

**Issue:** Exchange of commercially sensitive information between independent businesses and passive sales restrictions in retail sales of JCB products

**Relevant provision:** Section 4, Competition Act 2002

**Outcome of investigation:** File closed in June 2007 when the Competition Authority secured undertakings from parties

### **Outline of case**

The Competition Authority resolved its investigation in the market for supply of JC Bamford Excavators Limited (JCB) agricultural and industrial products in Ireland by accepting the settlement terms offered by Equipment Company of Ireland Limited (trading as ECI-JCB) and Kellys of Borris Limited.

ECI JCB and Kellys of Borris established an independent joint venture company Ronason Limited (trading as ECI-JCB Agri (Kilkenny)) for the retail sales of JCB products in the south-east of Ireland.

The Competition Authority had concerns that the arrangements involving ECI-JCB and Kellys of Borris, in relation to the operation of Ronason, breached Section 4 (1) of the Competition Act, 2002. The focus of the Competition Authority's investigation was the exchange of commercially sensitive information between independent businesses and the restriction on Ronason from selling equipment outside of its assigned territory even when approached directly by customers (also known as passive sales).

The Competition Authority was satisfied that the undertakings offered by ECI JCB and Kellys of Borris addressed its concerns and therefore decided to resolve its investigation without the need for court proceedings.