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From:	General Secretariat of the Council
To:	Working Party on Competition
Subject:	Presentation by the European Commission: Revision of the Technology Transfer Block Exemption Regulation - State of play (agenda item 6.) Working Party on Competition meeting on 10 October 2025

Delegations will find in annex a presentation (agenda item 6.) given by the European Commission during the Working Party on Competition meeting on 10 October 2025.

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Revision of Technology Transfer Block Exemption Regulation & Guidelines

Update on the status of the project and next steps

Working Party Competition – 10 October 2025

What is the TTBER?

- The **TTBER** is the block exemption regulation that applies to **technology transfer agreements**. It is accompanied by the **Technology Transfer Guidelines**.



TTBER and Guidelines help companies to more easily self-assess the compliance of their technology transfer agreements with Article 101

The TTBER works similarly to other antitrust block exemptions → it provides a **safe harbour** from the application of Article 101(1) on the condition that:

- ✓ the **market shares** of the parties to the agreement are **below certain thresholds**

AND

- ✓ the agreement does not include **“hardcore” restrictions**



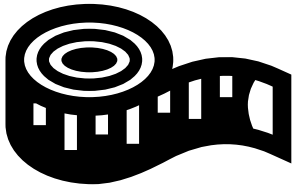
Where do we stand with the revision?

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November 2024: Completed the **evaluation** of the current TTBER and Guidelines.

31 January 2025 – 25 April 2025: **Call for Evidence** and **Questionnaire** on possible changes to the rules.

11 September 2025 – 23 October 2025: Public consultation on **draft revised rules**.



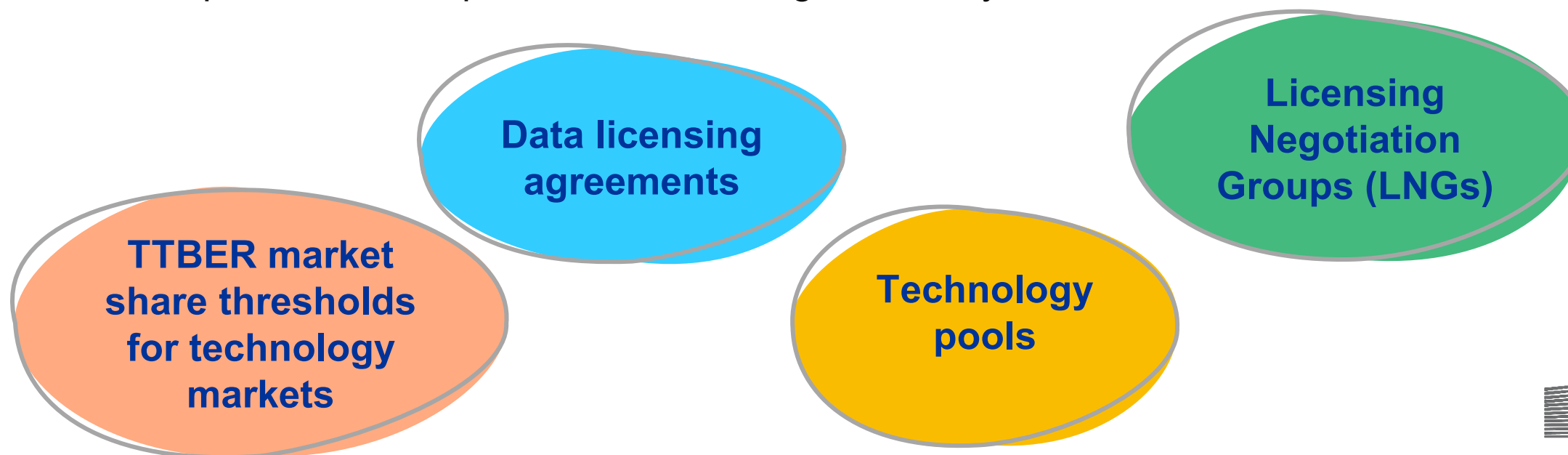
Results of the evaluation: a brief recap

