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on competition policy – annual report 2021
(2021/2185(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on competition policy – annual report 2021 (2021/2185(INI))

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union, in particular Articles 101 to 109 thereof,
- having regard to the relevant Commission rules, guidelines, resolutions, public consultations, communications and papers on the subject of competition,
- having regard to the Commission report of 7 July 2021 on Competition Policy 2020 (COM(2021)0373) and to the Commission staff working document published as a supporting document on the same date (SWD(2021)0177),
- having regard to its resolution of 9 June 2021 on competition policy – annual report 2020¹,
- having regard to European Committee of the Regions Opinion ECON-VII/015 on the Commission report of 7 July 2021 on competition policy 2020 (COM(2021)0373),
- having regard to the Commission’s follow-up to Parliament’s resolution of 18 June 2020 on competition policy – annual report 2019²,
- having regard to the Commission communications of 19 March 2020, 3 April 2020, 8 May 2020, 29 June 2020, 13 October 2020, 28 January 2021 and 18 November 2021 on a temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (C(2021)8442),
- having regard to the Commission proposal of 5 May 2021 for a regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market (COM(2021)0223),
- having regard to the Commission first annual report on the screening of foreign direct investments into the Union of 23 November 2021³,
- having regard to the regulatory package including the Commission proposals of 15 December 2020 for a regulation of the European Parliament and of the Council on a Single Market for Digital Services (Digital Services Act) (COM(2020)0825) and on

¹ OJ C 67, 8.2.2022, p. 2.

² OJ C 362, 8.9.2021, p. 22.

³ Commission report of 23 November 2021 entitled ‘First Annual Report on the screening of foreign direct investments into the Union’ (COM(2021)0714).

contestable and fair markets in the digital sector (Digital Markets Act) (COM(2020)0842),

- having regard to Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market⁴,
- having regard to the Commission staff working document of 12 July 2021 on the evaluation of the Commission notice on the definition of relevant market for the purposes of Community competition law of 9 December 1997 (SWD(2021)0199),
- having regard to the support study accompanying the evaluation of the Commission notice on the definition of relevant market for the purposes of Community competition law, commissioned by the Commission’s Directorate-General for Competition (DG COMP) and published in June 2021⁵,
- having regard to the special advisors’ report entitled ‘Competition policy for the digital era’, commissioned by DG COMP and published in 2019⁶,
- having regard to the report entitled ‘Consumer vulnerability across key markets in the European Union’, produced for the Commission’s Directorate-General for Justice and Consumers⁷ and published in 2016,
- having regard to the Commission communication of 18 November 2021 on a competition policy fit for new challenges (COM(2021)0713) and the annex thereto,
- having regard to the Commission communication and roadmap of 11 December 2019 on the European Green Deal (COM(2019)0640),
- having regard to Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’)⁸,
- having regard to the Commission communication of 21 December 2021 on the guidelines on State aid for climate, environmental protection and energy 2022⁹,
- having regard to the Commission communication of 6 December 2021 on the guidelines on State aid to promote risk finance investments¹⁰,

⁴ OJ L 11, 14.1.2019, p.3.

⁵ https://ec.europa.eu/competition-policy/system/files/2021-06/kd0221712enn_market_definition_notice_2021_1.pdf

⁶ European Commission, Directorate-General for Competition, Montjoye, Y., Schweitzer, H., Crémer, J., ‘Competition policy for the digital era’, Publications Office, 2019, <https://data.europa.eu/doi/10.2763/407537>.

⁷ European Commission, Consumers, Health, Agriculture and Food Executive Agency, ‘Consumer vulnerability across key markets in the European Union: final report’, Publications Office, 2016, <https://data.europa.eu/doi/10.2818/056024>.

⁸ OJ L 243, 9.7.2021, p.1.

⁹ OJ C 80, 18.2.2022, p. 1.

¹⁰ OJ C 508, 16.12.2021, p. 1.

- having regard to the Commission communication of 9 December 2021 on the guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons (C(2021)8838),
- having regard to the Commission communication of 10 March 2020 entitled ‘A New Industrial Strategy for Europe’ (COM(2020)0102), and its communication of 5 May 2021 updating that strategy (COM(2021)0350),
- having regard to Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) 651/2014 declaring certain categories of aid compatible with the internal market in application of Article 107 and 108 of the Treaty¹¹,
- having regard to the communication to the Commission of 21 December 2021 on approval of the content of a draft for a Commission communication on the guidelines on State aid for climate, environmental protection and energy 2022 (C(2021)9817),
- having regard to its resolution of 21 October 2021 on the climate, energy and environmental State aid guidelines (CEEAG)¹²,
- having regard to the European Court of Auditors (ECA) Special Report 24/2020 entitled ‘The Commission’s EU merger control and antitrust proceedings: a need to scale up market oversight’,
- having regard to the Commission communication of 26 March 2021 entitled ‘Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases’ (C(2021)1959),
- having regard to the Commission communication of 9 July 2021 on the approval of the content of a draft for a Commission regulation on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (C(2021)5026) and the annex thereto, and the annex to the Commission communication of 9 July 2021 on the Commission notice concerning guidelines on vertical restraints (C(2021)5038),
- having regard to the Commission proposal of 14 July 2021 for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism (COM(2021)0564),
- having regard to Rule 54 of its Rules of Procedure,
- having regard to the opinion of the Committee on the Internal Market and Consumer Protection,
- having regard to the report of the Committee on Economic and Monetary Affairs (A9-0064/2022),

¹¹ OJ L 270, 29.7.2021, p. 39.

¹² Texts adopted, P9_TA(2021)0441.

