REPORT

on the Annual report on EU Competition Policy (2015/2140(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 (2015/2140(INI))

The European Parliament,

– having regard to the Commission report of 4 June 2015 on competition policy in 2014 (COM(2015)0247) and the Commission staff working paper as supporting document of the same date,

– having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Articles 101-109, 147 and 174;

– having regard to the relevant competition rules, guidelines and resolutions of the Commission,

– having regard to its resolution of 10 March 2015 on the Annual Report on EU Competition Policy in 2013\(^1\), and its resolution of 11 December 2013 on the Annual Report on EU Competition Policy in 2012\(^2\) and the requirements laid down therein by Parliament,

– having regard to the study by the Directorate-General for Internal Policies (Policy Department A (Economic and Scientific Policy)) for the Committee on Internal Market and Consumer Protection entitled ‘Unfair trading practices in the business-to-business food supply chain (UTPs)’\(^3\),

– having regard to the opinion of the European Economic and Social Committee entitled ‘Internal market of international road freight: social dumping and cabotage’\(^4\),

– having regard to the May 2012 report of the European Competition Network (ECN) entitled ‘Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector’\(^5\),

– having regard to Council Directives 77/799/EEC and 2011/16/EU on administrative cooperation in the field of taxation,

– having regard to the conclusions and action proposals of the OECD/G20 Base Erosion and Profit Shifting Project,


having regard to Directive (EU) No. 2014/104 of 26 November 2014 on rules governing actions for damages,

having regard to the Commission communication of 28 June 2014 on guidelines for State energy subsidies and environmental aid ¹,

having regard to 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 TFEU.

having regard to Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of company amalgamations,

having regard to the Commission White Paper ‘Towards more effective EU merger control’ of 9 July 2014 (COM/2014/0449),

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 the Internal Market and Consumer Protection (A8-0368/2015),

A. whereas EU competition policy is a cornerstone of the social market economy in Europe and an essential instrument for a properly functioning internal market in the Union;

B. whereas, in the field of competition, the European Union's voice is heard and respected on the international scene; whereas this unified, independent, external representation, backed up by clearly defined powers, enables the Union to exert its true political, demographic and economic power;

C. whereas competition policy is in itself a means of safeguarding European democracy, in that it prevents the over-concentration of economic and financial power in the hands of a few;

D. whereas the European Union is established as an open social market economy with free and fair competition, the purpose of which is to increase the prosperity of consumers and the living standards of all EU citizens, and whereas the European Union is establishing an internal market designed to bring about sustainable development in Europe on the basis of balanced economic growth and price stability;

E. whereas the aim of the strong application of competition-law principles under the EU Treaty is to contribute to the achievement of the overall objectives of EU economic policy and, at the same time, to benefit consumers, workers and entrepreneurs, and promote innovation and growth, by controlling and restricting unfair market practices resulting from monopolies and dominant market positions, so that every individual has a fair chance of success;

F. whereas the independence of national competition authorities is of paramount importance;

whereas each year losses of EUR 181-320 billion – approximately 3 % of EU GDP – accrue owing to the existence of cartels;

whereas, in terms of energy costs, the European single market performs worse than the internal US market, with a price dispersion of 31 %, to be compared with 22 % in the latter;

whereas in many Member States a severe credit crunch is still affecting SMEs, which represent 98 % of the EU firms and 67 % of employed people;

whereas tax evasion, tax fraud and tax havens are costing the EU taxpayers an estimated EUR 1 trillion per year in lost revenue, distorting competition in the single market between those companies who pay taxes and those who do not;

whereas in recent years, in particular, the dynamism in the digital economy and, above all, distortions of competition as a result of aggressive tax practices and national taxation policies (which are probably causing considerable harm to the internal market), have brought with them new challenges for market players, requiring an immediate and targeted response from the Commission; whereas global cooperation on the enforcement of competition rules helps avoid inconsistencies in the corrective measures taken and in the outcomes of enforcement measures, and helps businesses to reduce their compliance costs;

whereas, given the challenges of the digital age, the existing competition law instruments need to be reviewed fundamentally;

whereas international air transport rules on fair competition, and the regulation of state-owned enterprises, are deficient with respect to airlines from certain third countries operating to and from Europe dominating certain routes, causing considerable harm to European airlines and impairing the connectivity of European hub airports, thereby reducing choice for European consumers;

whereas competition does not have the same impact in all Member States;

whereas competition policy needs to take particular account of the objectives of sustainable development and social cohesion;

whereas social dumping is a factor distorting the internal market, hurting both consumers’ and workers’ rights;

whereas guaranteeing the free movement of people, goods, services and capital is the basis of Europe’s growth;

Welcomes the report by the Commission, which underlines the importance of competition policy in the EU, and notes that it essentially covers the term of office of the last Commission under Competition Commissioner Almunia;

Calls on the Commission in future to send the sectoral working paper to Parliament as an integral part of the report;

Welcomes the fact that Competition Commissioner Vestager wishes to work in close
cooperation with Parliament to develop competition policy as one of the key instruments of the European Union towards making the common internal market a reality, and calls on the Commission not to implement internal EU competition policy in such a way as to restrict firms’ market strategies, so that they can compete on world markets with actors from outside the EU;

4. Stresses that an effective and credible competition policy must not be directed exclusively towards bringing down prices for consumers, but must also be mindful of the strategic interests of the European economy, such as: the ability to innovate; investment; competitiveness and sustainability; the special competitive conditions for SMEs, start-ups and microenterprises; and the need to promote high labour and environmental standards;

5. Calls on the Commission to put a stop to social dumping, and emphasises that competition policy decisions must take particular account of the social impact in remote or isolated regions;

6. Considers that the specific nature of the digital economy, characterised by decreasing marginal costs tending towards zero and by strong network effects, favours an increase in the level of concentration in key markets; invites the Commission to adapt its competition policy to the specificities of this sector;

7. Calls on the Commission to complete the internal market in areas where it is still fragmented and incomplete, and to end unjustified market restrictions and distortions of competition as soon as possible wherever they are found; calls on the Commission to ensure that competition policy at the same time strengthens social cohesion in the Union;

8. Stresses that the prioritisation of the work of the competition authority, and the presentation in the 2014 Competition Report, are largely consistent with the common priorities; sees, however, the need in some areas for a more determined course of action, which the Commission should emphatically address in the coming year; highlights the importance of global cooperation on competition enforcement; supports an active participation of the Commission in the International Competition Network;

9. Underlines that the term competition itself, on which the current competition law is based, needs to be redefined, in particular the structure-conduct-performance paradigm, to allow due account to be taken of the changes in the economy brought about by digitisation, and suggests, therefore, that the Commission set up a high-level expert group to address this;

10. Calls again on the Commission – as it did with regard to the previous annual report – to prevent the development of excessive market concentration and abuse of market dominance in connection with the creation of the digital single market, as doing so will ensure a higher level of service for consumers and the possibility of more attractive prices;

11. Regards it as essential to guarantee fair terms of competition on the digital market and to combat the abuse of dominant positions and tax optimisation, aims which ultimately benefit consumers;
12. Believes that the development of e-government is an important factor in supporting growth, including as regards the participation of SMEs; calls, therefore, on the Member States to use all the tools made available to them by the new public procurement legislation for promoting growth in the EU, and calls on the Commission to support all initiatives connected with the development of e-government; stresses, furthermore, that the promotion and implementation of e-governance systems in all Member States is instrumental to the efficient monitoring of infringements and to ensuring transparency in both the public and the private sector;