- Overall, stakeholders consider the TTBER and Guidelines **have achieved their objectives**



The rules remain **clear** and **comprehensible** for companies, which value the safe harbour and the guidance

- However, the evaluation indicated that some of the rules do not fully reflect market developments and/or provide sufficient legal certainty in relation to:



Market share thresholds in technology markets

Current rules: Market share thresholds apply both to relevant product and technology markets. In technology markets, market shares are calculated using the 'footprint methodology'. The Guidelines also contain a soft safe harbour where at least 4 alternative technologies are available ("4+ test").

Stakeholder feedback

- Majority confirmed the existence of practical difficulties when calculating market shares (e.g identifying substitutable technologies).
- **No consensus among stakeholders about the solution** to address these difficulties: (i) no absolute majority in favour of removing the current thresholds; (ii) majority is against replacing current threshold with one based on a number of alternative technologies.
- **But majority of stakeholders considered that the current guidance could be improved.**

Draft revised texts

- More clarity on the application of the footprint methodology (recital 13 of TTBER and para. 112 of Guidelines).
- Extend by 1 year (to 3 years) the grace period during which the block exemption continues to apply when the parties' market shares rise above the threshold during the life of the agreement.

Data licensing agreements

Current rules: the TTBER and Guidelines do not mention data licensing agreements (new market practice).

Stakeholder feedback

- Data licensing agreements are increasingly frequent in the market. Vast majority of respondents believe that data licensing is pro-competitive.
- A majority of stakeholders favoured an extension of the TTBER to certain types of data or, alternatively, the provision of guidance on data licensing in the Guidelines.
- Several respondents pointed out the differences between different types of data and opposed a blanket extension of the block exemption to all types of data licences/data sharing.
- Expert study confirms (i) the wide variety and rapidly evolving nature of data sharing/licensing, (ii) the challenges associated with a blanket extension of the TTBER to all types of data licensing/sharing.

Draft revised texts

- Clarification that certain data may qualify as know-how within the definition of the TTBER, meaning that some forms of data licensing already fall within the TTBER.
- Guidance in the Guidelines on licensing of other types of data:
 - The principles of the TTBER and Guidelines apply to the licensing of those types of data that are more similar to the technology rights covered by the TTBER, i.e. databases protected by *sui generis* rights or by copyright.
 - For other types of data sharing/licensing: case-by-case assessment.



Technology pools

Current rules: the Guidelines provide guidance on how to assess technology pools under Article 101 TFEU, and include a soft safe harbour based on compliance with seven conditions.

Stakeholder feedback

- Broad support for maintaining the soft safe harbour, though many respondents identified areas for improvement.
- Technology holders and pool operators generally consider the existing rules to be adequate, while licensees often argue that improvements are necessary.
- The feedback suggests that limited, targeted amendments are needed to ensure that the soft safe harbour remains effective.

Draft revised texts

- **Essentiality:** strengthened the current condition by adding an obligation to disclose to potential licensees the methodology used to verify essentiality and the results of essentiality checks.
- **Transparency:** added a new condition requiring pools to disclose to potential end existing licensees the individual technology rights included in the licensing programmes offered by the pool.
- **Double dipping:** added a new condition to ensure that licensees pay only once for the same technology. No specific mechanism mandated.
- **FRAND terms:** clarified that the current condition also applies when the pool itself licenses the technologies.



Licensing negotiation groups (LNGs)

Current rules: TTBER and Guidelines do not provide guidance on LNGs (new market practice).

