Sections 45AF and 45AJ do not apply to the making of a contract, arrangement or understanding that contains a cartel provision, and section 45AG does not apply to the giving effect to a cartel provision in a contract, arrangement or understanding, insofar as the cartel provision is contained in:

1. a licence granted by the owner or licensee of a patent, registered design, trade mark, copyright, plant breeder’s right or EL right within the meaning of the *Circuit Layouts Act 1989* (Cth) (an “EL Right”), or by a person who has applied for a patent, trade mark, registered design or the grant of a plant breeder’s right; or
2. an assignment of a patent, trade mark, registered design, copyright, plant breeder’s right or EL right, or of the right to apply for a patent, trade mark or a registered design or the grant of a plant breeder’s right; or
3. a contract, arrangement or understanding entered into in settlement of a claim of infringement by the owner or licensee of the patent, the registered design, the trade mark, the copyright, the plant breeder’s right or the EL rights, as the case may be,

and the provision:

1. limits or defines the scope of the rights granted under the licence or assignment;
2. relates to conduct which is authorised by the patents, trade marks, designs, copyright, EL rights or plant breeder’s rights Act (as applicable);
3. insofar as trade marks are concerned, relates to authorising the use of a certification trade mark in accordance with the *Trade Marks Act 1995* (Cth) or the rules applicable under Part 16 of the *Trade Marks Act 1995* (Cth) to that mark;
4. relates to the kind, quality or standard of goods or services produced or supplied under an assignment or licence of the right or, in the case of a trade mark, that may be produced or supplied, bearing the licensed trade mark;
5. prevents or restricts the licensee or a sub-licensee from challenging, or in any way assisting in a challenge to, the validity of the right or the licensor’s ownership of the right or the right to apply for the right under which the licence is granted; or
6. in the case of paragraph (c) above, restricts or prohibits conduct by the alleged infringer relating to patents, registered designs, trade marks, copyright, plant breeder’s rights or EL rights on the assumption that the relevant right has been validly granted and provided the owner or licensee does no know that the relevant right is invalid.