- A. whereas EU competition policy has a crucial role – especially at times of uncertainty and twin transformation – in ensuring effective competition to encourage innovation, job creation, growth, competitiveness and entrepreneurship, set fair economic conditions, in particular by driving innovation that helps to develop new technologies which can in turn help us to do more, while causing less harm to the environment, and promoting an efficient allocation of resources, provide greater choice and fair prices for consumers, and foster the resilience of the single market;
- B. whereas the purpose of the Union’s competition policy is to ensure that competition is safeguarded in the internal market; whereas competition policy has an undeniable impact on the specific economic interests of end users who purchase goods or services;
- C. whereas the Commission responded promptly to the outbreak of the COVID-19 crisis by adopting special competition rules which should remain temporary;
- D. whereas competition policy must stimulate businesses to invest and deploy more advanced digital infrastructure and tools (e.g. cloud technology, microprocessors and artificial intelligence) and less polluting and more efficient manufacturing technologies;
- E. whereas the Commission needs an appropriate and effective set of instruments, methods and tools to ensure the strict enforcement of competition policy and to enforce competition rules and properly ensure their uniform implementation, and thus contribute to key policy priorities; whereas the Commission needs to act in an impartial and objective way in order to preserve the credibility of the EU’s competition policy;
- F. whereas an appropriate regulatory framework for competition policy is essential to make the whole of the EU market more attractive for international companies and investors wishing to operate in the EU, as well as to foster a stronger EU manufacturing base and create jobs in the Union;
- G. whereas the political independence of national competition authorities is of the utmost importance in ensuring the impartiality and credibility of competition policy;
- H. whereas a balanced reconciliation of the Union’s competition rules with its industrial and international trade policies is essential for re-shoring value chain activities and bolstering global competitiveness;
- I. whereas digital markets are becoming more concentrated and risk demonstrating lower levels of investment in innovation and overall disruption as a consequence of deteriorating market dynamics and increased market power;
- J. whereas energy commodity prices have reached unprecedentedly high levels in Europe, with gas prices during the autumn of 2021 becoming 400 % more expensive than in spring of the same year, owing inter alia to the lack of global competition in the gas supply market;
- K. whereas EU competition policy should be fit for the sustainable twin transition;
- L. whereas international exchange and cooperation is essential to achieve a global and competitive level playing field; whereas EU competition policy must be the pillar

underpinning the integrity and resilience of the single market, while contributing to achieving the Union's priorities, in particular by facilitating the twin digital and green transition in a coordinated manner;

- M. whereas international cooperation and new instruments such as the Foreign Subsidies Regulation are essential to ensure that non-EU countries are disincentivised from distortingly subsidising undertakings that are active in the Union, in line with the rules of the single market which prohibit such practices on the part of Member States and EU businesses; whereas the EU should observe and closely monitor the policies and practices of non-EU countries and entities in this regard;
- N. whereas there is a need for enhanced coordination between the Union's policy goals in the framework of the Green Deal and the Paris Agreement on the one hand and competition rules on the other;

General considerations

1. Emphasises that the challenges arising from the COVID-19 pandemic need to be adequately taken into account and that the guiding principle should be the reasonable phasing out of specific support measures in a progressive and proportionate manner, while ensuring full compliance with the EU competition rules safeguarding the level playing field and the competitiveness of our companies, in particular as regards the EU's industrial needs; points out that as the economic recovery progresses, support measures should gradually become more specific, before eventually being phased out altogether; stresses the need to avoid cliff-edge effects and to prevent an asymmetric recovery and the risk of greater divergence within the single market;
2. Highlights that a competition policy aimed at ensuring a level playing field in all sectors, thereby driving innovation and quality, and giving consumers more choice is crucial for guaranteeing the proper functioning of the single market; draws attention to the damaging practices stemming from recommended retail price policies, which undermine the internal market and competition between companies;
3. Emphasises that the EU should not be overly dependent on global supply chains, especially in the sectors identified as important for strategic autonomy and for a resilient and sustainable economy, which have proven fragile during the pandemic;
4. Notes the Commission's consultation on the issue of guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons; calls on the Commission to include all solo self-employed workers in the guidelines, both online as well as offline;
5. Considers that increased product market competition reduces profit margins and price levels, and thus contributes to moderating inflation;
6. Calls for the development of an effective system of well-adjusted and complementing regulatory and enforcement instruments to facilitate the digital and green transition, as well as industrial development and convergence promoting sustainable economic growth and job creation in the EU; states that the twin transition has to be a job-creating process and an opportunity for EU businesses to gain a competitive advantage in the

implementation of the transition, thereby boosting the EU's competitiveness; draws attention to the European Climate Law, whose objectives can only truly be achieved through private and public investments;

7. Welcomes the fact that the EU's competition policy has a proven track record of remaining effective by reacting to new market developments; calls for a strong and effective competition policy and enforcement thereof, in order to give the EU's economy the ability to follow the path to recovery and achieve its twin green and digital transitions in a sustainable, socially and territorially inclusive manner; highlights that any adaptations must ensure that the EU's competition policy continues to spur innovation in the twin transition, foster the resilience of the single market and preserve a highly competitive social market economy, while ensuring that customers profit from fair prices;
8. Highlights that small and medium-sized enterprises (SMEs) are the backbone of the European economy, representing 99.8 % of all businesses in the EU; notes that the strong contribution to job creation and value added make SMEs crucial to ensuring economic growth and social integration in the EU; regrets the fact that despite their growth opportunities, SMEs may face difficulties in obtaining access to finance;
9. Welcomes the 2021 Organisation for Economic Co-operation and Development (OECD) recommendations on competitive neutrality and calls on the Commission to maintain competitive neutrality in the regulatory environment of the internal market;
10. Recalls that services represent the largest economic sector of activity in the EU in terms of gross added value and that the single market for services lags well behind the single market for goods; highlights the need to address the remaining unjustified barriers to the development of the single market for services, including through the enforcement of competition rules; welcomes, in this context, the Joint Initiative on Services Domestic Regulation, adopted by the World Trade Organization in order to cut red tape in services trade;
11. Recalls the 2021 report of the International Monetary Fund on competition, innovation and inclusive growth, which states that competition and innovation-led growth are critical to drive productivity gains and support broad-based growth; notes that the report also states that policies to support innovation could also improve business dynamism and reduce market power;
12. Reaffirms the need for an in-depth review and effective implementation of existing competition instruments, and, if appropriate, the development of new instruments suitable for investigations in digital markets;
13. Highlights the need to adequately meet the new challenges by increasing the effectiveness of the investigations through the use of new instruments stemming from computational means (e.g. big data, artificial intelligence and machine/deep learning) in competition policy enforcement;
14. Considers that the in-depth review should focus on safeguarding the integrity of the single market, promoting sustainable and inclusive economic growth to the benefit of consumers and strengthening consumer rights both online and offline; believes,

however, that under no circumstances should exceptional arrangements become windows of opportunity for channelling public funding – whether national or EU – into capitalising companies that are economically unviable or of no real strategic interest to the public;

15. Notes the Commission’s vigilance in enforcing State aid rules in the area of taxation and calls on the Commission to remain vigilant; notes, however, that several recent Commission decisions in high-profile competition cases in the area of taxation have been annulled by the General Court; calls on the Commission to draw the necessary lessons from the judgments with a view to minimising the risks of annulment in future cases in this area;