13. Calls on the Commission to ensure that the Member States implement the new public procurement legislation in a timely manner, in particular as regards the deployment of e-procurement and e-administration, and the new provisions on consideration of social and environmental criteria and on the division of contracts into lots, in order to boost innovation and fair competition, support SMEs in procurement markets and ensure best value for money in the use of public funds;

14. Calls on the Commission to go even further in seeking an ambitious opening-up of international public procurement markets, in order to eliminate the imbalance which exists with regard to the degree of opening-up of public procurement markets between the EU and other trading partners, and, to that end, to take account of its report on the Commission’s proposal for an international procurement instrument and the forthcoming revision thereof;

15. Points out that customers on the single market are being sold products containing ingredients that differ from one consignment to another even though the brand name and the packaging is the same; calls on the Commission to determine whether, in the context of EU competition policy, this is a practice that has negative repercussions for suppliers of local and regional produce, in particular SMEs;

16. Considers it essential for the Commission to continue to promote better convergence of, and cooperation among, national competition authorities in the EU;

17. Welcomes the strong interplay between competition enforcement and the digital single market strategy, in particular in actions related to geo-blocking practices and licensing agreements, with a view to completing the digital single market; considers that a similar interplay is vital in the internal energy market to remove barriers to the free flow of energy across borders, and to build the Energy Union;

18. Considers that competition in the telecommunications sector is essential not only to drive innovation and investment in networks, but also encourage affordable prices and choice in services for consumers; calls, therefore, on the Commission to safeguard competition in this sector, including in the allocation of spectrum;

19. Calls on the Commission to scrutinise the unfair and unlawful clauses and practices employed by the banking sector in consumer contracts; calls on the Commission, in the context of the ECN, to foster exchanges of proven practices; urges the Commission to reduce the amount of red tape of all kinds generated by the implementation of competition policy;

20. Believes that competition policy should play an important part in making financial
markets more secure and transparent for consumers; welcomes, furthermore, the legislative measures adopted in the field of electronic payments and, in particular, the introduction of ceilings on interbank commissions for card payment transactions;

21. Reminds the Commission that competition policy also entails regulating the price of services for which it is difficult to set a market value, such as ATM fees;

22. Calls on the Commission to examine ATM networks from the perspective of competition policy, given that this is a network infrastructure;

23. Believes that further thought should be given to how European companies must be supported as they compete on a global basis with other like-sized operations from different parts of the world, which do not have to follow the same competition rules that European entities must comply with on their home turf;

24. Calls on the Commission to ensure coherence between the Union’s trade and competition policies and the objectives of its industrial policy; points out that the Union’s competition policy should not hinder the emergence of European industrial champions in economy; calls, therefore, for trade and competition policies to promote the development and competitiveness of European industry on the world stage;

**Antitrust proceedings – cases of abuse of dominant position**

25. Calls on the Commission to increase its efforts as regards investigations of instances of abuse of dominant market positions to the detriment of EU consumers;

26. Notes that abuses of dominant position are prohibited and constitute a serious competition problem;

27. Considers that the Commission is working successfully in cases involving infringements of the rules on cartels and is able to demonstrate that it has made a significant contribution towards the realisation of internal market and equal competition rules;

28. Underlines that anticompetitive practices and monopolies can constitute barriers to trade which distort trade and investment flows; calls on the Commission – in the interest of free and fair global trade – to take action internationally against cartels and anticompetitive, oligopolistic and monopolistic practices that are damaging to competition;

29. Considers that the existing rules on fines to be imposed on legal persons for infringements must be supplemented by concomitant penalties against the natural persons responsible; takes the view that the fines should be high enough to act as a deterrent; emphasises the importance of a successful whistleblower policy, which has allowed the Commission to detect cartels;

30. Regards legal certainty as crucial, and calls on the Commission to incorporate the rules on fines, such as those imposed in cartel proceedings, into a legislative instrument;

31. Notes that the original market models of the competition policy may be inappropriate
for the digital economy, and that the use of price-based indicators in this dynamic economic sector often fails to achieve the desired outcome; calls on the Commission to carry out, on the basis of new criteria, a comprehensive legal and economic assessment of fast-moving markets and ephemeral business models employed by digital undertakings, in order to obtain a clear understanding of the market structure and market trends, take appropriate measures to protect consumers and take proper account of the importance of data and of the specific market structures of the digital economy; points out that, for the purposes of defining the relevant market, in particular in the digital economy, relevant assessment criteria in terms of competition must be applied;

32. Maintains that the protection of intellectual property is central to fair competition, and notes with regret that global companies are unwilling to acquire the licences required for using European patents; calls on the Commission to provide effective protection for standard essential patents (SEPs) and to exercise close supervision to ensure that patent users obtain licences in the proper way;

33. Calls on the Commission to investigate if there is any kind of correlation between a high incidence of politicians and former ministers on the governing boards of energy companies and oligopolistic practices in the energy sector in some Member States;

34. Call into question the long duration of the investigations into US internet giant Google, and regrets the fact that these investigations have already dragged on for several years, with no transparency and no definitive results to show, reflecting the fact that until 2014 the Commission was reluctant to indicate its intention to abolish market restrictions; points out that, especially where dynamic markets are concerned, proceedings that take so long can amount to de facto market cleansing and create uncertainty for all parties;

35. Calls on the Commission to conduct a thorough investigation into the Google practice whereby the ‘Android’ operating system is offered only in conjunction with other Google services, and whereby manufacturers may not pre-install rival products; calls, furthermore, on the Commission to examine in detail Google’s dominant market position in the area of direct hotel bookings, and to seek an appropriate solution to this problem; supports the Commission measures designed to bring about a greater degree of interoperability and portability across all digital sectors and, thereby, avoid a winner-takes-all scenario; stresses the importance of equipping the Commission with the right tools to maintain an up-to-date overview of swift developments on the digital market;

36. Calls on the Commission to conduct and complete all other pending cartel investigations carefully, and to do away with any market restrictions; welcomes the new Commissioner’s refusal to bow to political pressure, and calls for the proceedings to be speeded up so that results can be achieved within the next year; welcomes, therefore, the Statement of Objections sent by the Commission to Google concerning its comparison shopping service; calls on the Commission to continue to examine determinedly all concerns identified in its investigations, including other areas of search bias, in order to guarantee a level playing field for all market players in the digital market;

37. Points out that under Article 8 of the Cartel Proceedings Regulation, Regulation (EC) No 1/2003, the Commission may order interim measures when there is a risk of serious and irreparable damage to competition; calls on the Commission to determine how far
such measures could be applied in protracted competition proceedings, especially on the digital market;

38. Recalls that net neutrality (meaning the principle according to which all internet traffic is treated equally, without discrimination, restriction or interference, independently of its sender, recipient, type, content, device, service or application) is of utmost importance when it comes to ensuring that there is no discrimination between internet services and that competition is fully guaranteed;

