



18.12.2018

REPORT

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

Committee on Economic and Monetary Affairs

Rapporteur: Michel Reimon

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	3
OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE	19
OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT	24
INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE	31
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	32

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Articles 7, 8, 9, 11,12, 39, 42, 101 to 109, and 174 thereof,
- having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 35, 37 and 38 thereof,
- having regard to the Commission report of 18 June 2018 on Competition Policy 2017 (COM(2018)0482) and to the Commission staff working document published as a supporting document on the same date,
- having regard to 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,
- having regard to Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentration between the undertakings,
- having regard to the Commission white paper of 9 July 2014 entitled ‘Towards more effective EU merger control’ (COM(2014)0449),
- having regard to the Commission proposal for a directive of the European Parliament and of the Council of 22 March 2017 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (COM(2017)0142) (ECN+ Directive),
- having regard to the Commission Notice of 19 July 2016 on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (C(2016)2946),
- having regard to its resolution of 5 February 2014 on EU cooperation agreements on competition policy enforcement – the way forward¹,
- having regard to the relevant Commission rules, guidelines, decisions, resolutions, communications and papers on the subject of competition,
- having regard to its resolutions of 19 April 2018² and 14 February 2017³ on the 2017 and 2016 annual reports on EU competition policy,
- having regard to its study of July 2018 entitled ‘Competition issues in the area of financial technology (FinTech)’, commissioned by the Competition Working Group of

¹ OJ C 93, 24.3.2017, p. 71.

² Texts adopted, P8_TA(2018)0187.

³ OJ C 252, 18.7.2018, p. 78.

the Committee on Economic and Monetary Affairs,

- having regard to the Commission’s answers to written questions E-000344-16, E-002666-16 and E-002112-16,
 - having regard to the opinion of the European Economic and Social Committee of 12 December 2018 on the Commission report of 18 June 2018 on Competition Policy 2017,
 - having regard of the Commission final report of 10 May 2017 on the e-commerce sector inquiry (COM(2017)0229),
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on International Trade and the Committee on Agriculture and Rural Development (A8-0474/2018),
- A. whereas competition policy has now been in place for over 60 years and whereas a strong and effective EU competition policy has always been a cornerstone of the European project;
- B. whereas tax evasion and tax avoidance create unfair competition, particularly affecting small and medium-sized enterprises;
- C. whereas money laundering, tax avoidance and tax evasion undermine the fair distribution of tax revenues in the Member States, and therefore distort competition in the internal market;
- D. whereas massive tax avoidance by high net worth individuals and enterprises not only penalises ordinary taxpayers, public finances and social spending, but also threatens good governance, macroeconomic stability, social cohesion and public trust in the institutions of the Union and the Member States;
- E. whereas certain governments and jurisdictions, including some within the EU, have specialised in or engaged in creating preferential tax regimes which distort competition to the benefit of multinational companies and high net worth individuals, who do not in fact have economic substance within these jurisdictions but are merely represented by shell companies;
1. Considers that a competition policy aimed at ensuring a level playing field in all sectors is a cornerstone of the European social market economy and a key factor in guaranteeing the proper functioning of the internal market; welcomes the Commission report on Competition Policy 2017 as well as its efforts and activities to ensure the effective application of competition rules in the Union for the benefit of all EU citizens, especially those in weak consumer positions; calls on the Commission, furthermore, to continue ensuring the full enforcement of EU competition rules, with particular attention to the difficulties faced by SMEs, and to avoid the uneven application thereof in the Member States;

2. Welcomes and further encourages the structured dialogue with the Commissioner for Competition and the efforts of the Commission to maintain close co-operation with the members of Parliament's competent committee and its Working Group on Competition Policy; considers the Commission's annual report on competition policy an indispensable exercise in terms of democratic scrutiny; recalls that in recent years Parliament has been involved through the ordinary legislative procedure in shaping the framework for competition rules, for example in the proposed ECN+ Directive; notes that Parliament should be given co-decision powers to shape the framework for competition rules and regrets that the democratic dimension of this area of Union policy has not been strengthened in recent treaty amendments; calls for the treaties to be amended accordingly;
3. Asks the Commission to analyse carefully the significant potential harmful impact of the proposed Siemens / Alstom merger on the competitiveness of the European rail market and its adverse effects on rail users, who would be faced with higher prices, less choice and lower levels of service, quality, and innovation; notes that the proposed merger will probably harm the markets for high-speed rolling stock, mainline and metro trains, as well as the entire rail infrastructure, by creating a dominant position in signalling in the EU, and specifically in Member States such as Belgium, Denmark, the Netherlands, Romania, Spain and the United Kingdom;
4. Notes that the Commission made a legislative proposal to create a Pan-European Personal Pension Product (PEPP) in 2018, which would be a private pension fund; highlights that this legislative proposal was initially inspired by US financial services corporate giant BlackRock, the world's largest asset fund manager, which built some two thirds of its USD 6 trillion empire on pensions, and was proposed by the Commission after significant lobbying efforts by BlackRock; sees also growing evidence that giant asset managers such as Black Rock hamper competition in real markets and among corporates; requests that the Commission exercise particular vigilance regarding the risks of dominant position in the market for private pension products;
5. Stresses that the consumer is the chief beneficiary of effective competition in the European single market;
6. Welcomes the truck cartel investigation; takes positive note of the fact that the Commission did not only look at the impact of the cartel between big truck makers on prices of trucks but also sanctioned them for working together to delay the introduction of cleaner trucks;
7. Underlines the fact that competition rules are treaty based and, as enshrined in Article 7 of the TFEU, should be seen in the light of the wider European values underpinning Union legislation regarding social affairs, the social market economy, environmental standards, climate policy and consumer protection; takes the view that the application of EU competition law should address all market distortions, including those created by negative social and environmental externalities;
8. Believes that competition policy should act as a catalyst to help promote energy transition across the EU, stimulate economic and social integration in Europe, encourage ecologically sustainable farming activities and limit the ability of large power

companies to raise the price of energy supplies;

9. Points out that even when products or services are supplied for free, most notably in the digital economy, consumers may still have to endure unjust behaviour, such as a degradation in quality, choice and innovation or extortive practices; takes the view that EU competition rules and enforcement should also cover a range of aspects beyond price-centric approaches and should account for broader considerations such as the quality of products or services, also in view of citizens' privacy;
10. Points out the enormous changes in markets resulting from continuing technological development which bring about both opportunities and challenges; emphasises, in this respect, the crucial role of competition policy in the further development of the digital single market; stresses the urgent need for a framework that while promoting data innovation and new business models, effectively addresses the challenges of the data-driven and algorithm economy; underlines, in particular, that several digital platforms with the ability to access and control ever-increasing data flows can generate economies of scale and considerable network externalities, and can lead to market failures through excessive concentration and rent extraction from abusive market power; welcomes, in this context, the appointment of special advisers to the Commissioner focusing on future challenges of digitalisation for competition policy, and awaits with interest their findings and recommendations for action; underlines the need for a common EU-wide approach on these issues;
11. Underlines that users are often not aware of the extent to which their data is being used and passed on to third parties for marketing or commercial purposes; calls on the Commission, in line with Article 5(3) of Directive 2002/58/EC (the ePrivacy Directive) to make sure that digital companies exploit personal data only after the subscriber or user concerned has given explicit consent, and that without this consent, data cannot be transferred to third parties with which the company or platform has an agreement; considers, therefore, that digital markets need to be assessed from a multi-disciplinary perspective, as anti-competitive behaviour can entail breaches of other areas of law such as data protection and consumer laws; stresses that an appropriate enforcement response would require that different competent authorities work together, in particular the competition, consumer and data protection authorities as suggested by the initiative of the European Data Protection Supervisor for a clearing house¹;
12. Calls the Commission to organise a hearing with tech companies, inviting the CEOs of Google, Facebook and Apple to discuss in particular how consumers' personal data is harvested and used by third countries; is concerned that users, regulators and sometimes even app developers and advertisers are unaware of the extent to which data flows from smartphones to digital advertising groups and other third parties; notes that data collected by third parties through smartphone apps can include anything from profile information such as age and gender to location details, including data about nearby cell phone towers or Wi-Fi routers, and information about every other app on a phone; believes the EU should empower individuals to understand the monopoly and