Policy response to the COVID-19 pandemic

16. Takes note of the six-month renewal of the temporary framework for State aid measures, which was established in response to the COVID-19 crisis and is designed to accelerate the recovery; emphasises that the reason for the renewal was the prolongation of the economic effects of the COVID-19 crisis in several core industries as a result of the emergence of new virus variants; recalls that State aid schemes are developed at Member State level, a fact which has the potential to create an uneven playing field for the businesses operating in the single market; urges the Commission to monitor any such distorting effects; urges the Commission to closely monitor and avoid possible fragmentation of the European industrial strategy;
17. Calls on the Commission to provide a timely assessment of the temporary State aid framework as soon as possible to enable the European Parliament to have a solid and fact-based political debate and for future work to be done on the EU’s competition policy;
18. Notes that the National Recovery and Resilience Plans (NRRPs) are appropriate vehicles to accelerate the recovery and address structural changes in national economies; believes that State aid measures that are part of NRRPs should be dealt with flexibly and as a matter of priority; stresses that particular attention should be paid to investments made under the NRRPs to enable the medium-term development of private participation; recalls that NRRP measures must respect all requirements set out under the Recovery and Resilience Facility Regulation¹³, particularly the green and digital pillars;
19. Welcomes the planned evaluation of the rules on health and social services of general economic interest (SGEI) to ensure that those rules meet their objectives and are fit for purpose; recalls the need for quality SGEI to be provided to citizens;
20. Repeats its call that allowing State aid in the context of SGEI remains essential for the survival of several communities across Europe, especially in the context of state support dedicated to isolated, remote or peripheral regions in the Union;
21. Emphasises the difficulties the pandemic has created in the Union’s hospitality industry;

¹³ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

recognises the assistance directed towards the sector;

22. Highlights the importance of the Commission and the Member States launching a post-COVID-19 roadmap to phase out public support provided in the light of the COVID-19 pandemic, with non-distortive and better targeted State aid in order not to disrupt economic recovery, competitiveness and growth and to ensure high-quality jobs; highlights that a significant amount of State aid was allocated to support businesses in mitigating the consequences of pandemic containment measures; emphasises the need to consider during the process the dynamics of the internal market when large Member States are able to provide more State aid than smaller Member States, which can result in the fragmentation of the single market;
23. Notes that the support measures granted during the COVID-19 crisis were extraordinary and necessary in the light of the unprecedented health and economic crisis, but that this extraordinary level of public support must not become the new normal;
24. Stresses the need for the post-COVID-19 roadmap to take into account SMEs from rural and less-developed areas, which need to be provided with access to wider markets, and to eliminate the spatial problems resulting from geographical disadvantages, aiming to provide such SMEs with equal support, fair opportunities and balanced development across the single market;

Competition policy on enforcement and globalisation

25. Emphasises the importance of safeguarding the competitiveness of European companies in a context of increasing global competition, of striving for reciprocity, and of ensuring fair competition in the single market; notes that the international environment needs to be carefully analysed when deciding on the definition of the relevant market in competition and merger control cases; invites the Commission to develop an inclusive and wide-ranging perspective on the relevant market in order to give European companies the opportunity to effectively compete in a globalised arena; stresses the need for a global level playing field;
26. Stresses the importance of a structured global dialogue and cooperation on competition policy enforcement, particularly with regard to State aid issues;
27. Welcomes the Commission's efforts to improve the enforcement of the single market rules of the directive on a proportionality test for regulated professions¹⁴ by initiating infringement procedures; calls on the Member States to properly implement the proportionality test when imposing national rules; stresses that the lack of proper implementation of the EU rules on proportionality test could ultimately disadvantage consumers in the form of excessive prices, undermine the development of innovative services or even lead to lower access to services;
28. Welcomes the Commission's proposal for a new regulation on foreign subsidies with

¹⁴ Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions, OJ L 173, 9.7.2018, p. 25.

the aim of curtailing potentially distortive effects on the single market, closing the enforcement gap, safeguarding the Union's interests and levelling the playing field for European companies and all undertakings active in the internal market by using EU competition law instruments and their key building blocks; stresses the importance of promoting a European regulatory framework encouraging foreign investment and business on the part of international companies in the EU;

29. Underlines that the EU's State aid rules should apply to all companies active in the single market; stresses that the Union should remain open to foreign direct investments and draws attention to targeted policies and investments to re-shore jobs and foster positive social and environmental externalities; calls on the Commission to carry out merger reviews, foreign direct investment screening and foreign subsidies control in a coherent manner;
30. Notes that national tax policies and measures can impact tax collection in other Member States; reiterates that taxation could sometimes be used to grant indirect State aid, thereby creating an uneven playing field in the internal market, and therefore stresses that the Commission has recommended that Member States do not grant financial support to companies with links to tax havens; recalls the Council's call for the Commission to consider how to tackle distortive effects resulting from the participation of bidders using tax havens for tax avoidance purposes;
31. Recalls that the empirical analysis conducted for the OECD's 2021 study found that below-market finance may have been a contributor to excess capacity in a number of sectors, and that subsidies also appear to be negatively correlated with firm productivity; notes that the OECD's findings also raised significant concerns about a lack of transparency in relation to below-market finance; believes that the EU should target these negative consequences of foreign subsidies on the internal market effectively, considering the potential negative effects of regulation, including the administrative and regulatory burden, retaliation measures and impacts on investment and growth;
32. Calls on the Commission to continue rigorously and impartially enforcing competition policy while striving for continued constructive dialogue and cooperation on key technological and economic issues with like-minded partners and stakeholders; highlights the importance of national competition authorities in preserving markets and ensuring a level playing field during the COVID-19 outbreak; emphasises their increased role in matters relating to the platform economy;
33. Welcomes the launch of the EU-US Trade and Technology Council (TTC) and the Joint Technology Competition Policy Dialogue (TCPD), which will seek to deepen economic and transatlantic relations based on common values; notes that the transformation of the EU's rules vis-à-vis digital platform companies is mirrored by comparable legislative initiatives and individual investigations in the US;
34. Stresses that dedicated cooperation agreements with non-EU countries in the area of competition policy can meaningfully contribute to its effectiveness and acknowledges the importance of national competition authorities in enforcing and ensuring the application of EU competition policy;

