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on the Annual Report on EU Competition Policy
(2012/XXXX(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the Annual Report on EU Competition Policy

(2012/XXXX(INI))

The European Parliament,

– having regard to the Commission Report on Competition Policy 2011 (COM(2012)0253) and the accompanying Commission staff working document (SWD(2012)0141),

– having regard to 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[1],

– having regard to Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)[2],

– having regard to the Commission Communication of 13 October 2008 on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis' (the Banking Communication)[3],

– having regard to the Commission Communication of 5 December 2008 entitled 'The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition' (the Recapitalisation Communication)[4],

– having regard to the Commission Communication of 25 February 2009 on the treatment of impaired assets in the Community banking sector (the Impaired Assets Communication)[5],

– having regard to the Commission Communication of 23 July 2009 on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules (the Restructuring Communication)[6],

– having regard to the Commission Communication of 17 December 2008 on a temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis (the original Temporary Framework)[7],

– having regard to the Commission Communication of 1 December 2010 on a temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis (the new Temporary Framework)[8], which ended on 31 December 2010,

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[1] OJ L 1, 4.1.2003, p. 1.
[2] OJ L 24, 29.1.2004, p. 1.
[3] OJ C 270, 25.10.2008, p. 8.
[4] OJ C 10, 15.1.2009, p. 2.
[5] OJ C 72, 26.3.2009, p. 1.
[6] OJ C 195, 19.8.2009, p. 9.
[7] OJ C 16, 22.1.2009, p. 1.
[8] OJ C 6, 11.1.2011, p. 5.

– having regard to the Commission Communication on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest[1],

– having regard to the Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest[2],

– having regard to the Commission Communication entitled 'European Union framework for State aid in the form of public service compensation (2011)'[3],

– having regard to the Commission Regulation on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest[4],

– having regard to the June 2011 study entitled 'State aid – Crisis rules for the financial sector and the real economy', commissioned by Parliament[5],

– having regard to the June 2012 study entitled 'Collective redress in Antitrust', commissioned by Parliament[6],

– having regard to the Commission staff working document entitled 'Public consultation: Towards a Coherent European Approach to Collective Redress' (SEC(2011)0173),

– having regard to the Commission communication entitled 'EU State Aid Modernisation (SAM)' (COM(2012)0209),

– having regard to the Commission Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (hereinafter 'the ETS Guidelines')[7],

– having regard to the Framework Agreement of 20 November 2010 on relations between the European Parliament and the European Commission[8] (hereinafter 'the Framework Agreement'), in particular paragraphs 12[9] and 16[10] thereof,

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[1] OJ C 8, 11.1.2012, p. 4.
[2] OJ L 7, 11.1.2012, p. 3.
[3] OJ C 8, 11.1.2012, p. 15.
[4] OJ L 114, 26.4.2012, p. 8.
[5] http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=42288
[6] http://www.europarl.europa.eu/committees/en/studiesdownload.html?languageDocument=EN&file=74351
[7] OJ C 158, 5.6.2012, p. 4.
[8] OJ L 304, 20.11.2010, p. 47.
[9] 'Each Member of the Commission shall make sure that there is a regular and direct flow of information between the Member of the Commission and the chair of the relevant parliamentary committee.'
[10] 'Within 3 months after the adoption of a parliamentary resolution, the Commission shall provide information to Parliament in writing on action taken in response to specific requests addressed to it in Parliament's resolutions, including in cases where it has not been able to follow Parliament's views. [...]'

– having regard to the Euro Area Summit Statement of 29 June 2012[1],

– having regard to its resolutions of 22 February 2005 on 'the Commission's XXXIIIrd Report on Competition Policy – 2003'[2], of 4 April 2006 on the Commission Report on Competition Policy 2004[3], of 19 June 2007 on the Report on Competition Policy 2005[4], of 10 March 2009 on the Reports on competition policy 2006 and 2007[5], of 9 March 2010 on the Report on Competition Policy 2008[6], of 20 January 2011 on the Report on Competition Policy 2009[7] and of 2 February 2012 on the Annual Report on EU Competition Policy[8],

– having regard to its resolution of 15 November 2011 on reform of the EU state aid rules on Services of General Economic Interest[9],

– having regard to Rule 48 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A7-..../2011),