39. Stresses that competition policy should be evidence-based, and welcomes the Commission’s sector inquiry into e-commerce, focusing on potential barriers to cross-border online trade in goods and services in, e.g., the sectors for electronics, clothing, shoes and digital content;

40. Notes that the Google case has triggered a general discussion on the power of dominant internet platforms such as eBay, Facebook, Apple, LinkedIn, Amazon, Uber, Airbnb, etc., their influence on markets and on the public sphere, and the need to regulate them to protect both; points out that the aim of regulating internet platforms should be to guarantee higher user protection while maintaining incentives to innovate;

41. Calls on the Commission to investigate the market dominance of Google in the market for direct hotel bookings; points out that the company is seeking to have hotel searchers book and pay via Google rather than a third-party travel or hotel site; underlines that this move is potentially controversial as it turns Google into an online travel agency, or its equivalent, charging booking fees; notes that most hoteliers would prefer direct bookings rather than through a third-party site or aggregator; underlines that Google could leverage its dominant position and, by the same token, weaken competitors in travel markets, and thereby harm consumers;

42. Welcomes the Commission’s newly adopted amendments to Regulation (EC) No 773/2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, and the related communications arising out of the Directive on Actions for Damages; considers it unfortunate that Parliament was not involved in the drafting of the amendments;

43. Points out that competition policy has a key role to play in the completion of the digital single market; shares the view that a robust competition policy on fast-moving markets requires thorough market knowledge; welcomes, therefore, the fact that a sector inquiry into e-commerce is being carried out in implementation of the digital single market strategy;

State aid

44. Calls on the Commission, as the guardian of the Treaties, to monitor closely the Member States’ implementation of the above directive, and to ensure that its provisions are enforced in a uniform manner throughout the EU; calls on the Commission, on the Member States and on authorities at regional and communal administrative levels actively to promote compliance with EU competition policy and to explain its legal basis; emphasises the importance of addressing horizontal and vertical State aid in the same way; sees a need for action to be taken to raise awareness in all parts of the
European Union about the classification and granting of illegal State aid, in particular when aid decisions of this kind are tantamount to anti-competitive and protectionist measures; takes the view, however, that remote or outlying regions and islands should be given greater leeway than at present when it comes to applying rules on State aid;

45. Considers that the Commission, particularly in State aid proceedings, must examine evidence provided by the Member States more rigorously, and improve fact security, since there are regular attempts to circumvent the legal basis and the legal constraints, or to seek more or fewer borderline compromises; considers, furthermore, that such examinations should be premised on the recognition that, in strategic and vital sectors such as energy, transport and healthcare, states need to ensure the total security, the continuity of supply and the provision of services for all their citizens, and that they need to take care not to enact legal provisions that are damaging to other Member States or to the Union;

46. Reiterates that EU Structural Funds may not be used in a way that directly or indirectly encourages the relocation of services or production to another Member State, e.g. by a waiting period for undertakings receiving such funds; stresses that State aid is sometimes necessary in order to guarantee the delivery of services of general economic interest (SGEI), including energy, transport and telecommunications; emphasises that State intervention is often the most effective policy tool for guaranteeing the provision of services that are vital to safeguarding economic and social conditions in isolated, remote or outlying regions and islands in the Union;

47. Welcomes the adoption by the Commission in 2014 of the new Guidelines on State aid for environmental protection and energy, and its implementation of these as the General Block Exemption Regulation (GBER);

48. Welcomes the inclusion in the GBER of social aid for the transport of residents of remote regions, whereby the problem of connectivity is now recognised; stresses that the connectivity of peripheral island regions is also essential for sustaining and developing acceptable levels of economic and social initiative by maintaining vital business connections;

49. Welcomes the current Commission inquiry regarding deferred tax assets and deferred tax credits (DTAs/DTCs), which is to the benefit of the banking sector in several Member States; is of the opinion that DTA/DTCs should retroactively be authorised under State aid provisions if they are tied to explicit conditions regarding financing targets for the real economy;

50. Recalls its request to the Commission that it examine whether the banking sector has benefited, since the beginning of the crisis, from implicit subsidies and State aid in the form of unconventional liquidity support;

51. Welcomes the introduction of new guidelines on State aid for risk financing, the primary purpose of which is to make it possible to promote more effectively SMEs, innovative midcaps and start-ups, which have a significant size disadvantage;

52. Criticises the fact that competition-distorting tax models, in particular, can lead to considerable problems for medium-sized businesses, as well as for a number of Member
States that do not apply such tax models’;

53. Welcomes the fact that, as part of the modernisation of State aid law, the Commission is taking the initiative of issuing new guidelines that will make it clear what is meant by State aid in the tax sphere and in appropriate transfer pricing;

54. Requests a separate study from the Commission that assesses whether EU State aid provisions are inhibiting the consolidation and strengthening of competitiveness among European firms vis-à-vis their global competitors, not least with regard to state procurement mechanisms, also in the light of the recent conclusion of the Trans-Pacific Partnership (TPP);

*Merger control*

55. Notes that, in the past, assessments of mergers and takeovers in the digital economy have predominantly been made on the basis of the turnover of the businesses in question, which is inadequate; stresses that businesses with low turnovers and substantial start-up losses may also have a large customer base, and therefore substantial volumes of data, and significant market strength, as the Commission’s unconditional approval of the takeover of WhatsApp by Facebook, which set a precedent, proves;

56. Takes the view that in some economic sectors, first and foremost the digital economy, additional criteria should be applied that go above and beyond price-based approaches, market share, and turnover, since mergers can often entail market restrictions;

57. Considers that particularly in the digital economy, and in the context of consumer protection, the general competition rules must be updated to stay abreast of market realities, and additional new criteria must be introduced in assessing mergers, such as the purchase price, possible market entry barriers, the vital importance of data and of access to data, platform specifications and associated network effects, and also the issue of whether or not there is global competition in the sector in question; calls on the Commission to give particular consideration to the commercial model for businesses in the digital economy and to possible market entry barriers, including factors such as the scope for switching between platforms and data portability;

58. Calls on the Commission to examine the possibility for independent retailers – who under competition law are allowed to work together through their brick-and-mortar shops – to provide joint e-commerce offerings as well;

59. Considers that the erroneous assessment of market strength, combined with the current market definition, is often working to the detriment of European businesses, in particular in times of globalisation and in a dynamic digital market; calls on the Commission to consider a readjustment within the framework of the Merger Regulation;

60. Expresses concern that too often a narrowly national approach is adopted with regard to the issue of market definition, whereby proper account is not taken of the internationalisation of markets, as was the case, for example, of the Merger Regulation;

*Financial aid and taxation*
61. Stresses that – as stated for the fifth time in its annual competition report – the temporary State aid in the financial sector was necessary for the stabilisation of the global financial system, but must quickly be reduced, or totally removed and scrutinised, if the Banking Union is to be completed; emphasises the continuing urgent need to eliminate subsidies – in the form of implicit guarantees for financial institutions that are still too big to fail – in order to level the playing field in the financial sector, and to protect taxpayers, with regard to whom care must be taken to ensure that this does not generate windfall profits or benefits for private legal persons; stresses the importance of a restrictive approach to State aid;

62. Emphasises that fair tax competition is essential to the integrity of the internal market, to the viability of public finances and to ensuring a level and competitive playing field;