Competition policy and State aid fit for the new challenges

35. Welcomes Parliament's negotiating mandate on the Digital Markets Act as adopted in plenary and stresses that Parliament is prepared to work towards the accelerated completion of negotiations of the Digital Markets Act and the entry into force of the new rules;
36. Calls on the Commission to ensure a smooth and rapid implementation of the new regulatory measures, while ensuring synergies and avoiding overlap with or duplications of existing and upcoming measures;
37. Calls on the Commission to ensure that the regulatory and enforcement tasks are delegated within its services swiftly and in a transparent manner in order to eliminate inefficiencies and administrative burdens; reiterates that limited access to relevant data may hinder participants' entry into the market; stresses that digital transformation is exacerbating the need for the adaptation of enforcement of competition policy; stresses the need to ensure specific expertise on digital issues; calls on the Commission, in this regard, to allocate sufficient and adequate human and financial resources to organising the enforcement of the Digital Markets Act; believes that complementary antitrust and Digital Markets Act cases, whether at national or EU level, should benefit from an enhanced coordination and enforcement stream by means of the accommodation of the new instrument in the current competition framework;
38. Calls on the Commission to improve the transparency of the State aid evaluation process, which should include clear reasoning, a State aid description, and measurable indicators allowing for *ex post* monitoring and evaluation; highlights, therefore, the need for *ex post* monitoring of the effective implementation of adopted State aid cases; believes that the outcome of the consultation phase should also be disclosed;
39. Welcomes the recent judgment by the General Court of the EU¹⁵, which confirms the Commission's assessment as regards the abuse of a dominant market position and which serves as proof and an example of the effective application of traditional EU competition rules in the context of a digital economy, in particular with respect to the Digital Services Act and the interaction of global digital platforms with other European companies; notes the lengthy legal process of antitrust cases¹⁶ and expects that the new tools available under the Digital Markets Act will help to resolve anti-competitive behaviour more quickly;
40. Welcomes the review of EU competition law instruments as outlined in the Commission communication of 18 November 2021; recalls, however, that this should not exclude the development of new tools where necessary and better use of existing tools; considers that competition assessments should be adapted to the enforcement of EU competition policy and evolving market dynamics;

¹⁵ Judgment of the General Court of 10 November 2021, *Google and Alphabet v Commission*, T-612/17, ECLI:EU:T:2021:763.

¹⁶ *Ibid.*

41. Welcomes the Commission's determination to address unfair terms in order to support price transparency and avoid unfair and unreasonable commercial practices; draws attention to the increasing incidence of exploitative and exclusionary practices, such as self-preferencing;
42. Recalls the European Court of Auditors' (ECA) recommendations¹⁷, which state that the Commission should follow a more proactive approach by gathering and processing market relevant information in a consistent and cost-efficient manner and select cases for investigation based on clearly weighted criteria, for example by using a scoring system; highlights the need, in line with the ECA's recommendations, for the new rules to improve reporting of the results of enforcement actions, instead of focusing on reporting of activities;
43. Recalls that profit-seeking behaviour should be accepted and should not be accused of being anti-competitive without objective and fact-based reasons; recalls that anti-competitive behaviour is prohibited and hyper-competitive behaviour is not; points out that the fact that particular offering attracts many consumers because of its convenience is not in itself a sufficient ground for concern; calls on the Commission to distinguish between these behaviours for the purposes of antitrust enforcement;
44. Welcomes the ongoing review of State aid rules, which aims to ensure consistency with both established and new regulatory principles relevant to the twin transition;
45. Stresses that the Commission evaluates State aid cases on a case-by-case basis and highlights that the transparency of the State aid case evaluation process should be enhanced; acknowledges that Important Projects of Common European Interest (IPCEIs) are an important tool given the clear and well-documented existence of market failures; reiterates that the allocation of State aid to IPCEIs should as a rule of thumb be spent on research and development;
46. Takes note of the planned revision of the related sections of the General Block Exemption Regulation (GBER)¹⁸;
47. Notes the Commission's new guidelines on State aid rules in the field of climate, environmental protection and energy (CEEAG) and its efforts to strengthen the 2014 guidelines and to align them with the European Green Deal, and supports the adoption of new guidelines to balance economic and environmental sustainability; maintains that environmentally sustainable State aid is key to meeting the EU climate, energy, and environmental protection objectives, while ensuring a just transition; asserts that public and private investments in the technologies needed for the green transition are key to the fulfilment of the European Climate Law, and in particular to the development of the breakthrough innovative solutions and relevant upscale technologies needed to attain the objective of climate neutrality; stresses that the level of ambition of the Fit for 55 package will require that certain specific energy sectors receive a certain degree of public support in order to cope with the transition;

¹⁷ European Court of Auditors Special Report No 24/2020, *The Commission's EU merger control and antitrust proceedings: a need to scale up market oversight*, 19 November 2020.

¹⁸ OJ L 187, 26.6.2014, p. 1.

48. Calls for the guidelines to give consideration to those suffering as a result of the increase in energy costs, while bearing in mind the ripple effect that this will have on the EU economy and its external competitiveness, and the socioeconomic impact that the rise in the price of both energy and final goods will have on EU citizens;
49. Welcomes the new chapter in the CEEAG on aid for the early closure of coal, oil shale and peat activities; underlines that the phasing out of coal is one of the most important drivers of decarbonisation and recalls its resolution of 20 October 2021 in which it called for the introduction of clear safeguards in the phasing out of fossil fuels, and that these safeguards could include mandatory closure dates; recalls, furthermore, that this resolution states that State aid rules should not cause or contribute to lock-in effects of greenhouse gas emissions or the creation of stranded assets, and asks the Commission to monitor and apply measures to avoid lock-in effects where possible, in a way that is fully in line with the Union's climate objectives, while safeguarding the recovery from the COVID-19 crisis, job creation in the EU and competitiveness;
50. Believes that mainstreaming green and digital strategies is vital to support the EU's transition; calls on the Commission to incorporate this approach into the future conditions for State aid through its assessment of the *De Minimis* Regulation¹⁹ upon expiry; notes that the *de minimis* ceilings could be revisited, taking into account the economic realities faced by Member States, while acknowledging the targets to be achieved in the areas of the environment, energy and the digital transition;
51. Calls for caution to be exercised in the consolidation of the EU airline industry, in the light of the massive amounts of State aid authorised for certain EU airlines, so as to ensure that airlines will not be enabled to eliminate or take over smaller EU competitors as a result;
52. Notes that there are multiple vendors in several specific markets for financial data, and although none of them has a dominant market share, competition remains very low; notes that measures to enhance competition in this market have turned out to be insufficient;
53. Recognises that resources allocated to the Commission's DG COMP should be appropriate to its workload and range of tasks; considers it necessary to ensure specific expertise in the context of the digital economy;
54. Stresses that the metaverse is subject to relevant legislative frameworks, such as the privacy and data protection framework, digital legislation and the competition framework; calls on the Commission, in this regard, to actively ensure that companies and entities working on and in the metaverse are abiding by the abovementioned legislative frameworks;
55. Deplores the earlier killer acquisitions that fell outside the scope of the EC Merger Regulation²⁰;

¹⁹ OJ L 352, 24.12.2013, p. 1.