Stakeholder feedback

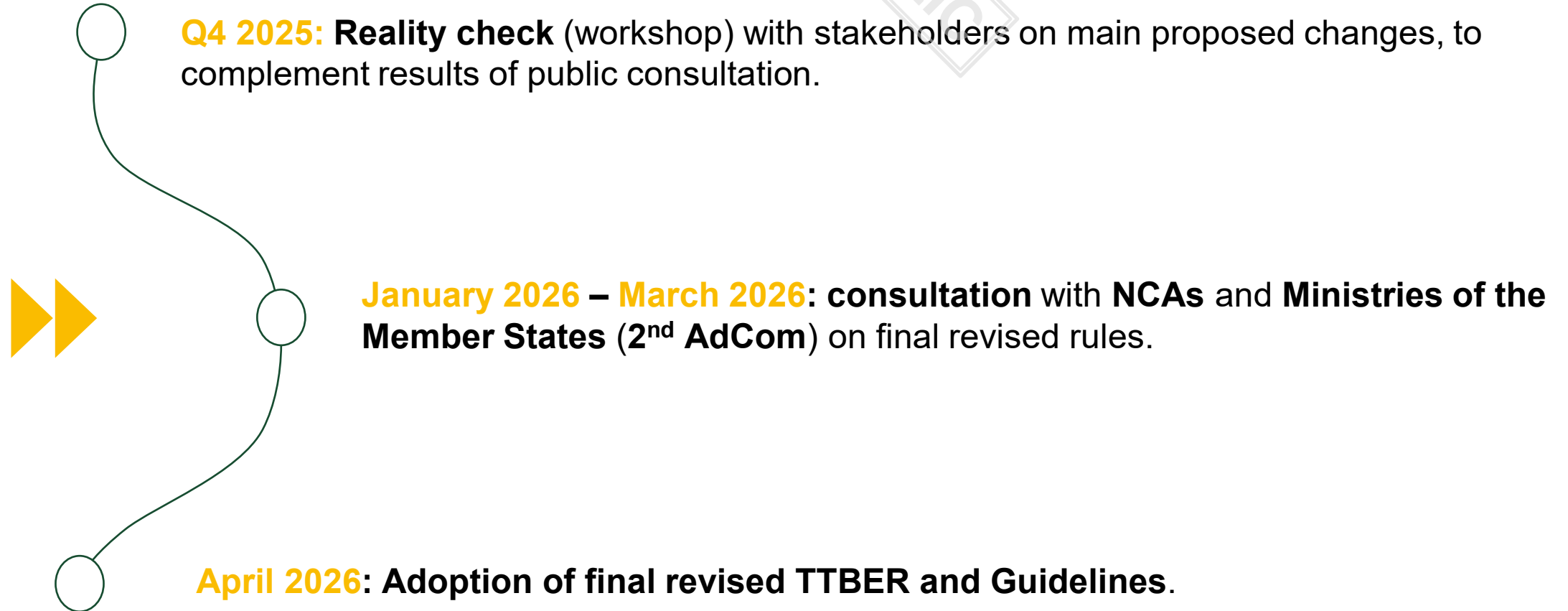
- Stakeholder feedback evenly split between technology holders (who oppose the provision of new guidance on LNGs) and implementers (who support it).
- Technology holders argued that LNGs are a form of buyer cartel that could lead to exchanges of commercially sensitive information between competing technology implementers, coordinated hold-out and sub-FRAND royalty rates.
- Implementers considered that LNGs can reduce licensing transaction costs and information asymmetries, leading to genuinely FRAND licensing terms, and generally encourage the take-up of licences, in particular by SMEs.

Draft revised texts

- Provided guidance in the Guidelines on the competitive assessment of LNGs.
- The guidance describes the possible pro- and anti-competitive effects of LNGs, distinguishes between genuine LNGs and buyer cartels, and states that, absent downstream collusion, LNGs will generally be assessed as restrictions of competition by effect.
- To increase legal certainty, the guidance also contains a soft safe harbour, conditional upon open participation, transparent operation, no coordinated hold-outs or other coercion of technology owners, and safeguards regarding information exchange and resulting commonality of costs (but not conditional upon market shares).



Next steps



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Thank you!

Contact: COMP-TTBER-REVIEW@ec.europa.eu