¹ 'Privacy and competitiveness in the age of big data: The interplay between data protection, competition law and consumer protection in the Digital Economy', preliminary opinion of the European Data Protection Supervisor, March 2014, https://edps.europa.eu/sites/edp/files/publication/14-03-26_competition_law_big_data_en.pdf

concentration issues surrounding these tracking companies;

13. Calls on the Commission, in this regard, to adjudge the control of data necessary for the creation and provision of services as a proxy for the existence of market power, including under its guidance on Article 102 TFEU, and to require interoperability between online platforms and social network providers; points also to the evolution of self-learning algorithms and artificial intelligence, in particular when provided to companies by third parties, and its impact on the nature of cartel activity; requests that the Commission provide detailed information on these issues in its next annual report on competition policy;
14. Considers it important to ensure the proper functioning of Union collective redress mechanisms designed to secure adequate compensation for consumers affected by anti-competitive practices;
15. Considers it necessary to guarantee the right to cross-border portability in order to prevent existing limitations to this right becoming entrenched as legitimate market practices; considers it important also to remove abusive and unjustified restrictions imposed on geographical grounds that provide inconsistent levels of supposed protection for intellectual property rights;
16. Considers that the jurisdictional thresholds setting the starting point for an EU merger review, which are based on the turnovers of the target and acquiring entities, are not always appropriate for the digital economy, in which value is often, for advertising purposes, represented by the number of visitors to a website; suggests that these thresholds be revised and adapted in order to include, among others, factors such as the number of consumers impacted by mergers and the value of the related transactions;
17. Underlines the fact that barriers to entry in some areas of the digital economy are becoming increasingly insurmountable, as the longer unjust behaviour is perpetuated, the harder it gets to reverse its anti-competitive effects; considers that interim measures can be a useful tool to ensure that competition is not harmed while an investigation is on-going; affirms, in this regard, that the Commission should make effective use of interim measures, while ensuring due process and the right of defence of undertakings under investigation; welcomes the commitment of the Commission to undertake an analysis of whether there are means to simplify the adoption of interim measures within two years from the date of transposition of the ECN+ Directive; recommends in this regard that the Commission learn from best practices in other jurisdictions;
18. Calls on the Commission to take more ambitious steps to eliminate illegitimate obstacles to online competition in order to ensure barrier-free intra EU online shopping, monitor price caps in sectors such as online platforms for accommodation and tourism and ensure that consumers have cross-border access to a broad range of online goods and services at competitive prices; asks the Commission to carry out a sectoral inquiry into the advertising market in order to better understand the dynamics of online advertising and identify anti-competitive practices that need to be addressed under competition law enforcement, as has been done by some national authorities;
19. Underlines the fact that digitalisation of the modern economy leads to changes in traditional economic logic; stresses, therefore, that any system for taxation must

consider that digitalisation is the new normal for all parts of our economy; takes note of the Commission's proposal on laying down rules on the taxation of the digital economy; stresses that digital taxation must tackle the asymmetries between the traditional economy and new digitally-based economic practices and avoid hindering digitalisation and innovation or creating artificial borders in the economy; underlines the importance of finding international solutions and common approaches to taxation in the digital economy; calls on the Commission to continue its efforts in international fora, namely at the OECD, to find such an agreement;

20. Welcomes the Commission's proposal on the digital services tax as a crucial measure to ensure that the digital sector pays its fair share of taxes until a permanent solution is adopted that will allow profits to be taxed where value is created;
21. Reiterates that competition in the telecommunication sector is essential to driving innovation and investment in networks and that affordable prices and choice of services for consumers should be encouraged; considers that intra-EU calls still represent a great burden for businesses and customers and that the steps towards ending consumer charges for roaming in the EU are not sufficient if the single market is to be further deepened; acknowledges that incentives must be created to bring intra-EU calls into line with local calls by facilitating investments in a fully European or shared network; is of the view that policies should favour efficient investments in new networks, take into account the impact on consumers, and in doing so also prevent new digital divides between high- and low-income households; calls on the Commission to encourage broadband rollout by promoting a high level of competition and to ensure a high level of connectivity in the EU and a rapid deployment of 5G across the Union in order to secure the Union's global competitiveness and attract investments; believes that when carrying out the above task, it is important for competition policy to take into account the specificities of broadband deployment in rural areas in order to serve the public interest and reverse the trend towards increasing technological disparities between rural and urban areas regarding access;
22. Takes the view that current and savings accounts should not incur commissions for users unless they are linked to specific services;
23. Welcomes the Commission's antitrust decision to fine Google EUR 4.34 billion for illegal practices on Android mobile devices with a view to strengthening the dominance of Google's search engine; calls on the Commission to conclude in 2019 the Google Shopping antitrust case that was launched in November 2010, eight years ago; reminds the Commission to conclude the investigation into Google's treatment in its search results of other specialised Google search services, including the issues related to local search that Yelp raised in its recent complaint; recommends that the Directorate-General for Competition reflect on the length of digital antitrust cases and on the most appropriate tool for addressing them; notably, asks the Commission to consider the possibility of setting deadlines for antitrust cases, as it does in merger cases;
24. Reiterates the need for the Commission also to consider the full structural unbundling of digital tech monopolies as a possible solution to enable the restoration of competition and a level playing field within the European digital market;
25. Highlights that the effectiveness of competition law enforcement depends on the

appropriate design and testing of remedies; stresses that consumer-facing remedies are important in restoring competitiveness in a market by helping consumers to make informed decisions and address status quo biases; is of the opinion that the Commission, when designing behavioural remedies, should incorporate behavioural economics as a supporting discipline, as some national authorities have done in recent years;

26. Notes that the President of the Commission has committed to putting forward proposals to enhance tax cooperation between Member States through an obligation to answer group requests in tax matters, so that one Member State can provide all information necessary to enable others to prosecute cross-border tax evaders, and also to make tax reform proposals under Article 116 of the TFEU, involving co-decision between the Council and Parliament, in order to eliminate distortion of the conditions of competition in the internal market;
27. Acknowledges the Commission's conclusion that Luxembourg had granted undue tax benefits to Engie of around EUR 120 million, and that the recovery procedure is still ongoing; regrets the fact that the Government of Luxembourg has decided to appeal the decision of the Commission;
28. Takes notes of the decision of the Commissioner for Competition, Margrethe Vestager, on the investigation concerning State aid to McDonald's, which stated that the non-taxation of certain profits of McDonald's in Luxembourg does not constitute an illegal State aid; takes the view that current EU regulation is unfit to effectively combat double non-taxation and to stop the race to the bottom on corporate tax levels;
29. Points out that in two recent cases, in spite of the conclusions of the Single Resolution Board (SRB) that resolution could not be justified on the grounds of public interest, the Commission approved State aid on the basis that it would mitigate economic disturbance at a regional level, thereby demonstrating two distinct interpretations of public interest; calls on the Commission to examine the discrepancies between the rules on State aid in the area of liquidation aid and the resolution regime under the Bank Recovery and Resolution Directive (BRRD), and following that to revise its 2013 Banking Communication accordingly;
30. Observes that a number of studies¹ have demonstrated the hidden social cost and reduced product competition corresponding to higher levels of horizontal ownership concentration; calls on the Commission, therefore, to consider revising the Merger regulation in this sense and to provide guidelines on the use of Article 101 and 102 of the TFEU in such cases;
31. Notes that temporary State aid to the financial sector for the stabilisation of the global financial system might have been necessary in the absence of resolution tools but that it must be now scrutinised and removed; regrets the insufficient nature of this scrutiny ; reiterates, therefore, its request for the Commission to examine whether banking institutions have, since the onset of the crisis, benefited from implicit subsidies and State aid through the provision of liquidity support from central banks; recalls the commitment made by Commissioner Vestager at the structured dialogue with Parliament's Committee on Economic and Monetary Affairs in November 2017 to