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

Mergers

56. Urges the Commission to accelerate efforts to deliver on its commitment to reviewing its notice on the definition of relevant market for the purposes of EU competition law; notes that the Commission has launched a call for evidence on the revision and updating of its market definition notice; emphasises that this review should be updated and adapted to reflect increased global competition, the future state of competition and the twin transition, including the evolving market characteristics of the digital market ecosystem, multi-sided markets, the importance of data and zero-price markets;
57. Recalls that data is a source of considerable economic power and leverage and considers that non-monetary factors should be taken into account when defining digital markets;
58. Calls on the Commission to consider revising the mergers guidelines to take into account the challenge of EU industrial competitiveness; welcomes the role of the Priorities and Strategic Coordination Unit within DG COMP in drawing on the expertise of all the Commission's Directorates-General during the investigation of cases by DG COMP; believes that the Commission's industrial and sectoral strategy expertise could be strengthened in order to help DG COMP's investigation teams to identify the feasibility and consequences of remedies with regard to the Commission's priorities;
59. Acknowledges the contribution of the EC Merger Regulation to the proper functioning of the internal market and calls on the Commission to continue promoting and enforcing its core principles;
60. Emphasises that price is not always an all-encompassing parameter for market definition in the digital economy; highlights that in zero-price digital markets, consumers access products and services in exchange for their data and are, in return, exposed to profiling and advertising where functionalities such as quality, privacy, data processing and attention are more fitting parameters; recalls that price-related testing is not the only method available to the Commission when defining the relevant product market;
61. Emphasises that the technological means and collection of personal data required for online personalisation and price discrimination are extensive, developing rapidly and difficult to detect; recalls that online marketplaces, platforms and social media may use data analytics and profiling techniques to improve the efficiency of advertising at the level of individual consumers, personalise the ranking of offers, or vary prices to reflect the cost of tailoring services to individual customers;
62. Reaffirms that data is key when it comes to the digital market; calls on the Commission, therefore, to make best use of the Digital Markets Act and to come up with further legislative proposals, in the same vein as the Data Act;
63. Acknowledges the Commission guidance on certain aspects of Article 22 of the EC Merger Regulation; expresses concern, however, that this initiative may not be sufficient to adapt the regulation to the needs of modern business models, such as on killer acquisitions that risk jeopardising innovation; calls on the Commission to clarify

the practical application of its guidance to ensure that it is manageable for both national authorities and merging parties;

64. Calls on the Commission to review its merger and acquisition rules when it comes to assessing personal data; calls, in particular, on the Commission to fully consider and assess personal data assets in the same way as all other traditional physical assets when it decides on digital mergers and acquisitions; urges the Commission to take a broader view when evaluating digital mergers and to assess the impact of data concentration; notes that the acquisition of targets with specific data resources can bring about a concentration in control over valuable and non-replicable data resources and result in better data access for merging parties than for their competitors; stresses that data consolidation via mergers may strengthen a dominant position or allow the acquiring entity to leverage market power, and may sometimes raise foreclosure concerns;
65. Calls on the Commission to build on existing initiatives to increase collaboration between antitrust and data privacy regulators to both control corporate data misuse and prevent companies from using consumer data to gain an unfair competitive advantage;
66. Notes that turnover thresholds might not be suitable for detecting all the cases that should be reviewed by competition authorities in merger cases;
67. States that national authorities should be able to use the information received as a result of the application of Article 12 of the Digital Markets Act to request an examination of a concentration pursuant to Article 22 of the Merger Regulation;

Antitrust and cartels

68. Supports a substantial review of the current regime on vertical agreements, the fine-tuning of the safe harbour rules, and the adoption of rules to match the needs of e-commerce and platform business to prevent market restrictions arising as a result of the ambivalent effects of those agreements, while ensuring alignment with the currently formulated rules on digital markets;
69. Notes, in particular, that in recent years antitrust proceedings have been too lengthy, slowing down much-needed decisions and consequently having a negative impact on competition law enforcement, especially in the case of rapidly growing digital markets; points out, therefore, that the Digital Markets Act, as well as antitrust proceedings, are sorely needed;
70. Takes note of the Commission's opening of antitrust investigations into possible anticompetitive conduct in the online advertising technology sector; suggests that the Commission could conduct a market study of the sector in the EU to investigate issues that have an impact on competition;
71. Notes that the consumer Internet of Things (IoT) sector will expand significantly in the coming years, but recognises that shortcomings still exist in this sector, such as the lack of interoperability, which could reduce competition and consumer choice; calls on the Commission to prepare a thorough analysis of such potential impacts on the internal

market, including a cost-benefit analysis of any regulatory intervention; welcomes the Commission's sector inquiry into the IoT and calls on the Commission to take further action, where necessary, on standards, data portability and access;

72. Remains deeply concerned about the far-reaching concentration in the EC agricultural and food supply chain; reiterates its call for the Commission to urgently conduct a thorough analysis of the extent and effect of buying alliances, thereby devoting special attention to guaranteeing fair competition and greater transparency in supermarket and hypermarket chains' commercial practices, particularly where such practices affect brand value and product choice or limit innovation or price comparability;
73. Notes that the Vertical Block Exemption Regulation (VBER)²¹ and related Vertical Guidelines²² have been inadequately adapted to recent market developments, notably the growth of online sales and online platforms; notes, too, that the Commission is currently working on its proposal to better adapt the regulation and guidelines; highlights that there are concerns about the durable goods sector, where manufacturers are competing directly with the distribution network by modifying the contractual terms of the vertical distribution relationship, thereby placing distributors at a competitive disadvantage and driving SMEs out of the market; stresses that the digitalisation of the durable goods sector also raises concerns about competition; asks the Commission to ensure that any future revision takes into account the abuse of selective distribution agreements, labelling and other measures to prevent the purchase, distribution and resale of goods across borders;
74. Considers that the distinction made in the draft guidelines to the VBER revision between resale price maintenance (RPM), which distorts the market, and minimum advertised price (MAP), which could be allowed under certain circumstances and conditions, could constitute a tool to support SMEs to withstand aggressive price competition on online marketplaces; asks the Commission, to this end, to clarify in the guidelines the conditions under which MAP does not constitute RPM;
75. Reiterates its call for the Commission to address the anti-competitive effect of territorial supply constraints (TSCs) with a view to achieving a fully functioning single market and harnessing its potential benefits for consumers; reiterates that TSCs can arise through different practices, such as refusing to supply, threatening to stop supplying a particular distributor, limiting the quantities available for sale, unexplained differentiation of product ranges and prices between Member States, and limiting language options for product packaging;
76. Recalls its previous call for the Commission to monitor and remove any unjustified geo-blocking or other barriers to cross-border online sales that persist, as identified in the first short-term review of the Geo-Blocking Regulation²³; acknowledges the launch of

²¹ Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices, OJ L 102, 23.4.2010, p. 1.

²² OJ C 130, 19.5.2010, p. 1.