63. Considers that the significant disparities that have emerged among Member States in the use of State aid in the financial sector in recent years may lead to distortions of competition in this sector; calls on the Commission to clarify the rules and procedures under which State aid in the financial sector can be authorised; takes the view that, at the very latest when the Banking Union is completed, State aid for the banking sector must be scaled back, whereby care must be taken to ensure that regulation does not distort competition to the benefit of large banks, and that sufficient credit is available for SMEs;

64. Believes that the Commission should consider the possibility of linking State aid to banks to conditionality on credit to SMEs;

65. Calls on the Commission to launch a road map for less, but better targeted, State aid, aiming for a reduction of State aid that opens up for lower taxes stimulating new businesses and fair competition, rather than supporting old structures and incumbents;

66. Underlines the fact that when State aid is used to promote services of general interest, it is the benefit to consumers and the citizens, not to individual companies or to public entities today, that is crucial;

67. Calls on the Commission to follow closely the conditions to be proposed by the European Central Bank for granting new banking licenses, with a view to ensuring the creation of a level playing field without high barriers of entrance to the market; strongly believes that, given the high concentration in the banking sector of some Member States, a higher number of banking entities would be good for consumers and SMEs;

68. Emphasises the key importance of EU subsidy law in the fight against tax avoidance by multinational undertakings;

69. Welcomes the investigations initiated by the Commission in 2014 into unlawful State aid, through unfair tax competition, to the benefit of certain individual companies, which was extended to all the 28 EU countries in 2015; calls, furthermore, on the Member States in future to present to the Commission, in good time and without delay, all relevant information about their tax practice, and, at long last, to comply with their obligation to disclose to the Commission and to Parliament details of any special arrangements that may have an impact on other Member States and SMEs;
70. Notes that, during recent terms of office, the Commission has opened only a very limited number of investigations into potentially tax-related State aid cases, in spite of the well-founded suspicions that have been made public in the meantime; calls on the Commission to use the findings of the current investigations as the basis for more precise and effective guidelines for tax-related State aid, to make use of its full powers under EU competition rules to tackle harmful tax practices, and to penalise Member States and companies found to be involved in such practices; calls on the Commission to specify, at the same time, which tax measures are not consistent with State aid policy;

71. Considers that, in order to ensure fair competition among companies in line with Commission Regulation (EU) No 651/2014, companies located in regions experiencing temporary or permanent disadvantages should be supported, and that increased flexibility should be granted to regions experiencing severe economic problems, such as regions included in the Convergence and Competitiveness objectives, and to insular regions;

72. Regrets that only a very limited number of cases of State aid pertaining to unfair tax competition have been investigated since 1991, underlining the need to ensure broad access to information in order to trigger more investigations on suspicious cases; expresses its concern over the limited resources currently available to the competent Commission services, which may limit their ability to handle a significantly larger number of cases;

73. Stresses that State aid proceedings alone cannot put a permanent stop to the unfair tax competition in a number of Member States; one year after the ‘LuxLeaks’ revelations, further tangible results are required, such as a common consolidated corporate tax base, a review of the VAT Directive in order to prevent fraud, the obligation on large international companies to report publicly their turnover and profits on a ‘country-by-country’ basis, and a call on the Member States to introduce greater transparency in their tax practices and mutual reporting requirements;

74. Takes the view that the tax practices currently employed by certain Member States are seriously jeopardising the internal market, that multinational undertakings in particular must make a fair and appropriate contribution to the public finances of the Member States, and that further investigation is needed into widespread harmful tax practices and tax rulings that are leading to corporate tax base erosion and aggressive tax planning in Europe; welcomes the new TAXE committee;

75. Stresses that a committee of inquiry of Parliament should be set up to investigate further widespread harmful tax practices and tax rulings resulting in corporate tax base erosion and aggressive tax planning within the Union; stresses that it should, in any case, continue its ongoing work to look into unfair tax competition in the EU;

76. Considers that fair tax competition is one of the constitutive elements of the internal market, but that, the primary competence of the Member States notwithstanding, unfair tax competition must be prevented, for example through harmonised tax bases, exchanges of information between tax authorities, and the granting of an explicit legal right to control movements of capital if this is essential to the proper functioning of the tax system in the Union; takes the view that introducing a common consolidated corporate tax base (CCCTB) would help make the system more transparent; believes
that the issue of consolidation can be addressed at a later date, and should not be a barrier to the swift introduction of a CCCTB;

77. Stresses that, on the internal market, new entrants and SMEs doing business only in one country are penalised as compared to multinational companies, which can shift profits or implement other forms of aggressive tax planning through a variety of decisions and instruments, available to them only; notes with concern that, all things being equal, the resulting lower tax liabilities leave multinationals with higher post-tax profits, and create an uneven playing field to the detriment of their competitors on the internal market, who do not have recourse to aggressive tax planning and who pay taxes in the place or places where they generate their profits; stresses that promoting harmful tax practices through the creation of a European single-member private limited liability company (SUP), the governing rules of which explicitly state that it may have two different seats – i.e., a registered office in one place and an administrative headquarters elsewhere – is the wrong approach for the EU;

78. Emphasises that the Commission must, as a matter of course, have access to data exchanged between tax authorities which are relevant in the context of competition law;

79. Considers that fair competition can be hampered by tax planning; invites the Commission to adjust the definition of ‘permanent establishment’ so that companies cannot artificially avoid having a taxable presence in Member States in which they have an economic activity; stresses that this definition should also address the specific situation of the digital sector, ensuring that companies engaged in fully dematerialised activities are considered to have a permanent establishment in a Member State if they maintain a significant digital presence in the economy of that country;

80. Underlines that the Commission, when dealing with competition rulings, must see the internal market as one market, not as a number of local or national markets;

81. Considers that, in view of studies estimating the annual value of tax fraud and tax avoidance to up to EUR one trillion (1 000 000 000 000), the Member States must ultimately tackle and restrict this practice; takes the view that reducing tax fraud and tax avoidance is fundamental to progress on the consolidation of state budgets; welcomes the recent adoption by the finance ministers of the G20 of new rules drawn up by the OECD on base erosion and profit shifting, which will improve transparency, close loopholes and restrict the use of tax havens; takes the view that, given its degree of integration, the EU must go further than the proposals presented in the OECD’s Base Erosion and Profit Shifting (BEPS) project in terms of coordination and convergence aimed at avoiding all forms of harmful tax competition within the internal market; stresses, however, that the OECD approach is still based on soft law, and that its action must be complemented by a proper legislative framework at EU level if it is to address the needs of the single market, e.g. in the form of an anti-BEPS directive going beyond the OECD BEPS initiative in areas that are not sufficiently covered; calls for an assessment of the economic, financial and competition-related impact of tax avoidance and tax fraud;

82. Takes the view, in the light of the unfair tax practices employed by some Member States, that internal market policy and competition policy must go hand in hand, in an effort to ensure that profits are distributed fairly and that the shifting of profits to certain
Member States, or even outside the EU, in order to minimise tax liability, becomes impossible;

83. Emphasises that comprehensive, transparent and effective exchanges of tax information are a key prerequisite for preventing aggressive tax planning; stresses, at the same time, that simplifying tax arrangements at Member State level would do much to foster transparency and clarity;

