

Commission Reports on Competition Policy 2006 and 2007

European Parliament resolution of 10 March 2009 on the Reports on competition policy 2006 and 2007 (2008/2243(INI))

The European Parliament,

- having regard to the Commission Report on Competition Policy 2006 of 25 June 2007 (COM(2007)0358) and its Report on Competition Policy 2007 of 16 June 2008 (COM(2008)0368),
- having regard to the Commission State Aid Action Plan of 7 June 2005 on Less and better targeted state aid: a roadmap for state aid reform 2005-2009 (COM(2005)0107),
- having regard to its resolution of 14 February 2006 on State aid reform 2005-2009¹,
- having regard to the Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid²,
- having regard to Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation)³,
- having regard to Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector⁴ (Motor Vehicle Block Exemption Regulation),
- having regard to the Guidelines on national regional aid for 2007-2013⁵,
- having regard to Commission Regulation (EC) No 1627/2006 of 24 October 2006 amending Regulation (EC) No 794/2004 as regards the standard forms for notification of aid⁶,
- having regard to Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid⁷,
- having regard to the Community Framework for State aid for Research and Development and Innovation⁸,

¹ OJ C 290 E, 29.11.2006, p. 97.

² OJ L 379, 28.12.2006, p. 5.

³ OJ L 214, 9.8.2008, p. 3.

⁴ OJ L 203, 1.8.2002, p. 30.

⁵ OJ C 54, 4.3.2006, p. 13.

⁶ OJ L 302, 1.11.2006, p. 10.

⁷ OJ L 302, 1.11.2006, p. 29.

⁸ OJ C 323, 30.12.2006, p. 1.

- having regard to its resolution of 27 April 2006 on sectoral aspects of the State Aid Action Plan: aid for innovation¹,
- having regard to the Community Guidelines on state aid for environmental protection²,
- having regard to the Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises³,
- having regard to the Commission Communication concerning the prolongation of the Framework on State aid to shipbuilding⁴,
- having regard to the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees⁵,
- having regard to the Commission Communication on the revision of the method for setting the reference and discount rates⁶,
- having regard to Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings⁷,
- having regard to its declaration of 19 February 2008 on investigating and remedying the abuse of power by large supermarkets operating in the European Union⁸,
- having regard to the Commission's sector inquiries in the energy and retail banking sectors,
- having regard to the Commission Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003⁹,
- having regard to the Commission Notice on Immunity from fines and reduction of fines in cartel cases¹⁰,
- having regard to the Commission White Paper of 2 April 2008 on Damages actions for breach of the EC antitrust rules (COM(2008)0165),
- having regard to the Commission White Paper of 11 July 2007 on Sport (COM(2007)0391),
- having regard to Rule 45 of its Rules of Procedure,

¹ OJ C 296 E, 6.12.2006, p. 263.

² OJ C 82, 1.4.2008, p. 1.

³ OJ C 194, 18.8.2006, p. 2.

⁴ OJ C 173, 8.7.2008, p. 3.

⁵ OJ C 155, 20.6.2008, p. 10.

⁶ OJ C 14, 19.1.2008, p. 6.

⁷ OJ L 318, 17.11.2006, p. 17.

⁸ Texts adopted, P6_TA(2008)0054.

⁹ OJ C 210, 1.9.2006, p. 2.

¹⁰ OJ C 298, 8.12.2006, p. 17.

- having regard to the report of the Committee on Economic and Monetary Affairs (A6–0011/2009),
- 1. Welcomes publication of the Commission's Competition Policy Reports for 2006 and 2007;
- 2. Continues to support a more proactive role for Parliament in the development of competition policy through the introduction of the co-decision procedure;
- 3. Congratulates the Commission on its effective challenging of the operation of unlawful hardcore cartels and the record fines imposed on offenders;
- 4. Calls upon the Commission and Council, with regard to the Commission's review of the functioning of Regulation (EC) No 1/2003¹, to incorporate the fining principles into Regulation (EC) No 1/2003 and further improve and specify those principles in order to comply with the requirements of general legal principles;
- 5. Supports the use of the revised leniency notice and procedure to encourage the provision of information about the operation of unlawful hardcore cartels;
- 6. Welcomes the publication of the White Paper on damages actions for breach of the EC anti-trust rules but urges that reform be pursued in such a way as to ensure that the negative effects of the US system are not repeated in the European Union;
- 7. Requests that the Commission provide better information in its future reports on the role and involvement in competition cases of the Commission Consumer Liaison Officer;
- 8. Expresses its concern to avoid the abuse of market power by major corporations, and calls upon the Commission to undertake an analysis of the effects on competition of unequal relationships between suppliers, namely food producers, and retailers, in view of possible abuses of dominant position; looks forward to the reporting by the Commission's working group on buyer power;
- 9. Calls on the Commission to consider reviewing the operation of abusive practices in the services sector, which may prevent small businesses from being able to tender for work; notes the problem that self-employed people and freelancers are sometimes denied the possibility of applying standard tariffs in cases where they are almost exclusively economically dependent on one or a few large users of their resources and calls upon the Commission to examine how they may organise negotiate and conclude collective agreements consistent with competition law principles;
- 10. Invites the Commission to review its internal procedures for choosing topics for sector inquiries;
- 11. Calls on the Commission to consider conducting a sector inquiry into on-line advertising;
- 12. Calls on the Commission to undertake an analysis of possible national differences in the application of public procurement rules and possible distortions of competition as a result of these;

