欧盟委员会对利益的看法不像英国和荷兰竞争当局所认为的那样广泛，他们可能会考虑更广泛的社会整体利益——而不仅仅是相关市场上产品消费者的利益。

Thank You

感谢