DRAFT REPORT

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

Committee on Economic and Monetary Affairs

Rapporteur: Andreas Schwab
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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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The European Parliament,

– having regard to the Treaty on the Functioning of the European Union, in particular Articles 101 to 109 thereof,

– having regard to the relevant Commission rules, guidelines, resolutions, public consultations, communications and papers on the subject of competition,

– having regard to the Commission report of 7 July 2021 on Competition Policy 2020 (COM(2021)0373) and to the Commission staff working document published as a supporting document on the same date (SWD(2021)0177),

– having regard to its resolution of 9 June 2021 on competition policy – annual report 2020¹,


– having regard to the Commission proposal of 5 May 2021 for a regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market (COM(2021)0223),


– having regard to the Commission staff working document of 12 July 2021 on the evaluation of the Commission notice on the definition of relevant market for the purposes of Community competition law of 9 December 1997 (SWD(2021)0199),

– having regard to the Commission communication of 18 November 2021 on a competition policy fit for new challenges (COM(2021)0713) and the annex thereto,

– having regard to Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) 651/2014 declaring certain categories of aid compatible with the internal market in application of Article 107 and 108 of the Treaty²,

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¹ Texts adopted, P9_TA(2021)0275.
having regard to the Commission communication of 26 March 2021 entitled ‘Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases’ (C(2021)1959),

– having regard to the Commission communication of 9 July 2021 on the approval of the content of a draft for a Commission regulation on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (C(2021)5026) and the annex thereto, and the annex to the Commission communication of 9 July 2021 on the Commission notice concerning guidelines on vertical restraints (C(2021)5038),


– having regard to Rule 54 of its Rules of Procedure,

– having regard to the opinion of the Committee on the Internal Market and Consumer Protection,

– having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2021),

A. whereas EU competition policy has an important role – especially at times of uncertainty and transformation – in ensuring effective competition to encourage innovation, set fair economic conditions and provide greater choice for consumers;

B. whereas the Commission needs an appropriate and effective set of instruments to enforce competition rules and properly ensure their implementation;

C. whereas international exchange and cooperation is essential to achieve a global and competitive level playing field and tackle the challenges of the twin digital and green transition in a coordinated manner;

General considerations

1. Emphasises that the challenges arising from the COVID-19 pandemic need to be adequately taken into account and that the guiding principle should be the reasonable phasing out of specific support measures;

2. Calls for the development of an effective system of well-adjusted and complementing regulatory and enforcement instruments to facilitate the digital and green transition;

3. Reaffirms the need for an in-depth review and effective implementation of existing competition instruments;

Policy response to the COVID-19 pandemic

4. Takes note of the renewal of the temporary framework for State aid measures, which was established in response to the COVID-19 crisis and is designed to accelerate the recovery;
5. Welcomes the planned evaluation of the rules on health and social services of general economic interest (SGEI) to ensure that those rules meet their objectives and are fit for purpose;

6. Reiterates the importance of the Commission and the Member States launching a post-COVID-19 roadmap for better targeted State aid in order to promote competitiveness and growth and ensure high-quality jobs;

**Competition policy on enforcement and globalisation**

7. Emphasises the importance of safeguarding the competitiveness of European companies in a globalised arena, of striving for reciprocity, and of ensuring fair competition for regional markets in the single market;

8. Welcomes the Commission’s proposal for a new regulation on foreign subsidies in order to curtail potentially distortive effects on the single market, close the enforcement gap, and level the playing field for European companies by using EU competition law instruments and their key building blocks;

9. Calls on the Commission to rigorously enforce competition policy while striving for continued constructive dialogue and cooperation on key technological and economic issues with like-minded partners and stakeholders;

10. Welcomes the launch of the EU-US Trade and Technology Council (TTC), which will seek to deepen economic and transatlantic relations based on common values; notes with appreciation that the transformation of the EU’s rules vis-à-vis digital platform companies is mirrored by comparable legislative initiatives and individual investigations in the US;

**A competition policy and State aid fit for the new challenges**

11. Stresses that Parliament’s negotiating mandate on the Digital Markets Act will be voted on in plenary and that Parliament is prepared to work towards the accelerated completion of negotiations and the entry into force of the new rules;

12. Calls on the Commission to ensure a smooth and rapid implementation of the new regulatory measures, while ensuring synergies and avoiding overlap with or duplications of existing measures;

13. Calls on the Commission to ensure that the regulatory and enforcement tasks are delegated within its services swiftly and in a transparent manner in order to eliminate inefficiencies and administrative burdens; calls on the Commission, in this regard, to dedicate sufficient and proper resources to implementing the Digital Markets Act;

14. Welcomes the recent judgment by the General Court of the EU, which confirms the Commission’s assessment as regards a dominant market position and is proof and an example of the effective application of traditional EU competition rules in the context of

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a digital economy;

15. Supports the review of EU competition law instruments as outlined in the Commission communication of 18 November 2021; recalls, however, that this should not exclude the development of new tools where necessary;

16. Welcomes the ongoing review of State aid rules, which aims to ensure consistency with both established and new regulatory principles relevant to the twin transition;

17. Takes note of the planned revision of the related sections of the General Block Exemption Regulation (GBER);

18. Takes note of the Commission’s initiative to revise the State aid rules in the field of climate, environmental protection and energy (CEEAG) to align them with the European Green Deal and supports the adoption of new guidelines in that regard;

19. Believes that mainstreaming green and digital strategies is vital to support the EU’s transition; calls on the Commission to incorporate this approach into the future conditions for State aid through its assessment of the De Minimis Regulation upon expiry;

**Mergers**

20. Urges the Commission to accelerate its commitment to reviewing its notice on the definition of relevant market;

21. Acknowledges the Commission guidance on certain aspects of Article 22 of the Merger Regulation; expresses concern, however, that this initiative may not be sufficient to adapt the regulation to the needs of modern business models, such as on killer acquisitions;

22. States that national authorities should be able to use the information received in application of Article 12 of the Digital Markets Act to request an examination of a concentration pursuant to Article 22 of the Merger Regulation;

**Antitrust and cartels**

23. Supports a substantial review of the current regime on vertical agreements, the fine-tuning of the safe harbour rules, and the adoption of rules to match the needs of e-commerce and platform business to prevent market restrictions arising as a result of the ambivalent effects of those agreements, while ensuring alignment with the currently formulated rules on digital markets;

24. Emphasises the importance of the cooperation of national competition authorities within the European Competition Network (ECN); highlights that their contributions to enforcement is a cornerstone of the Digital Markets Act in its current form; calls on the

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Commission to thoroughly assess the implementation of Directive (EU) 2019/1\(^7\);

25. Recalls that an in-depth analysis of Directive 2014/104/EU\(^8\) could not be undertaken due to delayed transposition and the lack of relevant information on the judicial cases; invites the Commission, nevertheless, to continuously monitor the implementation of the directive and to publish the results of the analysis;

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26. Instructs its President to forward this resolution to the Council, the Commission, and the parliaments and competition authorities of the Member States.

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\(^7\) OJ L 11, 14.1.2019, p. 3.