¹ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

13. Notes that the Commission reports record activity in respect of the following three sectors: antitrust fines for cartels, the number of merger cases notified to the Commission, and the number of State aid notifications to the Commission; urges the Commission, therefore, to undertake an urgent review of staff resources in order to ensure that its Directorate General for Competition has appropriate staff numbers to deal with its increasing workload;
14. Underlines that the application of competition rules to mergers and acquisitions must be evaluated from the perspective of the entire internal market, and not just parts thereof;
15. Welcomes the evidence in the Commission's Competition Policy Reports for 2006 and 2007 of the effectiveness of the restructuring of the Merger Control unit in the Directorate General for Competition along sectoral lines with strengthened economic analysis, and peer review;
16. Welcomes the announcement of the launch of a review of the Merger Regulation¹; reiterates that it considers the current provisions to be insufficient in view of increasingly integrated and complex EU markets and that a review should be undertaken with a view to seeking a consistent approach in the evaluation of comparable merger operations;
17. Notes the record level of State aid notifications, and welcomes the publication of the General block exemption Regulation to cover small and medium-sized enterprises (SMEs), research and development aid in favour of SMEs, aid for employment, training aid, and regional aid;
18. Welcomes, in particular, the possibility of subsidising employers as regards costs incurred by their employees relating to the care of children and parents;
19. Is worried about the increase in market concentration and conflicts of interest within the banking sector; warns against possible global systemic risks that arise from conflicts of interest and concentration;
20. Welcomes a review of the State aid scoreboard but urges the Commission to undertake analyses of the effectiveness of State aid and urges that a revision of the scoreboard identify those Member States that have failed adequately to pursue the recovery of illegal State aid;
21. Welcomes the publication of the revised Community guidelines on State aid for environmental protection, guaranteeing that Member States may support the production of renewable energy and energy efficient cogeneration by granting operating aid that covers in full the difference between production costs and market price;
22. Renews its call for further progress in relation to both the clarification of the existing competition rules and their practical application in relation to services of general economic interest, given the considerable differences in policies prevailing across the Member States;
23. Regrets that energy consumers in the European Union continue to suffer from disproportionate price increases and a distorted energy market, which was recognised as a result of the Commission's sector inquiry as not functioning properly; stresses again the

¹ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

importance of a fully completed and well-functioning internal market for energy;

24. Supports the Commission in its endeavours to develop the EU gas and electricity markets further, with a crucial element being the separation of the transmission networks on the one hand, and the production and supply activities on the other (unbundling);
25. Expresses concern at the lack of transparency in the formation of fuel prices in EU markets; asks the Commission to ensure proper vigilance over competitive behaviour in those markets;
26. Calls for mechanisms to be put in place to ensure that the adoption of the Emissions Trading Scheme does not cause distortions in competition both internally and as regards external competitors;
27. Notes that as long ago as 9 October 2007 the Council invited the Commission to consider streamlining procedures to focus on how State aid enquiries under critical circumstances could be dealt with rapidly;
28. Welcomes the urgent responses and clarification from the side of the Commission regarding the management of the financial and economic crisis and the use of State aid; notes the increasing amount of State aid and welcomes the further detailed guidelines aiming for better-targeted State aid;
29. Recognises the applicability of Article 87(3)(b) of the Treaty to the circumstances currently facing Member States' economies as a result of the turbulence on the financial markets; considers it necessary, however, that the Commission remain strongly vigilant as regards financial rescue packages to ensure the compatibility of emergency actions with principles of fair competition;
30. Warns against the effective suspension of the competition rules; stresses the need to scrutinise rescue operations in detail and ensure they are in conformity with Treaty provisions; requests the Commission to give a comprehensive ex post report to Parliament and to Member States' parliaments on the application of competition rules in each individual case in its next annual Competition Policy Report;
31. Expresses concern at the ongoing contraction in economic activity in the European Union, which is forecast to extend into 2009; considers it appropriate that, in the framework of the competition rules, adequate response mechanisms, such as restructuring aid or the globalisation adjustment fund, are deployed to combat the growth and employment impact from the credit crisis;
32. Urges the Commission to recognise the need to put in place mechanisms which minimise distortions of competition and the potential abuse of the preferential situations of beneficiaries brought about by State guarantees;
33. Urges the Commission to enforce behavioural constraints on financial institutions in receipt of State aid in order to ensure that such institutions do not engage in aggressive expansion against the background of the guarantee to the detriment of competitors;
34. Welcomes the significant reduction in the disparity of new car prices across the European Union which have come about since the implementation of the Motor Vehicle Block

Exemption Regulation and looks forward to the Commission's evaluation of the effectiveness of that regulation;

35. Welcomes the Commission's action in reducing telecoms roaming charges; notes, however, that prices are remaining just below the regulated price cap; calls for measures supporting pricing competition rather than regulating retail prices;
36. Welcomes the contribution of the Commission's Directorate General for Competition to the White Paper on Sport, which, inter alia, draws attention to the established case law of the Court of Justice of the European Communities, and the decision-making practice of the Commission with respect to the application of Articles 81 and 82 of the EC Treaty to the sports sector;
37. Invites the Commission to take greater account of the international dimension of its policies as regards the European Union's competitiveness on the global level and to demand respect for and the application of the reciprocity principle in trade negotiations;
38. Considers it crucial that competition policy is adequately addressed in the framework of the negotiation of bilateral trade agreements; calls for the Directorate General for Competition to be actively involved in those negotiations in order to secure mutual recognition of competitive practices, particularly in the areas of State aid, public procurement, services, investment and trade facilitation;
39. Urges the Commission to review the structure of its participation in the International Competition Network and at the European Competition Day in order to ensure that the public is more widely and better informed about the key importance of competition policy in underpinning economic growth and employment;
40. Instructs its President to forward this resolution to the Council and the Commission.