¹ Common Ownership by Institutional Investors and its Impact on Competition, OECD, 5-6 December 2017.

reflect on possible distortions of competition arising from the ECB's Corporate Sector Purchase Programme and to report back with a qualitative answer; emphasises in this regard that the notion of selectivity in State aid is an essential criterion that needs to be investigated thoroughly and further points to Article 4(3) of the TEU, which contains the so-called principle of loyalty;

32. Considers that it is a priority to ensure that State aid rules are strictly and impartially adhered to when dealing with future banking crises, so that taxpayers are protected against the burden of bank rescues;
33. Welcomes the introduction by the Commission of an anonymous whistle-blower tool enabling the reporting of cartels or other types of illegal anti-competitive practices, thus increasing the likelihood of their detection and prosecution; notes the positive figures after the first months of use;
34. Expresses its concern that growing concentration in the financial sector may reduce the degree of competition in the sector, and is also concerned at the lack of a genuine internal banking market and continuing fragmentation into national markets;
35. Stresses that Europe needs a strong harmonised framework on reporting and corporate taxation for multinational companies, with public country-by-country reporting and a common consolidated corporate tax base (CCCTB); recalls that, in addition to cost reductions for both firms and the tax administrations of Member States, the adoption of these measures would solve the issue of transfer pricing and ensure fairer competition within the single market;
36. Calls on the Commission to continue evaluating harmful tax measures in the Member States in the European Semester, and to fully assess the distortions of competition and spill-over effects on other jurisdictions;
37. Calls on the Commission to continue and even expand its efforts as regards investigations into the abuse of dominant market positions to the detriment of consumers in the EU; requests that, simultaneously, the Commission monitor existing government monopolies and the lawfulness of concession tenders in order to prevent any excessive distortion of competition;
38. Underlines the distortive effect State aid can have on the functioning of the internal market; recalls the strict requirements for the application of Article 107(3)(b) of the TFEU; notes that most decisions concerning antitrust issues and State aid are taken at national level; believes therefore that the Commission should monitor and take measures to ensure consistent policy within the internal market; calls on Commission to launch a roadmap for better targeted State aid; welcomes the constant efforts of the Commission to clarify the different aspects of the definition of State aid, as demonstrated in its Notice on the notion of State aid as referred to in Article 107(1) of the TFEU; notes in particular the efforts to clarify the notions of 'undertaking' and 'economic activity'; observes nonetheless that it remains difficult to draw the line between economic and non-economic activities; further points out that it is the role of the European Court of Justice to ensure the proper interpretation of the Treaty; calls on the Commission to continue giving particular attention to the delivery of services of general economic interest (SGEI) including energy, transport and telecommunication,

when applying EU State aid rules, in particular in the context of state support dedicated to isolated, remote or peripheral regions in the Union; underlines that when applying State aid in order to promote services of general interest the aim should be to benefit consumers and citizens rather than to strengthen vested interests;

39. Underlines the fact that taxation remains primarily a national competence given the unanimity threshold in the Council and that the choice of policy thereby depends on the political view and orientation of the Member States' respective national governments and parliaments; notes, however, that the taxation instrument can be used to grant implicit State aid to companies, which can create an un-level playing field in the internal market; underlines, therefore, the need to ensure that national tax policies do not distort fair competition and thereby that tax and competition policy are applied consistently within the internal market; welcomes the fact that the Task Force on State aid in the form of a tax advantages has become a permanent body; calls for the Task Force to be sufficiently equipped in human resources and investigation tools; calls for a clear state of play regarding the investigations on State aid on such issues including the number of cases being investigated;

Stresses that, within the internal market, new entrants and firms, including SMEs, that do not use aggressive tax practices, are penalised; welcomes the Commission's in-depth investigations into anti-competitive practices such as selective tax advantages and excess profit ruling systems; welcomes in particular the guidance provided in the Commission notice on the notion of State aid covering tax rulings; calls on the Member States to abandon unfair competition practices based on unjustified tax incentives; calls for the Council to adopt the proposal on the CCCTB; regrets that under EU State aid rules, unpaid taxes recovered from beneficiaries of illegal tax aid are returned to the country that granted the aid; calls on the Commission to work on a solution to this problem;

Stresses that subsequent negotiations with the UK should include the respect of fair competition and a guarantee that the UK should not be able to grant State aid in the form of sweetheart tax deals;

40. Underlines the far-reaching concentration of the food supply chain, whereby a couple of companies form an oligopoly on the global market of seeds and pesticides, to the detriment of consumers, farmers, the environment and biodiversity alike; points out that such a structure will make farmers even more technologically and economically dependent on a few globally integrated one-stop-shop platforms, produce limited seed diversity, re-direct trends in innovation away from the adoption of a production model which is respectful of the environment and biodiversity and ultimately, as a result of reduced competition, generate less innovation and a lower quality of end products; calls on the Commission, in view of diminished farm incomes affecting small farmers in particular, to channel its efforts towards ensuring decent earnings for farmers, especially those with small and medium-sized businesses;
41. Regards it as essential for the Commission to monitor more closely the use of patents in agriculture; notes that abuse of patents forces farmers to strive for production targets that limit their market choices, impoverishing crop biodiversity, distorting competition and limiting innovation; notes that the recommended measures will encourage the

development of an agro-industrial model that fosters transition towards organic and ecologically sustainable farming;

42. Welcomes initiatives such as the Smart Villages framework, which stimulates settlements to become more agile, make better use of their resources and take part more actively in the competition of the single market, as well as to improve their attractiveness and the quality of life of rural residents;
43. Recognises the potential of blockchain technology for financial services; warns however that the use of this technology for fundraising must be regulated in order to avoid excessive dumping vis-a-vis regulated financial markets, risks for investors and money laundering risks; calls on the Commission, in this regard, to propose a regulatory framework for initial coin offerings (ICOs);
44. Expresses concern about the recent approval of the merger of Bayer and Monsanto by the Commission and its acknowledgement that it disregarded in its decision goals enshrined in the TFEU, notably food safety and protection of consumers, the environment and the climate;
45. Believes it to be important to take action against companies engaged in the marketing and distribution sectors of the agricultural production chain that distort the agricultural market to the detriment of farm incomes and consumer prices;
46. Welcomes the approach taken by the Commission when assessing horizontal mergers to increasingly focus on innovation competition, particularly in mergers involving R&D-intensive markets, and notes that mergers should be assessed from the perspective of the entire internal market; asks the Commission furthermore to come forward with a review of the EU Merger Regulation, and to analyse to what extent it should be vested with the powers, much as a number of Member States are at present, to adopt measures to protect the European public order and the rights and principles of the TFEU and EU Charter of Fundamental Rights, including environmental protection;
47. Reiterates the Commission's preliminary conclusion that Google has abused its market dominance as a search engine by giving an illegal advantage to its products; stresses that a full-blown structural separation between the company's general and specialised search services is needed in order to end this abuse.
48. Notes that the European Court of Justice interprets article 101 of the TFEU as taking into account the different aims of the Treaties; underlines, however, that the narrow interpretation of Article 101 of the TFEU by the Commission's horizontal guidelines has increasingly been considered an obstacle to the collaboration of smaller market players for the adoption of higher environmental and social standards; believes that the Commission should create legal certainty on the conditions under which collective arrangements of producers' organisations, including cooperatives, their associations and inter-branch organisations that are made throughout the food supply chain for the purpose of sustainability and fair labour standards, would be assessed under competition law, and encourage such initiatives within competition policy; stresses that such an approach should not prevent the production of lower-priced goods, especially in sectors where consumers are more price-sensitive; stresses also the importance of the

proportionality principle, meaning that limitation of competition cannot go beyond what is necessary to achieve the general interest;