84. Welcomes the intention of the Competition Commissioner to reorganise the control of State aid as part of a fair tax burden for all; expects that, prior to this reorganisation, there will be an unconditional and complete evaluation, and calls on the Member States to make all requested documents available to Parliament and to abandon their current blockade mentality, which is preventing progress in this area, in which connection it must be borne in mind that different Member States must respond to different policy imperatives on the basis of their geographical location, their size, their physical and other endowments and their state of economic and social development, and calls for state aid guidelines on taxation to be revised to cover cases of unfair competition that go beyond tax rulings and transfers;

85. Calls on the Commission to lay down in the near future detailed guidelines on State aid in the tax sphere and on transfer pricing; emphasises that guidelines of this kind in other policy areas have proved very effective in eliminating and preventing the introduction of certain practices in Member States that do not comply with EU rules on State aid; points out that such guidelines are effective only if they set out very precise provisions, including in the form of quantitative thresholds;

86. Calls on the Member States to publish information on their tax rulings, presented in regional breakdowns, to ensure that there is not an excess of tax rulings in some regions, creating de facto State aid to them;

87. Calls on the Commission to consider the introduction of sanctions, either against the state or the company involved, for serious cases of illegal State aid;

88. Calls on the Commission to modify the existing rules without delay, in order to allow the amounts recovered following an infringement of EU tax-related State aid rules to be returned to the Member States which have suffered from an erosion of their tax bases, or to the EU budget, and not to the Member State which granted the illegal tax-related State aid, as is currently the case, as this rule provides an additional incentive for tax dodging; calls on the Commission to make full use of its powers under EU competition rules to tackle harmful tax practices;

89. Calls for an EU legislative framework to prevent distortions of competition by aggressive tax planning and tax evasion; recommends, with a view to creating a level playing field, the introduction of an automatic mandatory exchange of tax rulings, a CCCTB and a guarantee that no profit leaves the EU untaxed;

90. Maintains that international cooperation is essential for the effective application of competition-law principles in the era of globalisation; calls on the Commission, therefore, to foster closer international cooperation on competition-related matters; stresses that competition-law agreements allowing information to be exchanged
between investigating competition authorities could make a particularly effective contribution to international cooperation on competition-related matters;

91. Takes the view that the Transatlantic Trade and Investment Partnership (TTIP) and all other trade and investment international agreements should have a strong competition section;

92. Stresses that trading partners should derive benefit from growing competition in the field of trade, from investments by the private sector, including investments under public-private partnerships, and from the greater affluence of consumers;

93. Stresses that the EU should make greater efforts to monitor the implementation of trade agreements in order to assess, inter alia, whether competition rules are being complied with, and whether the obligations to which trading partners have committed themselves are fully being complied with and fulfilled;

94. Calls on the Commission to use trade policy as a means of working towards establishing global competition policy rules, with a view to eliminating the numerous persistent barriers to trade; regards the long-term goal of a multilateral agreement on competition rules, concluded within the framework of the World Trade Organisation, as the ideal solution;

95. Supports the competition policy initiatives of the UN Conference on Trade and Development (UNCTAD) and the OECD, and their efforts to improve worldwide cooperation in the field of competition policy;

96. Encourages the Commission and the competition authorities of the Member States to participate actively in the International Competition Network;

97. Calls for measures to ensure that all products imported from third countries comply with the environmental, health and social standards applied by the Union and defended on the world market, so as to protect European industrial producers from unfair competition;

98. Calls on the Commission to support developing countries in their efforts to promote fair competition; calls on the Commission to develop cooperation further, in particular with the competition authorities of emerging economies, and to ensure that appropriate safeguards are put in place;

99. Notes that access to resources, including energy sources, on equal terms is of vital importance for ensuring fair competition on the global market; highlights, in this regard, the importance of affordable and sustainable energy, and of security of supply in trade agreements;

100. Calls on the Commission to release the findings of current investigations into competitive practices in the food supply, energy, transport and media sectors;

101. Welcomes the new guidelines on state aid to airlines and airports in the EU, part of the Commission’s State Aid Modernisation package; calls on the Commission urgently to establish, in international agreements, a similar set of rules for subsidised airlines
operating from third countries to and from the EU, in order to ensure fair competition between EU and third-country carriers;

102. Urges the Commission to foster the exchange of good practices via the European Competition Network, with a view to addressing concerns raised with respect to alliances between distributors, many cases of which are already being investigated by the relevant authorities in the Member States; calls for these discussions to consider interactions between the national and European levels;

103. Encourages the European Competition Network to discuss the growing network of retail-buying alliances at national and EU level;

104. Calls on the Commission to develop progressively the EU competition framework to include in the monitoring of the food supply chain in Europe the Sustainability Assessment of Food and Agriculture systems (SAFA) indicators of the Food and Agriculture Organization of the United Nations (FAO), including indicators under the headings of Fair Pricing and Transparent Contracts (S.2.1.1) and Right of Suppliers (S2.2.1);

105. Calls for the establishment of a European observatory for food and agricultural prices at origin and at destination; draws attention to the Spanish origin-destination price index IPOD as a possible model for monitoring potential abuses by retailers of farmers and consumers;

106. Calls for binding action in the food supply chain against retailers harming farmers and consumers;

107. Is particularly concerned by the situation in the dairy sector, where retailers have been imposing prices well below costs following the end of the quota system;

Democratic strengthening of competition policy

108. Welcomes the regular dialogue between the Competition Commissioner and Parliament, but considers that the right to a hearing on essential matters of principle is not sufficient;

109. Notes that in the area of competition law Parliament is involved in the legislative process only through the consultation procedure, with the result that it can exert much less influence on legislation than the Commission and the Council;

110. Welcomes the regular dialogue that the Commission conducts with Parliament on competition matters; calls again for fundamental legislative directives and guidelines to be adopted within the co-decision procedure; considers that the current dialogue between Parliament and the EU competition authority should be stepped up, in particular for the purpose of assessing and acting on the calls made by Parliament in previous years; believes that the independence of the Commission’s DG Competition is of the utmost importance if it is to achieve its goals in a successful manner; calls on the Commission to re-allocate sufficient financial and human resources to DG Competition; calls in particular for a strict separation between the departments that draw up guidelines and those that have the responsibility to apply those guidelines in specific cases;
111. Considers that it should have co-decision powers in competition policy; regrets that Articles 103 and 109 TFEU provide only for consultation with Parliament; believes that this democratic deficit cannot be tolerated; proposes that this deficit be overcome as soon as possible, through inter-institutional arrangements in the field of competition policy, and corrected in the next Treaty change;

112. Calls for it to be given codecision powers in competition policy, particularly where fundamental principles and binding guidelines are concerned, and regrets that this area of Union policy has not been strengthened in its democratic dimension in recent Treaty amendments; calls on the Commission to put forward proposals for a corresponding amendment to the Treaties to extend the scope of the ordinary legislative procedure to cover competition law as well;

113. Calls on the Commission to give it greater involvement in sector-specific investigations, while safeguarding the confidentiality of certain information submitted by stakeholders; calls for Council regulations in future to be based on Article 114 TFEU, which deals with the functioning of the internal market, so that they can be adopted under the codecision procedure, if the desired Treaty amendment is not expected soon; emphasises that the work on the Directive on Damages Claims can provide a template for future interinstitutional cooperation in competition matters; calls on the Competition Commissioner to continue the dialogue begun with the relevant Parliament committees, and with the Competition Working Group of Parliament’s Committee on Economic and Monetary Affairs;

114. Considers that a results-driven and focused public evaluation of the various proposals by Parliament for development of competition policy should also be undertaken and published by the Commission in the near future;

115. Emphasises that, in its future work, the Commission’s DG Competition should take proper account of the standpoints adopted by Parliament in past reports on competition policy;

116. Considers that all forms of dialogue that have been tried and tested to date should be maintained;

117. Instructs its President to forward this resolution to the Council, the Commission and to national competition authorities.
EXPLANATORY STATEMENT

Legal basis

The Treaty on the Functioning of the European Union (TFEU) contains in Articles 101–109 binding rules for competition in the common internal market, which is based on an open economy with free competition.