A. whereas competition policy is part of the EU genetic code and a cornerstone of the European social market economy;

B. whereas in 2011 the crisis worsened, leading to a recession in the EU economy;

C. whereas competition policy is essential in order to respond to the crisis, support the Europe 2020 strategy and progress towards a banking union, genuine economic and monetary union and deeper integration;

General remarks

1. Welcomes the Commission Report on Competition Policy 2011; notes that the new thematic structure addresses the topics raised by Parliament and allows clear identification of priorities, objectives and the action taken;

2. Defends the view that competition policy goals must be considered when drafting sectoral regulations, in order to ensure that markets work well for businesses, consumers and citizens;

Responding to the crisis

3. Points out that extending the extraordinary state aid crisis regime has contributed to preserving financial stability, preventing protectionism and providing a mechanism for

[1] http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/131359.pdf
[2] Texts adopted, P6_TA(2005)0032.
[3] Texts adopted, P6_TA(2006)0120.
[4] Texts adopted, P6_TA(2007)0263.
[5] Texts adopted, P6_TA(2009)0099.
[6] Texts adopted, P7_TA(2010)0050.
[7] Texts adopted, P7_TA(2011)0023.
[8] Texts adopted, P7_TA(2012)0031.
[9] Texts adopted, P7_TA(2011)0494.

bank restructuring and crisis resolution, all of which are particularly useful in programme countries;

4. Maintains that banks receiving state aid must reduce their size, focus their business model on the viable part of their activities and minimise the impact on unaided competitors and EU taxpayers;

5. Recalls the Euro Area Summit Statement of 29 June 2012; agrees that it is imperative to break the vicious circle between banks and sovereigns, to have the option of recapitalising banks directly through the European Stability Mechanism and to establish a single supervisory mechanism as a matter of urgency;

6. Asks the Commission strictly to enforce antitrust and merger control rules in order to foster transparent, open and fair financial markets; appreciates its investigations in the over-the-counter (OTC) derivatives market, in particular in relation to credit default swap (CDS) trade data and services, payments services and the distribution of financial information to markets;

7. Calls on EU competition authorities to monitor the behaviour and market impact of large financial players and oligopolies such as credit rating agencies (CRAs), along with episodes of price volatility related to financial markets, and to give top priority to the alleged rate-rigging at LIBOR, EURIBOR and TIBOR;

Supporting growth, jobs and competitiveness

8. Recognises that competition policy is a key driver of productivity and global competitiveness, playing a major role in supporting sound public finances and the Europe 2020 objectives for smart, sustainable and inclusive growth;

9. Emphasises that deepening the single market, achieving the Digital Agenda and encouraging innovation require strong competition; notes that all antitrust, State aid and merger control instruments are essential to rebuilding the economy;

10. Entrusts the Commission to enforce competition policy effectively and to promote environmentally friendly technologies and resources; notes that the new ETS Guidelines should contribute to preventing carbon leakage, preserving price signals and minimising distortions;

11. Stresses that competition policy should promote social inclusion through access to markets, economic progress and better public expenditure, prevent subsidy races within the EU and empower Member States to correct market failures and support services of general interest and vulnerable people;

Supporting Services of General Economic Interest (SGEIs)

12. Stresses that the recent SGEI package should lead to a simpler, clearer and more flexible framework for high-quality public services; agrees that hospital, social housing, all social services and SGEIs below a *de minimis* level should be exempted;

13. Calls on EU competition authorities to monitor pharmaceutical, health and insurance services markets (in particular the markets for generics and innovative medicines), the potential misuse of patent rights and discriminatory behaviour; notes that although organisation of the healthcare sector and social protection fall primarily within the competence of the Member States, these services should be subject to control in order to preserve public finances and uphold the rights of EU citizens;

Improving consumer welfare: the example of the food sector

14. Is concerned that since mid-2007 food prices have significantly increased, with high volatility in producer prices, and that consumer food prices make a major contribution to overall inflation; stresses that the new framework for collective bargaining in the value chain should be accompanied by pro-competitive operation of producer organisations and a platform for monitoring food prices;

15. Looks forward to the European Competition Network (ECN) report on this subject; takes note of the fact that cereals and dairy products are the most investigated sectors in antitrust cases and encourages national competition authorities (NCAs) to step up their initiatives in this field;