49. Highlights the commonly agreed aims and targets of the energy union and points specifically to the dimension of security, decarbonisation of the economy, solidarity and trust; underlines the importance of ensuring that European energy markets are built on the rule of law, competition, diversity of energy sources and suppliers, predictability and transparency and to prevent any market operator, established in the union or in a third country, from leveraging a dominant position to the detriment of competitors and consumers; calls, in this regard, for increased scrutiny of, and, where necessary, measures and imposed obligations against, such market operators; notes, in particular, that the strategy employed by certain energy companies of partitioning the EU gas market and by extension potentially breaking EU antitrust rules, needs to be properly addressed; further, recognises that the legally binding commitments undertaken by the Member States as part of the Paris Climate Agreement will not be realised without concrete state measures to promote and create incentives for and enable the production and use of renewable energy; takes note of the forthcoming revision of the guidelines on State aid and energy, which shall no longer exclude two of the sectors that benefit the most from state subsidies, namely nuclear energy and fossil fuel extraction, and provide for greater flexibility for consumer-generated renewable energy; highlights the importance of completing the energy union through the integration of markets, notably by investing in interconnectors where needed and based on market conditions and commercial potential, and by increasing the tradable capacity in existing interconnections; emphasises, therefore, that any State aid approval for capacity mechanisms must be subject to a strict necessity test including an examination of alternative measures, notably more efficient use of existing interconnectors; underlines that capacity mechanisms often represent considerable costs for consumers and function as a ‘hidden subsidy’, supporting unprofitable and polluting power stations, which makes it necessary to ensure that these schemes are not open to the most polluting assets when approving any State aid granted to them;
50. Underlines the need for improved transparency when private-public partnerships are being envisaged, in order to undercut the possibility that these will be used by private sector partners to secure competitive advantages over their competitors;
51. Welcomes the Commission’s investigation into pricing practices for life-saving medicines, particularly in the case involving Aspen;
52. Stresses the importance of granting the same rights to all air carriers when flying to or from the EU; sadly acknowledges that this is not always the case for EU airlines operating outside the EU which are subject to unfair practices affecting competition; calls on the Commission to tackle anti-competitive practices that also undermine consumer protection legislation; stresses once again the importance of ensuring fair competition between EU air carriers and third country air carriers;
53. Stresses the importance of a competitive transport sector; notes that the single market in transport remains to be complemented, with the rail sector being the most fragmented; welcomes the steps taken by the Commission in fostering completion and improved operation in the internal market for road passenger transport;

54. Reaffirms that new infrastructure projects, including those connecting a Member State to a third country, must be the subject of Union legislation, notably with regard to rules on unbundling and market price formation;
55. Underlines the importance of and the need for adequate financial and human resources in the Commission Directorate-General for Competition and in the national competent authorities as well as of the IT and digital expertise necessary to address the challenges posed by a data-driven and algorithm-based economy; supports, in this connection, the proposed competition strand of the single market programme under the 2021-2027 multiannual financial framework (MFF);
56. Underlines that the Commission, when making competition rulings, must regard the internal market as one single market, not as a number of independent local or national markets;
57. Stresses that international cooperation is essential for the effective enforcement of competition law principles and the prevention of inconsistencies in remedies and outcomes of enforcement actions; believes in this respect that the best way to improve competition rules and practices worldwide is to engage in fair and transparent discussions; supports an active participation of the Commission, national and where applicable regional competition authorities in the International Competition Network;
58. Welcomes, the ECN+ Directive, which will significantly improve the effective and consistent application of EU competition law across the Union by ensuring that national competition authorities have adequate tools, resources and safeguards for independence, including a transparent process for the election or nomination of their leadership, empowering them to impose dissuasive fines for competition infringements; appreciates the Commission's early assistance provided to the Member States in relation to implementation of this directive;
59. Calls on the Commission to ensure that any future trade agreements provide a level playing field, particularly as regards competition and State aid; stresses that State aid should be allowed only in exceptional and justified cases that are regulated by law, to avoid distorting competition on the market, while providing for exceptions and justifications related to achieving the goals of the Paris Agreement on climate change; recalls that 'as companies go global, so must competition enforcers', not least since the spread of information and communication technologies (ICTs) and the emergence of the digital economy have led to excessive market and power concentration in some sectors; believes that global rules on competition and the highest level of coordination between the competition authorities, including with respect to the exchange of information in the course of competition proceedings, is a precondition for the development of global fair trade;
60. Recalls that international trade and investment agreements should have a specific and strong competition chapter;
61. Calls on the Commission to step up its efforts to show ambition in opening up international public procurement markets and in increasing European companies' access to public-private partnerships in third countries; considers it necessary to reduce

asymmetries in access to public procurement contracts between the Union and third countries, namely the US and China; calls on all EU trade partners to allow non-discriminatory access for European businesses and workers to their public procurement markets; welcomes the renewed discussion on the International Procurement Instrument (IPI), which establishes the necessary reciprocity in cases where trade partners restrict access to their procurement markets, and calls on the European Council to adopt it swiftly; supports the Commission's efforts at opening up third countries' public procurement markets through bilateral trade partnerships; recalls that companies operating in non-market conditions and driven by geopolitical considerations could beat virtually every competitor in European public procurement tenders; calls on the Commission to monitor public procurement tenders and prevent European businesses and workers from suffering from the unfair competition emanating from state-orchestrated companies;

62. Points out that combating unfair trading practices, including through competition policy, is necessary to ensure a global level playing field which benefits workers, consumers and businesses, and is one of the priorities of the EU's commercial strategy; emphasises that the reflection paper on harnessing globalisation states that the Union must take steps to restore fair conditions of competition; welcomes the inclusion of provisions on competition policies in the Economic Partnership Agreement with Japan and in the Comprehensive Economic and Trade Agreement with Canada; regrets, however, that these provisions remain limited in scope and do not provide for effective enforcement and dispute resolution; draws attention to the importance of incorporating ambitious provisions on competition into all trade agreements and of enforcing their implementation with a view to guaranteeing fair rules;
63. Welcomes the proposal for the establishment of a European framework for foreign direct investment screening; considers it a useful instrument for protecting European business of strategic interest from unfair trade practices that may harm security and public order, and for safeguarding respect for fair competition principles in the EU;
64. Emphasises the importance of the anti-subsidy instrument in tackling unfair global competition and establishing a level playing field with EU State aid rules; regrets, in this context, that in 2017 the People's Republic of China once again created the highest number of newly constituted trade barriers for European businesses and workers and was involved in the majority of European anti-subsidy cases;
65. Is concerned about US customs policy and its impact on the competitiveness of European businesses; stresses that the Commission's efforts to rebalance trade with the US should be firm, but balanced, proportionate and WTO-compatible;
66. Calls on the Commission to step up its efforts to promote fair competition, including by combating the unjustified use of tariff barriers and subsidies, in the global market through stronger cooperation with other countries at forums such as the WTO, the Organisation for Economic Cooperation and Development (OECD), the UN Conference on Trade and Development (UNCTAD), the G20 and the World Bank; recalls the work undertaken at the WTO between 1996 and 2004 on the interaction between trade and competition policy, and regrets that this issue has not been part of the WTO work programme since; stresses that provisions in WTO agreements such as Article IX of the

