



European Round Table for Industry

Ms Teresa Ribera
Executive Vice-President for Clean, Just and
Competitive Transition
European Commission
Rue de la Loi 200
B-1049 Brussels

25 July 2025

Dear Executive Vice-President,
Estimada Teresa,

Following our fruitful exchanges over the past year, including at ERT's Plenary Session in Madrid in November 2024 and a meeting with a delegation of ERT Members in April 2025, we are contacting you concerning an important matter related to the EU's competition policy agenda, namely the adoption of the European Commission's Guidelines on exclusionary abuses.

As you are aware, ERT represents the CEOs & Chairs of Europe's leading European companies from across all key European industries, whose mission is to promote sustainable growth and prosperity in Europe, including through pragmatic and effective competition and antitrust law enforcement.

We agree with the European Commission on the need for more legal certainty and clarity on Article 102 of the Treaty on the Functioning of the European Union (TFEU) and the appropriate application of methodologies to enable businesses to self-assess their commercial practices effectively. We therefore welcome the Commission's initiative to adopt Guidelines on exclusionary abuses, including the codification of disparate case law.

The better the quality of the Guidelines on exclusionary abuses, the more they will help European companies to self-assess their commercial initiatives as they seek to grow and react to global challenges. ERT was pleased to [respond](#) to the European Commission's public consultation (which we attach for your convenience) and a number of companies of ERT Members actively participated in the stakeholder workshop which took place on 13 February 2025.

Throughout this process, industry and legal advisers, who are familiar with the day to day challenges of companies struggling to self-assess behaviour when they may have a leading market position, were aligned in expressing serious concerns about the Draft Guidelines and have called on the Commission to issue revised Draft Guidelines for further consultation. We are concerned that, in their current form, the Draft Guidelines risk undermining legal certainty and predictability. By introducing presumptions based on a purely formalistic approach, they go well beyond established case law. The Draft Guidelines moreover risk applying a

generalised approach from recent key digital Article 102 cases¹, which concern very specific facts, to all industries. This could have a severe chilling effect on successful European companies, at a time when the Commission aims to foster, not hinder growth and innovation.

We believe that the grave concerns expressed across European industries cannot be addressed by making small adjustments to the current Draft Guidelines. The issues revealed in this consultation are commensurate with those expressed during the consultations of the Vertical Block Exemption Regulation & Guidelines as well as the Foreign Subsidies Regulation, which led to a second-step consultation, and should be treated in the same manner.

In conclusion, ERT respectfully urges the European Commission to issue and consult on a revised Draft before adopting the Guidelines.

Thank you for considering our request. We remain at your disposal to discuss the issues raised in this letter in more detail.

Yours sincerely,

Anthony Gooch Gálvez
Secretary General, ERT

¹ Including *European Commission v Intel Corporation Inc.* of 24 October 2024 and the Judgment in *Google and Alphabet v Commission (Google Shopping)* of 10 September 2024.