Promoting legitimacy and effectiveness for competition policy

16. Supports an active role for Parliament in shaping competition policy, including co-legislative powers; considers that the Commission must be fully accountable and follow up Parliament's resolutions; aims to reinforce the ongoing structured dialogue;

17. Calls on the Commission to continue acting impartially and objectively and to be open to improvements in competition procedures; defends procedural rights, including the right of undertakings to have access to the Commission's file prior to being heard;

18. Recommends that the settlement procedure and, where appropriate, dissuasive and proportionate fines should be used, while avoiding the adverse economic and social consequences of driving stressed undertakings out of the market;

19. Notes that fines should not prevent companies from holding their executives and staff responsible internally or, where appropriate, Member States from dealing with issues of criminal responsibility; calls on the Commission to publish a communication on these aspects;

20. Requests the Commission to present a proposal under the ordinary legislative procedure to facilitate individual and collective private actions for damages suffered by companies and consumers as a result of breaches of EU antitrust law; believes that such a proposal should promote competition but not unmeritorious litigation, cover minor and diffuse damages and ensure full coherence with public enforcement;

21. Takes a positive view of the cooperation within the ECN and with national courts with a view to ensuring the EU-wide effectiveness and coherence of competition policies; invites the Commission to promote convergence and cooperation agreements with other jurisdictions, including provisions for information exchange during investigations, under

appropriate conditions;

22. Reiterates that the Commission needs more resources in order to be proactive and more effective in dealing with its rising workload in the area of competition enforcement;

23. Recalls that civil society should be involved in the design and control of competition policies; invites the Commission to foster a culture of competition both in the EU and internationally;

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24. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

Competition policy is part of the EU genetic code. Born under the Rome Treaty, the three instruments of competition policy (antitrust, State aid and merger control) pretend preserve a level playing field and an open and dynamic market. This stimulates companies to pursue success thorough their merits -based in price, quality and innovation- in order to satisfy the needs, preferences and wishes of the intermediary and final consumers.

The European social market economy would be unthinkable without competition. Competition allows for proper price formation, efficient allocation and use of resources and social progress. From a strategic perspective, competition is vital for the survival of European companies, economy and model of society in a context of globalisation. Competition is a matter of values and, therefore, of adding value.

During 2011 renewed tensions in sovereign debt markets, concerns about the banking sector, looming uncertainty about the economy in a context of high oil price and decelerating world output growth contributed towards the end of the year to a sharp loss of confidence and the subsequent output contraction.

We are going through the fifth year of the financial, economic and social crisis. Some argued that competition policy should be put aside in these times. However, competition has proved to be a necessary instrument to respond to crises. It has restrained trends of protectionism and market fragmentation, provided a framework of guidelines that has contributed to financial stability and restructuring and has fostered fairer competition in more transparent financial markets. During these years competition policy was the only tool for banking crisis resolution at European level and the experience acquired by the Commission should be useful to progress towards a Banking Union. At the same time, it has helped Member States to obtain maximum efficiency of public intervention. Competition is always important and essential at difficult times.

Rebuilding the economy has in competition policy a major ally. Antitrust, State aid and merger control have all a direct impact in the drivers for productivity and competitiveness. Robust competition is needed to achieve the Europe 2020 objectives on smart, sustainable and inclusive growth. It ensures market conditions for financial inclusion, empowers Member States to correct efficiently market failures and sets the basis for providing citizens with high-quality services of general economic interest.

The food sector represented 14% of total household expenditure in 2011. It is one of the most prominent examples of the cooperation within the Network of Competition Authorities (NCAs) to improve consumer welfare. Information on a forthcoming report shows that this sector is the most investigated in antitrust cases. In the past 8 years, the NCAs authorities have promoted 170 antitrust enforcement cases, 1300 merger control cases and around 100 market monitoring actions across all levels of the supply chain. Your rapporteur presents suggestions to continue the action in this field.

In order to succeed, competition policy requires greater legitimacy and effectiveness. The way forward is to engage the European Parliament in the developing of competition policy, to ensure that adequate resources are available to the Commission and to increase participation

of stakeholders and civil society. Our ambition is to strengthen competition culture at European at global level.

After 55 years, competition is not only history, it is biography and future.