General Agreement on Trade in Services (GATS) provide a basis for further cooperation among WTO members on competition matters; calls, therefore, for fresh progress to be made at the 12th WTO Ministerial Conference towards guaranteeing fair international competition;

67. Expresses concern over the alleged inability of the WTO to tackle non-market economies and to address the competitive distortions provoked by subsidies and state intervention, in spite of strongly believing in the WTO's fundamental role; welcomes the US, Japan and the EU's tripartite action to reform it accordingly;
68. Calls on the Commission to increase its support for small and medium-sized enterprises (SMEs) in the EU to enable them both to protect and enforce their rights in the event of unfair commercial practices, i.e. dumping and subsidisation by non-EU countries; acknowledges in this context the Commission's efforts to combat unfair competition in high-profile cases against well-known companies, but stresses that the enforcement of fair competition in the case of SMEs is also of the utmost importance;
69. Stresses that the effective implementation of the sustainable development provisions of trade agreements is important for improving living conditions in partner countries and protecting European businesses from unfair competition; welcomes the introduction of environmental and social criteria in the reform of anti-subsidy and anti-dumping measures.
70. Points out that EU competition policy is not achieving the desired results because, while it is applied with the aim of defending fair competition between all actors on the internal market, with special emphasis on the interests of consumers, the reality is that due to the inequalities within the food supply chain, agricultural producers face an unacceptable degree of pressure; considers that the interests of both consumers and agricultural producers should be placed on an equal footing;
71. Takes the view that the specific characteristics of agricultural activities make collective organisations essential to strengthen the position of primary producers in the food chain and to enable the attainment of the objectives of the CAP, as defined under Article 39 of the TFEU, and that collective activities carried out by producer organisations and their associations – including production planning, sales negotiation and contractual arrangements – must therefore be considered compatible with Article 101 of the TFEU; stresses that bringing farmers together in producer organisations reinforces their position in the supply chain;
72. Considers that the interbranch organisations model is a successful form of sectoral management, given that it provides a structure for – and organises exchanges between – all players in the sector, fairly represented within its structure, by making it possible to transmit economic and technical information, to enhance market transparency and to better distribute risks and benefits; considers that different, properly structured models of cooperation, such as the present one, should be facilitated by the CAP to ease the creation of interbranch organisations at European level;
73. Considers that, in line with the current trend, the competences of producer and interbranch organisations need to be further strengthened so that farmers' bargaining

power could be balanced with the negotiating power of retailers in the food supply chain; considers that EU co-financing for the establishment and operation of these organisations should be increased;

74. Calls on the Commission to facilitate the application of collective market management instruments in the event of a crisis, using tools that do not require public funds, such as product withdrawals carried out by means of agreements among food chain operators; points out that such a measure could be applied by the interbranch organisations themselves;
75. Considers that the entry onto the European market of products from third countries which do not meet the same social, health and environmental standards creates unfair competition for European producers; calls, therefore, for the protection of vulnerable sectors and the systematic application of the principles of reciprocity and compliance as regards agricultural products in both future and ongoing trade negotiations; calls on the Commission to integrate this aspect into the Brexit negotiations;
76. Emphasises that access to the EU's internal market should be contingent on compliance with sanitary, phytosanitary and environmental standards; asks the Commission, in order to guarantee fair competition, to promote the equivalency of measures and controls between third countries and the EU in the area of environmental and food safety standards; notes that the highest standards of environmental and animal welfare can mean higher costs and hence that lowering standards can result in anti-competitive behaviour; recommends that the Commission explore ways of extending the scope of competition policy to prevent such dumping within the single market and from imports into the single market;
77. Points out that climate disasters, which affect farmers, have an impact on the market and weaken farmers' position in the food supply chain; recalls that EU anti-dumping rules¹ that apply, inter alia, to the agricultural sector consider that environmental dumping creates unfair competition; requests that the interests of European citizens demanding a sustainable and environment-friendly society be taken into account; calls, therefore, on the Commission, taking into account the functioning of the single market and the benefits for society as a whole, to allow exemptions from competition rules to facilitate cooperation, both horizontally and vertically, in the context of sustainability initiatives;
78. Stresses that the concept of a 'fair price' should not be regarded as the lowest price possible for the consumer, but instead must be reasonable and allow for the fair remuneration of all parties along the food supply chain; stresses that consumers have interests other than low prices alone, including animal welfare, environmental sustainability, rural development and initiatives to reduce antibiotic use and stave off antimicrobial resistance, etc.; encourages Member States' competition authorities to take account of consumer demand for sustainable food production, which requires that greater account be taken of the value of 'public goods' in food pricing; requests, in this regard, that EU competition policy look beyond the lowest common denominator of 'cheap food'; considers that the costs of production must be taken fully into account when agreeing prices in contracts between retailers/processors and producers with the

¹ COM(2013)0192.

intention of ensuring prices that at least cover costs;

79. Welcomes the fact that the Omnibus Regulation creates a procedure under which a group of farmers can request a non-binding opinion from the Commission on the compatibility of a collective action with the general derogation from the competition rules referred to in Article 209 of the Single CMO Regulation; calls on the Commission, in the light of the recommendation of the Working Party on Agricultural Markets, to clarify the scope of the general agricultural derogation and its overlap with the derogations provided for under Articles 149 and 152, and thus to define exceptions more precisely, so as to make any necessary suspension of the application of Article 101 TFEU applicable and achievable;
80. Points out that the individual ceiling for de minimis aid in the agricultural sector was doubled in 2013 (from EUR 7 500 to EUR 15 000) in order to help cope with the surge in climatic, health and economic crises; points out that, at the same time, the national de minimis ceiling has been only marginally adjusted (from 0.75 % to 1 % of the value of national agricultural production), which has reduced states' power to help farms in difficulty; supports, therefore, the Commission's proposal to give more flexibility to the Member States and regions via the agricultural de minimis rules;
81. Welcomes the developments brought about by the Omnibus Regulation, in order to facilitate the application of the provisions of Article 222 of the CMO Regulation, which allows for a temporary derogation from competition laws; calls, nevertheless, on the Commission to clarify the application of Articles 219 and 222 of Regulation (EC) No 1308/2013 with regard to taking steps in the event of market disturbances and severe market imbalances, given that the legal uncertainty currently surrounding both articles means that no one is applying them for fear of failing to comply with rules laid down by the competition authorities in the Member States;
82. Recalls that significant horizontal and vertical restructuring has taken place, which has led to further consolidation in the already concentrated seed, agro-chemical, fertiliser, animal genetics and farm machinery sectors, as well as in processing and retailing; calls on the Commission to ensure, in this context and following the acquisition of Monsanto by the Bayer group, which together control approximately 24 % of the global pesticide market and 29 % of the global seed market, that the interests of EU farmers, citizens and the environment are protected, by comprehensively and holistically assessing the impact, at farm level, of mergers and acquisitions of agricultural input suppliers, including producers of plant protection products, so that farmers can have access to innovative products of better quality, with less environmental impact and at competitive prices; highlights that such mergers and acquisitions could potentially damage competition in the field of access to essential products for farmers; takes the view that the marketing standards for seed and plant propagating material for minor use should be eased and made more flexible.
83. Instructs its President to forward this resolution to the Council, the Commission, the national and where applicable regional competition authorities of the Member States, and the national parliaments of the Member States.