Accordingly, anti-competitive agreements and arrangements between companies which damage trade between the Member States and lead to abuse of a dominant market position are prohibited. Takeovers with a Community dimension and company amalgamations which lead to or may lead to a significant market concentration, will be monitored by the European Commission and in certain cases may be subject to conditions or even prohibited.

State aid in favour of certain individual companies or products which lead to distortions of competition in the internal market are generally prohibited, with a few exceptions, but may be approved by the Commission under certain conditions and must in any event be registered with the Commission for examination.

Competition rules also apply to public undertakings, public services and services of general interest. Only when achievement of the objective of these special services is jeopardised can the competition rules (of the Commission) be suspended. The fundamental objective of Community competition rules is to prevent distortion of competition. Effective competition is not an end in itself but a condition for the achievement of a free and dynamic internal market.

The competition rules have been tried and tested in many years of administrative practice by the Commission and have been developed and consolidated in the case-law of the European courts, so that today they can be said to be widely acknowledged and stable.

The 2014 report

In the 2014 report on competition policy, the Commission stresses that this year has been ‘a new start’ for Europe, because President Juncker emphasised in the description of the duties of the new Commission that competition policy could also ‘make a reasonable contribution to achieving the objectives of the agenda for employment and growth, including in areas such as the digital internal market, energy policy, financial services, industrial policy and combating tax evasion’.

However, the 2014 Competition Report presented by Competition Commissioner Vestager essentially covers the term of office of the previous Commission and in particular of retired Competition Commissioner Almunia. The new direction of EU competition policy could therefore only take effect from November 2014 and thus raise the expectation that, in addition to the ongoing development of competition policy, new priorities will be set in the future.

Until now, in competition law, the European Parliament has generally only been involved in the consultation procedure. Consequently its influence, relative to that of the Commission and also that of the Council, is unfortunately limited.
In the past, therefore, the Parliament has repeatedly called for the ordinary legislative procedure under the Lisbon Treaty to be introduced for competition law too. This appears to be necessary because, according to the Rapporteur, as a powerful competition authority the Commission cannot simultaneously lay down the legal framework in the form of guidelines and then be responsible for implementing its own guidelines and impose extensive fines.

Due to the lack of co-decision, the resolution of the European Parliament in favour of the annual competition report by the Commission is one of the most important indicators for controlling the Executive in this important European task field.

For some years, however, particularly since the adoption of the Lisbon Treaty, the resolution of the Parliament is no longer merely a reaction to the findings of the Commission from the previous reporting period but has also become a guiding principle for the Commission in the current core issues of competition law and its application.

For a long time there has been an agreement, also guaranteed by the new Commissioner Vestager, that the responsible Commissioner will appear regularly at the Committee on Economic and Monetary Affairs to explain current political focal points of competition policy and discuss individual decisions with the members.

Unfortunately in previous years, following entry into force of the Lisbon Treaty, regular public evaluation of the Parliament’s proposals by the Commission has been inadequate or even non-existent. One of the requirements for the future is therefore that the Commission, in addition to its annual competition report on its own work and its own priorities, express its opinion orally and in writing, within a reasonable time of adoption of the resolution by Parliament, on the individual proposals which the Parliament generally adopts by a large majority.

The Rapporteur suggests that the tasks of the Commission should in future include greater information, rigorous examination and preventive surveillance of unlawful State aid, which distorts the competition from companies and individual Member States or subdivisions of those Member States. Unfortunately, the prohibition on State aid in Article 107 TFEU is not taken seriously in some Member States or, at any rate, not given sufficient credence or recognised as superior law. Since Article 107(2) exhaustively lists those cases which are compatible with the internal market and automatically permitted, the Commission should focus more closely on the many infringements and discrepancies, as has long been the norm in taxation policy.

On the important question of defining the relevant market, the Commission has in the past displayed uncertainty, particularly in the area of the digital economy, both on the question of when a dominant market position and abusive conduct shall be deemed to exist and in the case of merger control. This is because of the often special market structure in the digital economy, which is characterised by bilateral markets, network effects and free offers. In evaluating the competition, the Commission should pay closer attention to the respective business model of the company and not just to a limited set of indicators such as price and turnover, which say little about actual market power.

If a ‘small company’ with only 50 employees is taken over by an Internet giant for 19 billion US dollars and the Commission judges this on the basis of the previous criteria of turnover, ‘prices’ achieved, market share and other relevant variables, then this constitutes an
inappropriate assessment of future market constellations, which are likely to have a massive impact on the competition.

Some of the cases approved in 2014, which are listed in detail in the competition report, are in this category. The Commission is therefore called on to gather new criteria for the digital economy without delay and also to bear in mind, with regard to the definition of the relevant market, that companies with operations all over Europe, even in an international context in times of globalisation, may possess relatively little data on market structure, so that not only the European market may be consulted but for some time now in certain sectors also the world market.

If the declared objective of the Commission to support and enable European global market leaders in industry, in the digital economy and in research-intensive areas, is actually to be implemented, the sector-specific criteria must also be applied on a global scale.

A further problem is the monitoring of the Member States in State aid proceedings. In a few specific cases in the past, in spite of appropriate advice, the Commission has accepted data submitted by the competent national authorities without verification or done little to investigate facts of public relevance and aid. I am referring here to State aid in 2014 for smaller airports all over Europe and the German ‘Nürburgring’ State aid case, where objections from interested parties were not satisfactorily examined.

Similarly, the significant length of time over which, for example, Google has been under investigation does not suggest that the Commission has yet produced a strategic approach to assessing anti-competitive practices in the digital economy. Thus there was a focus in the draft report on these two areas.

A further focal point, in respect of which Commissioner Almunia has launched investigations in four cases of unlawful State aid and Commissioner Vestager in one, is the unfair tax competition between the Member States. That companies exploit all legal means in order to pay as little tax as possible is one side of the coin and entirely understandable. However, the unfair competition emanating from the Member States, particularly from smaller Member States, significantly distorts the internal market of the Union. Even if national responsibility for tax legislation is not called into question, anti-competitive practices are likely to seriously distort and counteract the positive effects of the internal market. If it is to have any credibility in taking action against unfair tax practices of the Member States, the Commission must therefore conclude quickly and as comprehensively as possible the proceedings instituted in 2014 against a number of large international companies in relation to the massive tax reductions benefiting them in Luxembourg, the Netherlands, Ireland, Great Britain and Belgium.