²³ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market, OJ L 60 I, 2.3.2018, p. 1.

the stakeholder dialogue in this context;

77. Emphasises the importance of the cooperation of national competition authorities within the European Competition Network (ECN); highlights that their contribution to enforcement is a cornerstone of the Digital Markets Act in its current form; calls on the Commission to thoroughly assess the implementation of Directive (EU) 2019/1²⁴; welcomes the transposition of Directive (EU) 2019/1 into national law in the Member States, thereby empowering national competition authorities (NCAs) to be more effective enforcers of competition policy; emphasises that NCAs' strengthened investigation and decision-making capacities, as well as sufficient levels of human and financial resources, will allow for better enforcement of competition rules independently and impartially; recommends that the analytical capacity of NCAs be increased to enable them to better address the complexities arising in the enforcement of competition law in digital markets; further recommends that NCAs collaborate on the sharing of best practices and work together with other competent authorities to take a multi-disciplinary approach to breaking down enforcement silos, as anti-competitive conduct may also break into areas of data protection or consumer law;
78. Stresses the importance of guarantees of independence for national supervisory and competition authorities, reiterates the ever-growing need to ensure more effective channels of communication, information and cooperation at EU level; emphasises, in this regard, the need to provide these authorities with the necessary human, financial and technological resources for the proper performance of their tasks; highlights, lastly, the importance of maintaining the most stringent requirements of transparency and independence concerning the mandates of these authorities, from the mechanisms for appointment to the rules for access to information;
79. Stresses that enforcement must remain independent and benefit from fit-for-purpose screening tools and human resources with appropriate qualifications, in order to efficiently handle the rising numbers and more challenging types of cases;
80. Recalls that an in-depth analysis of Directive 2014/104/EU²⁵ could not be undertaken due to delayed transposition and the lack of relevant information on the judicial cases; invites the Commission, nevertheless, to continuously monitor the implementation of the directive and to publish the results of the analysis;
81. Considers that Parliament should play an active role in the political debate on competition policy; notes that Parliament should be more involved as an observer in the activity of working parties and expert groups, such as the International Competition Network (ICN) and the OECD, in order to gain more knowledge in the field and remain up to date on developments in order to be more prepared for its role as co-legislator; stresses that Parliament should participate in EU Competition Weeks and other meetings to which Member State representatives are invited; notes that the Competition Working Group is a useful vehicle to foster exchanges between the European Parliament and DG COMP;
82. Condemns Russia's unprovoked and unjustified aggression against Ukraine; welcomes

²⁴ OJ L 11, 14.1.2019, p. 3.

²⁵ OJ L 349, 5.12.2014, p. 1.

the extraordinary measures that the EU is putting in place to help Ukrainian people; supports measures directed at NGOs and businesses helping refugees flee to the Union from countries affected by war;

83. Calls on the Commission to closely monitor the situation and, if appropriate, to use the necessary flexibility of the EU's State aid framework to enable Member States to provide support to the companies and sectors most severely affected by the ongoing Russian military aggression against Ukraine and which will be hurt by the sanctions imposed on Russia;

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84. Instructs its President to forward this resolution to the Council, the Commission, the national parliaments of the Member States and the national, and where applicable, regional competition authorities of the Member States.

1.3.2022

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on competition policy – annual report 2021
(2021/2185(INI))

Rapporteur for opinion: Andrea Caroppo

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that competition policy is vital to strengthening and ensuring the proper functioning of the single market in that it provides a fair and level playing field for all market participants – especially micro-, small- and medium-sized enterprises (SMEs) –, prevents the distortion of competition, enables the growth of innovative businesses and guarantees a high level of consumer protection, lower prices, better quality and more choice between suppliers and products; stresses further that consumer welfare must remain a key objective of competition policy and that negative externalities associated with certain types of production must not be ignored;
2. Stresses that EU competition rules should contribute to the Union's objectives as defined in Article 3 of the Treaty on European Union; considers that competition rules should not hamper, but contribute to sustainability goals; underlines that competition rules and sustainability policies should work together; welcomes the Commission's approach according to which State aid, antitrust enforcement and merger control can contribute to the objectives of the European Green Deal and the Paris Agreement; underlines, in this context, the important role of the services sector in transitioning to a circular economy and implementing those objectives;
3. Welcomes the 2021 OECD recommendations on competitive neutrality and calls on the Commission to maintain competitive neutrality in the regulatory environment of the internal market;
4. Welcomes the process launched by the Commission to reflect on the role that competition policy can play to support the green and digital transitions, as well as the EU industrial strategy; highlights in this regard the adoption of the guidelines on State

aid for climate, environmental protection and energy 2022¹ in December 2021;

Improving competition in the services sector

5. Recalls that services represent the largest economic sector of activity in the EU in terms of gross added value and that the single market for services lags well behind the single market for goods; highlights the need to address the remaining unjustified barriers to the development of the single market for services, including through the enforcement of competition rules; welcomes, in this context, the Joint Initiative on Services Domestic Regulation, adopted by the WTO in order to cut red tape in services trade;
6. Underlines that services of general economic interest (SGEI) may be subject to specific rules to protect citizens' access to basic public services; takes note of the ongoing assessment by the Commission of those rules for healthcare and social services; reiterates its call on the Commission to adapt the target group definition of social housing in the rules on SGEIs;
7. Highlights that legislative proposals should be based on multiple elements such as data and best practices; calls on the Commission to continue working on the notification procedure under the Services Directive², which could be improved;
8. Welcomes the Commission's efforts to improve the enforcement of the single market rules of the Directive on a proportionality test for regulated professions³ by initiating infringement procedures; calls on the Member States to properly implement the proportionality test when imposing national rules; stresses that the lack of proper implementation of the EU rules on proportionality test could ultimately disadvantage consumers in the form of excessive prices, undermine the development of innovative services or even lead to lower access to services;

Competition rules in the digital single market

9. Recalls the importance of the EU digital single market in enabling tech companies to reach new customers easily and compete internationally;
10. Underlines the importance of ensuring efficient regulation of digital markets and highlights, in this context, the ongoing negotiations on the Digital Markets Act⁴ (DMA); notes in this regard that *ex ante* regulatory intervention aims to address the gaps in *ex post* competition law enforcement; highlights that consumer rights and consumer welfare must be preserved and, if possible, strengthened both online and offline;
11. Recalls that data is a source of considerable economic power and leverage; welcomes the evaluation of the market definition notice to better assess digital markets and considers that non-monetary factors should be taken into account when defining digital

¹ OJ C 80, 18.2.2022, p. 1.

² Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. OJ L 376, 27.12.2006, p. 36.

³ Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions. OJ L 173, 9.7.2018, p. 25.