11.10.2018

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on Economic and Monetary Affairs

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

Rapporteur for opinion: 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. Calls on the Commission to ensure that any future trade agreements provide a level playing field, particularly as regards competition and State aid; stresses that State aid should be allowed only in exceptional and justified cases that are regulated by law, to avoid distorting competition on the market, while providing for exceptions and justifications related to achieving the goals of the Paris Agreement on climate change; recalls that ‘as companies go global, so must competition enforcers’, not least since the spread of information and communication technologies (ICTs) and the emergence of the digital economy have led to excessive market and power concentration in some sectors; believes that global rules on competition and the highest level of coordination between the competition authorities, including with respect to the exchange of information in the course of competition proceedings, is a precondition for the development of global fair trade;
2. Recalls that international trade and investment agreements should have a specific and strong competition chapter;
3. Calls on the Commission to step up its efforts to show ambition in opening up international public procurement markets and in increasing European companies’ access to public-private partnerships in third countries; considers it necessary to reduce asymmetries in access to public procurement contracts between the Union and third countries, namely the US and China; calls on all EU trade partners to allow non-

discriminatory access for European businesses and workers to their public procurement markets; welcomes the renewed discussion on the International Procurement Instrument (IPI), which establishes the necessary reciprocity in cases where trade partners restrict access to their procurement markets, and calls on the European Council to adopt it swiftly; supports the Commission's efforts at opening up third countries' public procurement markets through bilateral trade partnerships; recalls that companies operating in non-market conditions and driven by geopolitical considerations could beat virtually every competitor in European public procurement tenders; calls on the Commission to monitor public procurement tenders, and prevent European businesses and workers from suffering from the unfair competition emanating from state-orchestrated companies;

4. Points out that combating unfair trading practices, including through competition policy, is necessary to ensure a global level playing field which benefits workers, consumers and businesses, and is one of the priorities of the EU's commercial strategy; emphasises that the reflection paper on harnessing globalisation states that the Union must take steps to restore fair conditions of competition; welcomes the inclusion of provisions on competition policies in the Economic Partnership Agreement with Japan and in the Comprehensive Economic and Trade Agreement with Canada; regrets, however, that these provisions remain limited in scope and do not provide for effective enforcement and dispute resolution; draws attention to the importance of incorporating ambitious provisions on competition into all trade agreements and of enforcing their implementation with a view to guaranteeing fair rules;
5. Underlines the importance of global cooperation on competition enforcement; encourages the active involvement of the Commission and the national competition authorities in the International Competition Network;
6. Welcomes the proposal for the establishment of a European framework for foreign direct investment screening; considers it a useful instrument for protecting European business of strategic interest from unfair trade practices that may harm security and public order, and for safeguarding respect for fair competition principles in the EU;
7. Emphasises the importance of the anti-subsidy instrument in tackling unfair global competition, and establishing a level playing field with EU State aid rules; regrets, in this context, that in 2017 the People's Republic of China once again created the highest number of newly constituted trade barriers for European businesses and workers and was involved in the majority of European anti-subsidy cases;
8. Is concerned about US customs policy and its impact on the competitiveness of European businesses; stresses that the Commission's efforts to rebalance trade with the US should be firm, but balanced, proportionate and WTO-compatible;
9. Calls on the Commission to step up its efforts to promote fair competition, including by combating the unjustified use of tariff barriers and subsidies, in the global market through stronger cooperation with other countries at forums such as the WTO, the Organisation for Economic Cooperation and Development (OECD), the UN Conference on Trade and Development (UNCTAD), the G20 and the World Bank; recalls the work undertaken at the WTO between 1996 and 2004 on the interaction between trade and

competition policy, and regrets that this issue has not been part of the WTO work programme since; stresses that provisions in WTO agreements such as Article IX of the General Agreement on Trade in Services (GATS) provide a basis for further cooperation among WTO members on competition matters; calls, therefore, for fresh progress to be made at the 12th WTO Ministerial Conference towards guaranteeing fair international competition;

10. Expresses concern over the alleged inability of the WTO to tackle non-market economies and to address the competitive distortions provoked by subsidies and state intervention, in spite of strongly believing in the WTO's fundamental role; welcomes the US, Japan and the EU's tripartite action to reform it accordingly;
11. Calls on the Commission to increase its support for small and medium-sized enterprises (SMEs) in the EU to enable them both to protect and enforce their rights in the event of unfair commercial practices, i.e. dumping and subsidisation by non-EU countries; acknowledges in this context the Commission's efforts to combat unfair competition in high-profile cases against well-known companies, but stresses that the enforcement of fair competition in the case of SMEs is also of the utmost importance;
12. Stresses that the effective implementation of the sustainable development provisions of trade agreements is important for improving living conditions in partner countries and protecting European businesses from unfair competition; welcomes the introduction of environmental and social criteria in the reform of anti-subsidy and anti-dumping measures.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	11.10.2018
Result of final vote	+: 28 -: 5 0: 3
Members present for the final vote	Laima Liucija Andrikienė, Maria Arena, Tiziana Beghin, Daniel Caspary, Salvatore Cicu, Christofer Fjellner, Eleonora Forenza, Karoline Graswander-Hainz, Christophe Hansen, Heidi Hautala, Yannick Jadot, France Jamet, Elsi Katainen, Jude Kirton-Darling, Danilo Oscar Lancini, Bernd Lange, David Martin, Anne-Marie Mineur, Franck Proust, Godelieve Quisthoudt-Rowohl, Inmaculada Rodríguez-Piñero Fernández, Tokia Saïfi, Helmut Scholz, Joachim Schuster, Adam Szejnfeld, William (The Earl of) Dartmouth, Jan Zahradil
Substitutes present for the final vote	Sander Loones, Fernando Ruas, Paul Rübig, José Ignacio Salafranca Sánchez-Neyra
Substitutes under Rule 200(2) present for the final vote	Beatriz Becerra Basterrechea, Czesław Hoc, Stanisław Ożóg, Jozo Radoš, Anders Sellström

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

28	+
ALDE	Beatriz Becerra Basterrechea, Elsi Katainen, Jozo Radoš
ECR	Czesław Hoc, Sander Loones, Stanisław Ożóg, Jan Zahradil
EFDD	William (The Earl of) Dartmouth
PPE	Laima Liucija Andrikienė, Daniel Caspary, Salvatore Cicu, Christofer Fjellner, Christophe Hansen, Franck Proust, Godelieve Quisthoudt-Rowohl, Fernando Ruas, Paul Rübig, Tokia Saïfi, José Ignacio Salafranca Sánchez-Neyra, Anders Sellström, Adam Szejnfeld
S&D	Maria Arena, Karoline Graswander-Hainz, Jude Kirton-Darling, Bernd Lange, David Martin, Inmaculada Rodríguez-Piñero Fernández, Joachim Schuster

5	-
EFDD	Tiziana Beghin
ENF	Danilo Oscar Lancini
GUE/NGL	Eleonora Forenza, Anne-Marie Mineur, Helmut Scholz

3	0
ENF	France Jamet
VERTS/ALE	Heidi Hautala, Yannick Jadot

Key to symbols:

+ : in favour

- : against

0 : abstention

23.11.2018

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on Economic and Monetary Affairs