The fact that Competition Commissioner Vestager requested documentation from all Member States in relation to the preliminary taxation decision at the start of 2015 and some Member States have to date been very dilatory, demonstrates the need to tighten up the competition policy assessment of unfair tax practices by the Member States and for a statutory obligation for timely reporting of critical tax practices.

In addition, in order to prevent competition in the internal market from being massively disrupted, there is a need in this area for further statutory provisions, which are presently being discussed by the Special Committee of the European Parliament and should be adopted
in the next few months. Where in a Member State more than 350 ‘special provisions’ for large international companies from Europe and outside Europe have been authorised, this constitutes a serious drawback in competition, particularly for taxpaying citizens and for the small and medium-sized businesses for whom there is no possibility of special treatment and who (have to) pay their taxes. Therefore, it will be an objective for the Commission, as soon as possible in the current year (2015), to complete the competition procedures concerning unfair tax competition and thereby make clear to Member States the European-law boundaries of unfair tax competition.

Conclusion

On the whole, the 2014 competition report shows that the Commission and the competition authority, with some 1000 employees, constitutes the most powerful authority in Europe for the enforcement of competition in the internal market. The fines imposed, running into billions, for unlawful price fixing should in future be effectively supplemented by penalties addressed directly to the responsible business leaders and managers, so that this behaviour can be more effectively prevented.

The Parliament is pinning on Competition Commissioner Vestager its hopes that EU competition policy will secure its prominent role in enforcing the market economy and competition in Europe, promote it internationally and not result in too many sectoral and national exceptions and uncontrollable exemption thresholds.
20.11.2015

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on Economic and Monetary Affairs

on the Annual Report on EU Competition Policy (2015/2140(INI))

Rapporteur: Adam Szejnfeld

SUGGESTIONS

The Committee on International Trade 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. Stresses that trading partners should derive benefit from the growing competition in the field of trade, from investment by the private sector, including investment under public-private partnerships, and from the greater affluence of consumers;

2. Underlines that anticompetitive practices and monopolies can constitute barriers to trade which distort trade and investment flows; calls on the Commission – in the interest of free and fair global trade – to take action internationally against cartels and anticompetitive, oligopolistic and monopolistic practices that are damaging to competition;

3. Calls on the Commission to go even further in seeking an ambitious opening-up of international public procurement markets, in order to eliminate the imbalance which exists with regard to the degree of opening-up of public procurement markets between the EU and other trading partners, and, to that end, to take account of Parliament’s report on the Commission proposal for an international procurement instrument and the forthcoming revision thereof;

4. Calls on the Commission to ensure coherence between the Union’s trade and competition policies and the objectives of its industrial policy; points out that the Union’s competition policy should not hinder the emergence of European industrial champions in economy; calls, therefore, for trade and competition policies to promote the development and competitiveness of European industry on the world stage;

5. Stresses that the EU should make greater efforts to monitor the implementation of trade agreements in order to assess, inter alia, whether competition rules are being complied with and whether the obligations to which trading partners have committed themselves are
being completely complied with and fulfilled;

6. Calls on the Commission to use trade policy as a means of working towards establishing global competition policy rules in order to eliminate the numerous persistent barriers to trade; regards the long-term goal of a multilateral agreement on competition rules concluded within the framework of the World Trade Organisation as the ideal solution;

7. Supports the competition policy initiatives of the UN Conference on Trade and Development (UNCTAD) and the OECD and their efforts to improve worldwide cooperation in the field of competition policy;

8. Encourages the Commission and the competition authorities of the Member States to participate actively in the International Competition Network;

9. Calls for all products imported from third countries to comply with the environmental, health and social standards applied by the Union and defended on the world market so as to protect European industrial producers from unfair competition;

10. Calls on the Commission to support developing countries in their efforts to promote fair competition, to further develop cooperation, in particular with the competition authorities of the emerging economies, and to ensure that appropriate safeguards are put in place;

11. Notes that access to resources, including energy sources, on equal terms is of vital importance for fair competition on the global market; highlights in this connection the importance of affordable and sustainable energy and of security of supply in trade agreements;

12. Stresses that micro, small and medium-sized enterprises (MSMEs), including innovative start-ups, absolutely must receive support and access to funds so that they can become more competitive on the global market; points out that SME growth plays an important role in overall economic development, generates jobs and investments and thus ensures fair competition;

13. Highlights the fact that access to digital networks and infrastructure is important for fostering competition, and points out that more competition means more choice and lower prices for consumers, especially in the telecommunications field.
RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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| Result of final vote | +: 30  
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| Members present for the final vote | Maria Arena, Tiziana Beghin, Daniel Caspary, Salvatore Cicu, Marielle de Sarnez, Santiago Fisas Ayxelà, Christofer Fjellner, Eleonora Forenza, Karoline Graswander-Hainz, Ska Keller, Gabriellius Landsbergis, David Martin, Emmanuel Maurel, Alessia Maria Mosca, Franck Proust, Viviane Reding, Immaculada Rodriguez-Piñero Fernández, Tokia Saifi, Marietje Schaake, Helmut Scholz, Joachim Schuster, Adam Szejnfeld, Hannu Takkula |
| Substitutes present for the final vote | Klaus Buchner, Nicola Danti, Edouard Ferrand, Agnes Jongerius, Seán Kelly, Fernando Ruas, Marita Ulvskog, Jaroslaw Wałęsa |
| Substitutes under Rule 200(2) present for the final vote | Beatriz Becerra Basterrechea, Edward Czesak, Rosa D’Amato, Dario Tamburrano, Janusz Wojciechowski |
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on the Annual Report on EU Competition Policy
(2015/2140(INI))

Rapporteur: Sergio Gaetano Cofferati

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. Regards a transparent and competitive single market as a key factor for growth and for an effective recovery, and takes the view, therefore, that, by ensuring a level playing field, competition policy has a vital role to play in safeguarding the rights and benefits of consumers, citizens, businesses – particularly SMEs – and workers in the broader context of a social market economy; notes that the behaviour and needs of EU consumers and businesses are constantly changing in the environment defined by the digital economic model;

2. Considers that EU competition law and authorities should ensure a level playing field, free choice and a diversity of high-quality products and services at competitive prices, and should also ensure that businesses have an incentive to invest and innovate, giving them a fair chance to promote the selling points of their products; as regards the food sector, calls on the EU and national competition authorities to continue their work on the impact of private labels on consumer choice and innovation;

3. Considers that competition policy should be capable of creating an environment which promotes the spirit of entrepreneurship and the development of SMEs, which are drivers of growth and employment; regards it as essential to ensure that anti-competitive behaviour does not disproportionately hamper smaller businesses and start-ups in their efforts to expand and innovate; reiterates that efforts to preserve fair competition will enhance choice for consumers and develop an environment in which SMEs and microenterprises can display greater innovation and creativity;

4. Emphasises that EU rules on State aid must be geared to achieving the objectives of
fairness and social cohesion and the goals of the Europe 2020 strategy; regards it as important, therefore, that State aid should be used to invest in the real economy and foster the concentration of resources in key sectors, such as research and innovation, digitalisation, infrastructure development, in particular of cross-border projects, and measures to achieve climate and energy policy objectives with a long-term perspective;