⁴ Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act). COM(2020)0842.

markets;

12. Notes that bigger digital players may have access to larger amounts of data concentration, which could affect competition with smaller players; asks the Commission to take this factor into account when assessing dominant positions in markets;
13. Stresses the importance of proceeding swiftly with the negotiations on the Digital Services Act⁵ to ensure harmonisation of the EU digital single market and avoid barriers to trade;

Killer acquisitions

14. Underlines that merger control rules should take so-called ‘killer acquisitions’ by dominant players in the single market, including digital markets, into account; welcomes the Commission’s Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases⁶, which aims to close the loophole related to killer acquisitions in merger control; stresses the fact that killer acquisitions may also affect the contestability and fairness of the digital single market and have a detrimental effect on consumer choice; underlines in this regard the importance of the DMA in preventing, killer acquisitions by companies designated as ‘gatekeepers’ and also that merger control should be assessed by the rules of the Merger Regulation⁷; agrees that optimal policy should also take into account its effect on innovation rates;
15. Notes that the consumer Internet of Things (IoT) sector will expand significantly in the coming years but recognises that shortcomings still exist in this sector, such as the lack of interoperability, which could reduce competition and consumer choice; calls on the Commission to prepare a thorough analysis of such potential impacts on the internal market, including a cost-benefit analysis of any regulatory intervention; welcomes the Commission’s sector inquiry into the IoT and calls on the Commission, where necessary, to take further action regarding standards, data portability and access;
16. Notes that the Vertical Block Exemption Regulation (VBER)⁸ and related Vertical Guidelines⁹ have been inadequately adapted for recent market developments, notably the growth of online sales and online platforms; also notes that the Commission is currently working on its proposal to better adapt the Regulation and the Guidelines; highlights that there are concerns regarding the durable goods sector, where manufacturers are competing directly with the distribution network by modifying the contractual terms of the vertical distribution relationship, thereby placing distributors at a competitive disadvantage and driving SMEs out of the market; stresses that the

⁵ Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act). COM(2020)0825.

⁶ OJ C 113, 31.3.2021, p. 1.

⁷ 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.

⁸ Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices. OJ L 102, 23.4.2010, p. 1.

⁹ OJ C 130, 19.5.2010, p. 1.

digitalisation of the durable goods sector also raises concerns in terms of competition; asks the Commission to ensure that any future revision takes into account the abuse of selective distribution agreements, labelling and other measures to prevent the purchase, distribution and resale of goods across borders;

17. Considers that the distinction made in the draft guidelines to the VBER revision between resale price maintenance (RPM), distorting the market, and minimum advertised price (MAP), which could be allowed under certain circumstances and conditions, could constitute a tool to support SMEs to withstand aggressive price competition on online marketplaces; asks the Commission, to this end, to clarify in the guidelines the conditions under which MAP does not constitute RPM;
18. Underlines, furthermore, the need for General Block Exemption Regulation¹⁰ (GBER) provisions to be aligned with EU policy objectives to ensure policy coherence; welcomes the fact that the draft revised GBER further recognises renewable energies and biodiversity protection measures; stresses, however, that clear, stringent and enforceable criteria and targets should be set for allowing State aid for low-carbon hydrogen;
19. Reiterates its call on the Commission to address the anti-competitive effect of territorial supply constraints (TSCs) with a view to achieving a fully functioning single market and its potential benefits for consumers; repeats that TSCs can arise through different practices such as: refusing to supply, threatening to stop supplying a particular distributor, limiting the quantities available for sale, unexplained differentiation of product ranges and prices between Member States or limiting language options for product packaging;
20. Recalls its previous call on the Commission to monitor and remove unjustified geo-blocking and other barriers to cross-border online sales that persist as identified in the first short-term review of the Geo-blocking Regulation¹¹; acknowledges in this context the launch of the stakeholder dialogue;

State aid

21. Notes the continued impact of the COVID-19 pandemic on the EU economy and the risks and opportunities it poses to the internal market; welcomes the Commission's decision to prolong the temporary framework for State aid until 30 June 2022; underlines the temporary nature of these measures and that necessary safeguards to preserve the level playing field in the Single Market must be taken into account, whereas these measures should not create cliff-edge effects; asks the Commission to ensure that the measures are proportionate to actual needs, such as promoting competitiveness and safeguarding jobs, and do not call into question consumers' rights; invites the Commission to consider prolonging these measures until the strong recovery

¹⁰ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty. OJ L 187 26.6.2014, p. 1.

¹¹ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market. OJ L 60I , 2.3.2018, p. 1.

of the European economy overall is confirmed by robust evidence;

22. Calls on the Commission to improve the transparency of the State aid evaluation process, which should include clear reasoning, a State aid description, and measurable indicators allowing for *ex post* monitoring and evaluation; highlights, therefore, the need for *ex post* monitoring of the effective implementation of adopted State aid cases; believes that the outcome of the consultation phase should also be disclosed;
23. Highlights the impact of border controls due to the COVID-19 pandemic, but also those at the national borders of Member States not in the Schengen zone, on the free movement of products, and the risks and the impediments they cause to competition, especially for SMEs; calls on the Commission and the Member States to analyse the situation, remove any barriers and complete the single market;
24. Welcomes the Commission's efforts at monitoring and assisting Member States in their efforts to incorporate the ECN+ Directive¹² into national law and urges the Commission to further strengthen the role of the European Consumer Centres Network (ECC-Net); reiterates its call on the Commission to conduct a study on whether an EU consumer authority is needed;
25. Calls on the Commission to adapt competition rules and ensure their enforcement in the energy sector to facilitate the achievement of the Energy Union, to promote European players and to protect the security and resilience of energy supplies in the European Union, thus reducing price volatility and combating the rise in energy prices, which accounts for a significant share of the increase in the inflation rate; calls on the Commission to enforce competition rules in the energy sector, taking into account the objectives of the Green Deal, in order to create a level playing field for the different technologies and innovations in the energy sector;

EU response to foreign subsidies

26. Highlights the importance of tackling distortive foreign subsidies that are harming the level playing field in the EU's internal market and welcomes the proposed regulation on foreign subsidies¹³, which is relevant in cases where, for example, a subsidised company intends to participate in EU public procurement procedures; underlines that non-EU companies benefitting from State aid or other subsidies might potentially distort competition in the internal market and weaken its service level and consumer protection standards; calls on the Commission, in this regard, to ensure fair market access and a level playing field in every sector concerned, including aviation;
27. Expresses concern over retaliation measures against EU companies at global level, including the risk of mirroring of the anti-subsidy principle directed at EU companies, for example in public procurement; stresses the key importance of creating transparent and measurable indicators and investigation procedures to establish a clear framework

¹² Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market. OJ L 11, 14.1.2019, p. 3.