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

Rapporteur for opinion: Angélique Delahaye

SUGGESTIONS

The Committee on Agriculture and Rural Development calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas EU competition law is designed for the secondary and tertiary sectors;
- B. whereas Article 42 of the Treaty on the Functioning of the European Union (TFEU) states that rules on competition apply to the production of and trade in agricultural products only to the extent determined by the European Parliament and the Council, given the agricultural sector's unique characteristics and importance; whereas in January 2016, the Commission set up an expert group (the Agricultural Markets Task Force or the AMTF) with a view to improving the position of farmers in the food chain; whereas in its final report of November 2016, the AMTF made suggestions, inter alia, on how to strengthen market transparency, improve contractual relations within the chain and develop legal possibilities for organising collective action by farmers; whereas, given the specific natural and structural characteristics of agriculture, the European legislator has, since 1962, consistently defended the principle of granting a special status to the agricultural sector in the application of competition law, given that that law cannot be applied to this economic sector in the same way as other sectors;
- C. whereas the TFEU and EU jurisprudence assign primacy to the common agricultural policy (CAP) over competition law;
- D. whereas Article 39 TFEU gives the CAP the objective of ensuring a fair standard of living for the agricultural community and for those in Europe's rural areas, in particular by boosting the individual income of persons working in agriculture, and of stabilising the markets and safeguarding supplies;
- E. whereas the future CAP should likewise aim to foster a smart, resilient and diversified agricultural sector that ensures food security, to bolster environmental care and climate

action and contribute to the Union's environment- and climate-related objectives, and to strengthen the socio-economic fabric of rural areas;

- F. whereas the 2013 CAP reform, the Omnibus revision and the Commission's 2018 proposals aim to strengthen the position of farmers in the food supply chain;
- G. whereas the specific objectives of the directive on unfair trading practices in business-to-business relationships in the food supply chain seek to maintain market stability, enhance agricultural producers' income and improve agricultural competitiveness; whereas the Commission's proposal to tackle unfair trading practices in the business-to-business food supply chain is a vital step in rebalancing power within the chain and bringing transparency to the buyer-supplier relationship and in achieving a more sustainable and competitive food supply chain for the benefit of farmers, consumers and the environment;
- H. whereas there has been a trend of consistently rising prices of agricultural inputs over recent decades¹, while the farm gate prices that farmers receive for their produce have stagnated;
- I. whereas the 'agricultural exception' has become more relevant in the context of a market-oriented CAP and the increasing globalisation of agricultural markets, and should continue to be taken into account in the design and implementation of policies and the monitoring of compliance therewith by the Commission and the national competition authorities;
- J. whereas the agricultural component of the regulation on the financial rules applicable to the general budget of the Union (Omnibus Regulation) is an important step forward for the CAP, given that it sets out an explicit derogation from the application of Article 101 TFEU for producer organisations;
- K. whereas the request made to the Court of Justice of the European Union for a preliminary ruling in Case *Président de l'Autorité de la concurrence v Association des producteurs vendeurs d'endives (APVE) and Others* shows that producers, producer organisations and associations of producer organisations need greater legal certainty in the exercise of their activities², in particular given that this sector is characterised by highly fragmented supply, concentrated demand and difficulties in controlling supply and predicting demand; whereas the Court of Justice judgment concerning the application of competition rules to producers and producer organisations is of crucial importance in clarifying the implicit derogations connected with the work of producer organisations;
- 1. Points out that EU competition policy is not achieving the desired results because, while it is applied with the aim of defending fair competition between all actors on the internal market, with special emphasis on the interests of consumers, the reality is that due to the inequalities within the food supply chain, agricultural producers face an unacceptable degree of pressure; considers that the interests of both consumers and agricultural

¹ Eurostat data on price indices of agricultural products (apri_pi); see also recital B of European Parliament resolution of 19 January 2012 on the farm input supply chain: structure and implications (OJ C 227 E/3, 6.8.2013).

² Judgment of the Court of Justice of 14 November 2017, *Président de l'Autorité de la concurrence v Association des producteurs vendeurs d'endives (APVE) and Others*, C-671/15, ECLI:EU:C:2017:860.

producers should be placed on an equal footing;

2. Takes the view that the specific characteristics of agricultural activities make collective organisations essential to strengthen the position of primary producers in the food chain and to enable the attainment of the objectives of the CAP, as defined under Article 39 TFEU, and that collective activities carried out by producer organisations and their associations – including production planning, sales negotiation and contractual arrangements – must therefore be considered compatible with Article 101 TFEU; stresses that bringing farmers together in producer organisations reinforces their position in the supply chain;
3. Considers that the interbranch organisations model is a successful form of sectoral management, given that it provides a structure for – and organises exchanges between – all players in the sector, fairly represented within its structure, by making it possible to transmit economic and technical information, to enhance market transparency and to better distribute risks and benefits; considers that different, properly structured models of cooperation, such as the present one, should be facilitated by the CAP to ease the creation of interbranch organisations at European level;
4. Considers that, in line with the current trend, the competences of producer and interbranch organisations need to be further strengthened so that farmers' bargaining power to negotiate could be balanced with the negotiating power of retailers in the food supply chain; considers that EU co-financing for the establishment and operation of these organisations should be increased;
5. Calls on the Commission to facilitate the application of collective market-management instruments in the event of a crisis, using tools that do not require public funds, such as product withdrawals carried out by means of agreements among food chain operators; points out that such a measure could be applied by the interbranch organisations themselves;
6. Considers that the entry onto the European market of products from third countries which do not meet the same social, health and environmental standards creates unfair competition for European producers; calls, therefore, for the protection of vulnerable sectors and the systematic application of the principles of reciprocity and compliance as regards agricultural products in both future and ongoing trade negotiations; calls on the Commission to integrate this aspect into the Brexit negotiations;
7. Emphasises that access to the EU's internal market should be contingent on compliance with sanitary, phytosanitary and environmental standards; asks the Commission, in order to guarantee fair competition, to promote the equivalency of measures and controls between third countries and the EU in the area of environmental and food safety standards; notes that the highest standards of environmental and animal welfare can mean higher costs and hence that lowering standards can result in anti-competitive behaviour; recommends that the Commission explore ways of extending the scope of competition policy to prevent such dumping within the single market and from imports into the single market;
8. Calls on the Commission to take into account the effect on farmers, given their fragile financial circumstances and fundamental role in our society, of market distortions arising

from trade agreements with third countries, since agricultural markets are typified by intense agricultural price volatility, which exacerbates farmers' weak position in the food chain;

9. Points out that climate disasters, which affect farmers, have an impact on the market and weaken farmers' position in the food supply chain; recalls that EU anti-dumping rules¹ that apply, inter alia, to the agricultural sector consider that environmental dumping creates unfair competition; requests that the interests of European citizens demanding a sustainable and environment-friendly society be taken into account; calls, therefore, on the Commission, taking into account the functioning of the single market and the benefits for society as a whole, to allow exemptions from competition rules to facilitate cooperation, both horizontally and vertically, in the context of sustainability initiatives;
10. Stresses that the concept of a 'fair price' should not be regarded as the lowest price possible for the consumer, but instead must be reasonable and allow for the fair remuneration of all parties along the food supply chain; stresses that consumers have interests other than low prices alone, including animal welfare, environmental sustainability, rural development and initiatives to reduce antibiotic use and stave off antimicrobial resistance, etc.; encourages Member States' competition authorities to take account of consumer demand for sustainable food production, which requires that greater account be taken of the value of 'public goods' in food pricing; requests, in this regard, that EU competition policy look beyond the lowest common denominator of 'cheap food'; considers that the costs of production must be taken fully into account when agreeing prices in contracts between retailers/processors and producers with the intention of ensuring prices that at least cover costs;
11. Reiterates the proposal that the provisions of Regulation (EU) No 1308/2013 (Single CMO Regulation) authorising the introduction of supply control measures for cheeses with a protected designation of origin (PDO) or a protected geographical indication (PGI) (Article 150), for hams with PDOs or PGIs (Article 172) and for wines (Article 167) should be extended to other quality branded products in order to make it easier to adapt supply to demand;
12. Stresses that, in order to rule out restrictive interpretations, the concept of 'relevant market' in the Commission's assessment must be redefined and understood as meaning the whole of the sector concerned;
13. Emphasises that the proposed cap on direct payments may seriously affect the competitiveness of medium-sized farms;
14. Welcomes the fact that the Omnibus Regulation creates a procedure under which a group of farmers can request a non-binding opinion from the Commission on the compatibility of a collective action with the general derogation from the competition rules referred to in Article 209 of the Single CMO Regulation; calls on the Commission, in the light of the recommendation of the Working Party on Agricultural Markets, to clarify the scope of the general agricultural derogation and its overlap with the derogations provided for under Articles 149 and 152, and thus to define exceptions more precisely, so as to make any