5. Takes the view that effective enforcement and an update of competition policy are needed in order to meet the challenges posed by the digital single market, a sector which is changing rapidly and requires strong market knowledge and fast reactions; stresses, therefore, the importance of an effective and faster application of EU competition law, of overcoming the current fragmentation and of identifying and doing away with barriers to access to the market, while increasing the confidence of consumers and businesses in the digital environment and facilitating its innovation and dynamism; recalls that a genuine digital single market would generate growth in new sectors and create high-quality jobs;

6. Stresses that effective EU competition policy has to be in place in order to guarantee a high level of consumer protection and to enable consumers to benefit from the digital single market; notes that consumers are at the heart of the digital single market, with consumer spending accounting for approximately 56% of EU GDP;

7. Calls on the Commission to examine the possibility for independent retailers, who are allowed under competition law to work together through their brick-and-mortar shops, to also provide joint e-commerce offerings;

8. Stresses that interoperability contributes to fair competition and should be encouraged and developed;

9. Considers that abusive dominant positions created by ‘first-mover’ advantage and network effects in the digital sector are a key issue and should be subject to greater monitoring;

10. Regards it as essential to guarantee fair terms of competition on the digital market and to combat the abuse of dominant positions and tax optimisation, aims which ultimately benefit consumers; considers it important, in particular, to make the online search, e-commerce and advertising markets more open and transparent and to improve the competitiveness thereof, and regards it as vital to guarantee the principle of net neutrality, namely fair, open and non-discriminatory internet access, prohibiting any discrimination and obstacles, as a prerequisite for fair competition and market cohesion to the benefit of consumers and businesses;

11. Takes the view that the main condition for the completion of the European Energy Union is a well-functioning internal energy market that is dependent on the effective and persistent enforcement of EU competition rules; considers it important that the Commission continue to focus on, and step up the attention that it devotes to, the energy market, as energy is a significant item of expenditure for households and businesses in the EU, in order to achieve better integration and greater affordability in this sector;

12. Welcomes the launch of investigations, and the fines imposed on operators who have infringed competition rules, and calls on the Commission to continue its efforts to promote a culture of competition which contributes directly to the better functioning of markets in the interests of consumers and businesses;
13. Welcomes the launch of the e-commerce sectorial inquiry to examine possible obstacles to competition on EU markets; stresses that smoothly functioning e-commerce is not only important for economic growth but also means lower transaction costs, lower prices and a greater range of choice for consumers; asks the Commission to analyse whether there is a need to introduce changes to existing competition law rules, for instance the Block Exemption Regulation, in order to tackle unjustified geo-blocking, including undesirable re-routing and unfair price discrimination based on geographical location;

14. Regards it as essential that Directive 2014/104/EU on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union should be implemented in a timely manner and correctly; calls on the Commission to monitor closely the implementation of the Directive by the Member States and to ensure that its provisions are applied consistently throughout the EU; stresses that access to justice, which may also include the availability of collective redress, is essential for the attainment of the objectives of EU competition policy;

15. Believes that the development of e-government is an important factor in supporting growth, including as regards the participation of SMEs; calls, therefore, on the Member States to use all the tools made available to them by the new public procurement legislation for promoting growth in the EU, and calls on the Commission to support all initiatives connected with the development of e-government; stresses, furthermore, that the promotion and implementation of e-governance systems in all Member States is instrumental for the efficient monitoring of infringements and for ensuring transparency in both the public and the private sector;

16. Points out that customers on the single market are being sold products containing different ingredients under the same brand name and in the same packaging; calls on the Commission to determine whether, in the context of EU competition policy, this is a practice that has negative repercussions for suppliers of local and regional produce, in particular small and medium-sized enterprises;

17. Believes that competition policy should play an important part in making financial markets more secure and transparent for consumers; welcomes, furthermore, the legislative measures adopted in the field of electronic payments and particularly the introduction of ceilings on interbank commissions for card payment transactions;

18. Considers it essential for the Commission to continue to promote better convergence and cooperation between national competition authorities in the EU;

19. Calls on the Commission to ensure that Member States implement the new public procurement legislation in a timely manner, in particular the deployment of e-procurement and e-administration and the new provisions on consideration of social and environmental criteria and on the division of contracts into lots, in order to boost innovation and fair competition, to support SMEs in procurement markets and to ensure best value for money in the use of public funds;

20. Agrees that, when traders decide to provide goods and services only to certain Member States, consumer choice is more limited and prices are higher owing to the lower levels of competition on the internal market; calls on the Commission to eradicate all forms of discrimination on the basis of nationality or place of residence;
21. Considers that a genuine single market can function efficiently only in a more transparent, coordinated and cooperative fiscal context which ensures fair competition among the various businesses; decries the fact that tax competition between Member States has created a form of unequal competition within the single market which places SMEs at a disadvantage in relation to large multinationals;

22. Welcomes the strong interplay between competition enforcement and the digital single market strategy, in particular in actions related to geo-blocking practices and licensing agreements, with a view to completing the digital single market; considers that a similar interplay is vital in the internal energy market to remove barriers to the free flow of energy across borders and to build the Energy Union;

23. Encourages the European Competition Network to discuss the growing network of retail buying alliances at national and EU level;

24. Stresses the relationship between competition policy and consumer protection; points towards the consumer markets scoreboards and their findings;

25. Considers that competition in the telecommunications sector is essential not only to drive innovation and investment in networks, but also for affordable prices and choice in services for consumers; calls, therefore, on the Commission to safeguard competition in this sector, including in the allocation of spectrum;

26. Considers that national competition authorities must make full use of existing tools and enforce competition law with regard to unfair trading practices in the food supply chain; stresses the need for them to cooperate with each other in order to ensure cost-effectiveness, transparency, diversity and consumer choice.
RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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|--: 3  
|0: 8 |
| Substitutes present for the final vote | Andi Cristea, Emma McClarkin, Dariusz Rosati, Adam Szejnfeld, Kerstin Westphal, Theodoros Zagorakis |
| Substitutes under Rule 200(2) present for the final vote | Jonás Fernández, Edouard Ferrand, Hannu Takkula |
## RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

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| | 0: 4 |

| Members present for the final vote | Burkhard Balz, Udo Bullmann, Fabio De Masi, Anneliese Dodds, Jonás Fernández, Elisa Ferreira, Sven Giegold, Neena Gill, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Othmar Karas, Philippe Lamberts, Werner Langen, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Notis Marias, Luděk Niedermayer, Stanisław Ożóg, Pirko Ruohonen-Lerner, Peter Simon, Theodor Dumitru Stolojan, Kay Swinburne, Ernest Urtasun, Marco Valli, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Marco Zanni |

| Substitutes present for the final vote | Lara Comi, Pilar del Castillo Vera, Isabella De Monte, Eva Kaili, Rina Ronja Kari, Thomas Mann, Eva Paunova, Michel Reimon, Tibor Szanyi, Nils Torvalds, Beatrix von Storch |

| Substitutes under Rule 200(2) present for the final vote | Martina Dlabajová, Jude Kirton-Darling, Verónica Lope Fontagné, Andrejs Mamikins, Adam Szejnfeld, Pavel Telička, Daniele Viotti |