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DRAFT REPORT

on the Annual Report on Competition Policy
(2018/2102(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Michel Reimon

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The European Parliament,

- having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Articles 7, 8, 9, 11, 12, 39, 42 and 101 to 109 thereof,
 - having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 35, 37 and 38 thereof,
 - having regard to the Commission report of 18 June 2018 on Competition Policy 2017 (COM(2018)0482) and to the Commission staff working document published as a supporting document on the same date,
 - having regard to the Commission white paper of 9 July 2014 entitled ‘Towards more effective EU merger control’ (COM(2014)0449),
 - having regard to the Commission proposal for a directive of the European Parliament and of the Council of 22 March 2017 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (COM(2017)0142),
 - having regard to its resolution of 5 February 2014 on EU cooperation agreements on competition policy enforcement – the way forward¹,
 - having regard to the relevant Commission rules, guidelines, decisions, resolutions, communications and papers on the subject of competition,
 - having regard to its resolutions of 19 April 2018² and 14 February 2017³ on the 2017 and 2016 annual reports on EU competition policy,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on International Trade and the Committee on Agriculture and Rural Development (A8-0000/2018),
1. Welcomes the Commission’s activities and efforts to ensure the effective application of competition rules in the Union;
 2. Considers that the treaty-based competition rules must be interpreted in the light of the wider European values underpinning the Union’s social market economy, notably environmental and social protection, equality considerations, consumer protection and public health, as mandated by Article 7 TFEU; takes the view, therefore, that activities

¹ OJ C 93, 24.3.2017, p. 71.

² Texts adopted, P8_TA(2018)0187.

³ OJ C 252, 18.7.2018, p. 78.

which cause negative social and environmental externalities create market distortions that need to be addressed by means of competition law while, conversely, activities which bring social or environmental benefits should be explicitly taken into account when assessing treaty-based competition provisions;

3. Points out that even when products or services are supplied for free, consumers may still have to endure unjust behaviour, such as a degradation in quality or extortive practices; calls therefore, for the purposes of the cases under consideration, for the formulation of a 'theory of harm', which should transcend price-centric approaches and account for broader considerations such as the impact on citizens' privacy;
4. Underlines the urgent need for an effective framework tailored to the challenges of the data-driven economy; notes in particular that digital platforms, in controlling ever-increasing data flows, generate considerable network externalities and economies of scale, and ultimately, by dint of excessive concentration, rent extraction and abusive market power, bring about market failures;
5. Calls on the Commission, in this regard, to adjudge the control of data necessary for the creation and provision of services as a proxy for the existence of market power, including when issuing its guidance on Article 102 TFEU, and to require interoperability between online platforms and social network providers; requests that the Commission provide a dedicated chapter on these issues in its next annual report on competition policy, including case studies on price caps in sectors such as online platforms for accommodation and tourism;
6. Considers that the jurisdictional thresholds setting the starting point for an EU merger review, which are based on the turnovers of the target and acquiring entities, are not appropriate for the digital economy, in which value is often, for advertising purposes, represented by the number of visitors to a website; suggests that these thresholds be revised and adapted to the number of consumers impacted by mergers and the value of the related transactions;
7. Underlines the fact that barriers to entry in the digital economy are becoming increasingly insurmountable, as the more that unjust behaviour is perpetuated, the harder it gets to revert to anti-competitive effects; affirms, in this regard, that the Commission should make effective use of interim measures, while ensuring due process and the right of defence of undertakings under investigation;
8. Points to the discrepancies between the rules on state aid in the area of liquidation aid and the resolution regime under the Bank Recovery and Resolution Directive (BRRD); points out that in two recent cases, in spite of the Single Resolution Board's (SRB) conclusions that resolution could not be justified on the grounds of public interest, the Commission approved state aid on the basis that it would mitigate economic disturbance at a regional level, thereby demonstrating two distinct interpretations of public interest; urges the Commission, therefore, to reconsider its interpretation of the relevant state aid rules in a manner consistent with the BRRD and to revise its 2013 Banking Communication accordingly, including the area of liquidation aid;
9. Reiterates its request for the Commission to examine whether banking institutions have, since the onset of the crisis, benefited from implicit subsidies and state aid through the

provision of liquidity support from central banks; recalls the commitment made by Commissioner Vestager at the structured dialogue with Parliament's ECON committee in November 2017 to reflect on possible distortions of competition arising from the ECB's Corporate Sector Purchase Programme and to report back with a qualitative answer;

10. Is deeply alarmed at the far-reaching concentration of the food supply chain, whereby four companies, all with close financial ties, own and sell up to 60 % of the global seed market and 75 % of global pesticides, to the detriment of consumers, farmers, the environment and biodiversity alike; points out that such an oligopoly will make farmers even more technologically and economically dependent on a few globally integrated one-stop-shop platforms, produce limited seed diversity, re-direct trends in innovation away from the adoption of a production model which is respectful of the environment and biodiversity and ultimately, as a result of reduced competition, generate less innovation;
11. Asks the Commission to come forward with a revision of the EU Merger Regulation, so that it may be vested with the powers, much as a number of Member States are at present, to adopt measures to protect the European public order and the rights and principles of the TFEU and EU Charter of Fundamental Rights, including environmental protection;
12. Calls for Article 101(3) TFEU to be interpreted, including in the Commission's horizontal guidelines, in a way that does not focus on narrow, price-centric consumer welfare but that considers the need for social and environmental efficiency, by encouraging horizontal coordination in order to improve the environmental and social sustainability of the supply chain; points out that the efficiencies generated by such agreement in a relevant market must be sufficient to outweigh the anti-competitive effects that they produce in either the same or an unrelated geographical market;
13. Recognises that the legally binding commitments undertaken by the Member States as part of the Paris Climate Agreement will not be realised without concrete state measures to promote and finance the production and use of renewable energy; takes note of the forthcoming revision of the guidelines on state aid and energy, which will no longer exclude two of the sectors that benefit the most from state subsidies, nuclear energy and fossil fuel extraction, and which provide for greater flexibility for consumer-generated renewable energy;
14. Stresses the importance of endowing competition authorities with sufficient resources to carry out their work; supports, in this connection, the proposed competition strand of the single market programme under the 2021-2027 multiannual financial framework (MFF);
15. Instructs its President to forward this resolution to the Council, the Commission and the national parliaments of the Member States.