¹ COM(2013)0192.

necessary suspension of the application of Article 101 TFEU applicable and achievable;

15. Points out that the individual ceiling for *de minimis* aid in the agricultural sector was doubled in 2013 (from EUR 7 500 to EUR 15 000) in order to help cope with the surge in climatic, health and economic crises; points out that, at the same time, the national *de minimis* ceiling has been only marginally adjusted (from 0.75 % to 1 % of the value of national agricultural production), which has reduced states' power to help farms in difficulty; supports, therefore, the Commission's proposal to give more flexibility to the Member States and regions via the agricultural *de minimis* rules;
16. Supports the Commission proposal to give Member States more flexibility by relaxing state aid rules in the agricultural sector in an effort to encourage farmers to voluntarily make precautionary savings, in order to better cope with the increase in risks to the climate and health and to the economy;
17. Welcomes the developments brought about by the Omnibus Regulation, in order to facilitate the application of the provisions of Article 222 of the CMO Regulation, which allows for a temporary derogation from competition laws; calls, nevertheless, on the Commission to clarify the application of Articles 219 and 222 of Regulation (EC) No 1308/2013 with regard to taking steps in the event of market disturbances and severe market imbalances, given that the legal uncertainty currently surrounding both articles means that no one is applying them for fear of failing to comply with rules laid down by the competition authorities in the Member States;
18. Stresses that, during periods of severe market imbalances, when the agricultural sector is at risk and all citizens are affected by the potential damage to the supply of basic foodstuffs, a market-oriented CAP must support farmers and grant additional, time-limited and fully justified exemptions from competition rules for agreements and decisions between farmers, producer organisations, their associations and recognised interbranch organisations; takes the view, furthermore, that it must be made possible for Article 164 of the CMO Regulation to extend the rules of agreements or decisions taken within recognised agricultural organisations under Article 222 of the CMO Regulation;
19. Recalls that significant horizontal and vertical restructuring has taken place, which has led to further consolidation in the already concentrated seed, agro-chemical, fertiliser, animal genetics and farm machinery sectors, as well as in processing and retailing; calls on the Commission to ensure, in this context and following the acquisition of Monsanto by the Bayer group, which together control approximately 24 % of the global pesticide market and 29 % of the global seed market, that the interests of EU farmers, citizens and the environment are protected, by comprehensively and holistically assessing the impact, at farm level, of mergers and acquisitions of agricultural input suppliers, including producers of plant protection products, so that farmers can have access to innovative products of better quality, with less environmental impact and at competitive prices; highlights that such mergers and acquisitions could potentially damage competition in the field of access to essential products for farmers; takes the view that the marketing standards for seed and plant propagating material for minor use should be eased and made more flexible.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	22.11.2018						
Result of final vote	<table style="width: 100%; border: none;"> <tr> <td style="width: 100px;">+:</td> <td style="text-align: right;">31</td> </tr> <tr> <td>-:</td> <td style="text-align: right;">0</td> </tr> <tr> <td>0:</td> <td style="text-align: right;">3</td> </tr> </table>	+:	31	-:	0	0:	3
+:	31						
-:	0						
0:	3						
Members present for the final vote	Clara Eugenia Aguilera García, Eric Andrieu, Daniel Buda, Nicola Caputo, Jacques Colombier, Michel Dantin, Paolo De Castro, Albert Deß, Herbert Dorfmann, Norbert Erdős, Luke Ming Flanagan, Karine Gloanec Maurin, Esther Herranz García, Jan Huitema, Peter Jahr, Jarosław Kalinowski, Norbert Lins, Philippe Loiseau, Mairead McGuinness, Giulia Moi, Ulrike Müller, James Nicholson, Maria Noichl, Maria Lidia Senra Rodríguez, Ricardo Serrão Santos, Marc Tarabella						
Substitutes present for the final vote	Angélique Delahaye, Maria Heubuch, Anthea McIntyre, John Procter, Sofia Ribeiro, Annie Schreijer-Pierik						
Substitutes under Rule 200(2) present for the final vote	Stanisław Ożóg, Monika Vana						

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

31	+
ALDE	Jan Huitema, Ulrike Müller
ECR	Anthea McIntyre, James Nicholson, Stanisław Ożóg, John Procter
ENF	Jacques Colombier, Philippe Loiseau
PPE	Daniel Buda, Michel Dantin, Angélique Delahaye, Albert Deß, Herbert Dorfmann, Norbert Erdős, Esther Herranz García, Peter Jahr, Jarosław Kalinowski, Norbert Lins, Mairead McGuinness, Sofia Ribeiro, Annie Schreijer-Pierik
S&D	Clara Eugenia Aguilera García, Eric Andrieu, Nicola Caputo, Paolo De Castro, Karine Gloanec Maurin, Maria Noichl, Ricardo Serrão Santos, Marc Tarabella
Verts/ALE	Maria Heubuch, Monika Vana

0	-

3	0
EFDD	Giulia Moi
GUE/NGL	Luke Ming Flanagan, Maria Lidia Senra Rodríguez

Key to symbols:

+ : in favour

- : against

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	3.12.2018
Result of final vote	+: 32 -: 2 0: 1
Members present for the final vote	Pervenche Berès, Esther de Lange, Markus Ferber, Brian Hayes, Wolf Klinz, Georgios Kyrtos, Philippe Lamberts, Werner Langen, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Marisa Matias, Gabriel Mato, Alex Mayer, Bernard Monot, Luděk Niedermayer, Ralph Packet, Sirpa Pietikäinen, Anne Sander, Martin Schirdewan, Molly Scott Cato, Pedro Silva Pereira, Peter Simon, Marco Valli, Miguel Viegas, Jakob von Weizsäcker
Substitutes present for the final vote	Enrique Calvet Chambon, Mady Delvaux, Syed Kamall, Alain Lamassoure, Luigi Morgano, Michel Reimon, Lieve Wierinck
Substitutes under Rule 200(2) present for the final vote	Barbara Lochbihler, Jarosław Wałęsa

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

32	+
ALDE	Enrique Calvet Chambon, Wolf Klinz, Lieve Wierinck
ECR	Syed Kamall, Bernd Lucke, Ralph Packet
EFDD	Bernard Monot
GUE/NGL	Marisa Matias, Martin Schirdewan
PPE	Markus Ferber, Brian Hayes, Georgios Kyrtosos, Alain Lamassoure, Esther de Lange, Ivana Maletić, Gabriel Mato, Luděk Niedermayer, Sirpa Pietikäinen, Anne Sander, Jarosław Wałęsa
S&D	Pervenche Berès, Mady Delvaux, Olle Ludvigsson, Alex Mayer, Luigi Morgano, Pedro Silva Pereira, Peter Simon, Jakob von Weizsäcker
VERTS/ALE	Philippe Lamberts, Barbara Lochbihler, Michel Reimon, Molly Scott Cato

2	-
GUE/NGL	Miguel Viegas
PPE	Werner Langen

1	0
EFDD	Marco Valli

Key to symbols:

+ : in favour

- : against

0 : abstention