¹³ Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market. COM(2021)0223.

for the assessment of the distortive effect of foreign subsidies;

28. Recalls that the empirical analysis conducted for the OECD's 2021 study found that below-market finance may have been a contributor to excess capacity in a number of sectors, and that subsidies also appear to be negatively correlated with firm productivity; notes that the OECD's findings also raised significant concerns about a lack of transparency in relation to below-market finance; believes that the EU should target these negative consequences of foreign subsidies on the internal market effectively, considering the potential negative effects of regulation, including the administrative and regulatory burden, retaliation measures and impacts on investment and growth;

Review of competition policy and enforcement rules

29. Recalls the European Court of Auditors' (ECA) recommendations¹⁴, which state that the Commission should follow a more proactive approach by gathering and processing market relevant information in a consistent and cost-efficient manner and select cases for investigation based on clearly weighted criteria, for example by using a scoring system; highlights the need, in line with the ECA's recommendations, for the new rules to improve reporting of the results of enforcement actions, instead of focusing on reporting of activities;
30. Urges the Commission to carry out an *ex post* evaluation of its enforcement decisions, including the impact of the fines and sanctions given for anti-competitive conduct in the internal market, whether they were effective and whether they delivered the intended results;
31. Recalls that profit-seeking behaviour should be accepted and should not be accused of being anti-competitive without objective and fact-based reasons; recalls that anti-competitive behaviour is prohibited and hyper-competitive behaviour is not; points out that the fact that particular offering attracts many consumers because of its convenience is not in itself a sufficient ground for concern; calls on the Commission to distinguish between these behaviours for the purposes of antitrust enforcement;
32. Notes that in 1980, China accounted for 2.3 % of the global economy, the US 21.3 % and the current EU-27 almost 26 %; notes, however, that in 2020, China had reached 18.3 %, the US had fallen to 15.8 % and the EU to 15 %; stresses that without economic growth, the EU cannot expect to improve healthcare, education, research or environmental protection on the internal market; calls on the Commission to analyse the key shortcomings in competition policy, including the impacts of excessive administrative burdens and of a lack of legal certainty and protectionist measures at EU and national levels;
33. Regrets that the number of EU unicorns is rather limited compared to other developed regions or countries; urges the Commission to analyse the regulatory environment in the most successful countries and to publish best practices; further calls on the Commission to introduce changes to improve competition policy in the internal market to create a

¹⁴ European Court of Auditors Special Report No 24/2020, *The Commission's EU merger control and antitrust proceedings: a need to scale up market oversight*, 19 November 2020.

more favourable environment for companies, including start-ups, entrepreneurs and innovators;

34. Recalls the 2021 report of the International Monetary Fund on competition, innovation and inclusive growth, which states that competition and innovation-led growth are critical to drive productivity gains and support broad-based growth; notes that the report also states that policies to support innovation could also improve business dynamism and reduce market power.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	28.2.2022
Result of final vote	+: 38 -: 1 0: 3
Members present for the final vote	Alex Agius Saliba, Andrus Ansip, Brando Benifei, Markus Buchheit, Andrea Caroppo, Anna Cavazzini, Dita Charanzová, Deirdre Clune, David Cormand, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Krzysztof Hetman, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Kateřina Konečná, Andrey Kovatchev, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Morten Løkkegaard, Antonius Manders, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, René Repasi, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Róža Thun und Hohenstein, Tom Vandenkendelaere, Marion Walsmann, Marco Zullo
Substitutes present for the final vote	Clara Aguilera, Marc Angel, Marco Campomenosi, Malte Gallée, Francisco Guerreiro, Barbara Thaler, Kosma Złotowski

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

38	+
ECR	Eugen Jurzyca, Kosma Złotowski
ID	Marco Campomenosi
PPE	Andrea Caroppo, Deirdre Clune, Krzysztof Hetman, Arba Kokalari, Andrey Kovatchev, Antonius Manders, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Barbara Thaler, Tom Vandenkendelaere, Marion Walsmann
Renew	Andrus Ansip, Dita Charanzová, Sandro Gozi, Svenja Hahn, Morten Løkkegaard, Róza Thun und Hohenstein, Marco Zullo
S&D	Alex Agius Saliba, Clara Aguilera, Marc Angel, Brando Benifei, Maria Grapini, Maria-Manuel Leitão-Marques, Leszek Miller, René Repasi, Christel Schaldemose
The Left	Kateřina Konečná, Anne-Sophie Pelletier
Verts/ALE	Anna Cavazzini, David Cormand, Malte Gallée, Alexandra Geese, Francisco Guerreiro

1	-
NI	Miroslav Radačovský

3	0
ID	Markus Buchheit, Virginie Joron, Jean-Lin Lacapelle

Key to symbols:

+ : in favour

- : against

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	14.3.2022
Result of final vote	+: 45 -: 5 0: 7
Members present for the final vote	Rasmus Andresen, Gunnar Beck, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Carlo Calenda, Engin Eroglu, Markus Ferber, Jonás Fernández, Raffaele Fitto, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Luis Garicano, Valentino Grant, Claude Gruffat, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Costas Mavrides, Csaba Molnár, Siegfried Mureşan, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Sirpa Pietikäinen, Dragoş Pîslaru, Evelyn Regner, Antonio Maria Rinaldi, Alfred Sant, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtaşun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zile
Substitutes present for the final vote	Manon Aubry, Karima Delli, Maximilian Krah, Chris MacManus, Andreas Schwab, Linea Sjøgaard-Lidell

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

45	+
ID	Valentino Grant
NI	Enikő Győri
PPE	Isabel Benjumea, Stefan Berger, Markus Ferber, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Othmar Karas, Aušra Maldeikienė, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Sirpa Pietikäinen, Andreas Schwab, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Carlo Calenda, Engin Eroglu, Luis Garicano, Billy Kelleher, Ondřej Kovařík, Dragoş Pîslaru, Linea Sjøgaard-Lidell, Stéphanie Yon-Courtin
S&D	Jonás Fernández, Eero Heinäluoma, Aurore Lalucq, Pedro Marques, Costas Mavrides, Csaba Molnár, Evelyn Regner, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli
Verts/ALE	Rasmus Andresen, Karima Delli, Claude Gruffat, Stasys Jakeliūnas, Piernicola Pedicini, Kira Marie Peter-Hansen, Ernest Urtasun

5	-
ID	Gunnar Beck, Maximilian Krah
NI	Lefteris Nikolaou-Alavanos
The Left	Manon Aubry, Chris MacManus

7	0
ECR	Raffaele Fitto, Michiel Hoogeveen, Johan Van Overtveldt, Roberts Zile
ID	France Jamet, Antonio Maria Rinaldi, Marco Zanni

Key to symbols:

+ : in favour

- : against

0 : abstention