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 (2016/2100(INI))

Rapporteur: Andreas Schwab
PA_NonLeg
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. Stresses that competition policy is an important part of the internal market, as provided for in the Treaty; reiterates that a competitive and fully-functioning single market is needed to boost sustainable growth, employment and innovation in the EU and that efforts to preserve fair competition in the EU as a whole are in the interest of consumers, start-ups and SMEs; believes that the enforcement of European legislation should not be weakened through the use of the EU pilot instead of formal infringement proceedings and that it is necessary to seek to preserve competition;

2. Believes that the independence of the Commission in terms of ruling on competition in the single market and the separation of powers between the EU institutions must be fully respected; underlines that decisions should be based on the facts of a case and should be determined by the objectives of EU competition policy;

3. Encourages the Commission not to direct all its efforts to ensure fair competition on high-profile cases against well-known big companies; reminds the Commission that the enforcement of fair competition is also of importance for SMEs;

4. Emphasises that EU competition law and competition authorities need to guarantee a level playing field for businesses and choice for consumers in the digital single market; welcomes the Commission’s investigations into certain anti-competitive practices by a number of companies; calls on the Commission to launch a debate on how far the traditional reasoning underlying competition law is suited to the specific conditions and new challenges of the digital economy, and asks it to pursue a policy of active, effective and accelerated enforcement of the competition rules, in order to combat the abuse of dominant positions and thereby foster innovation and innovative business models, as well as enabling EU consumers to seize all the opportunities that a genuine digital single market can offer; encourages the Commission to close these lengthy key proceedings as soon as possible;

5. Calls for the strengthening of freedom of choice for consumers; considers that the right to data portability contained in the General Data Protection Regulation represents a good approach to strengthening both consumer rights and competition; stresses the need to examine how to ensure interoperability between digital networks by means of open standards and interfaces;

6. Calls for the active monitoring of all potential competition issues related to unjustified geo-blocking and other restrictions on online sales; regrets that most e-commerce takes place nationally and that a true internal market without national barriers does not exist in this sector; welcomes the ongoing e-commerce sector inquiry, which should be conducted thoroughly and brought to an expeditious close and which may provide useful input for other actions under the digital single market strategy and for cross-border trade; encourages the Commission to create a business environment ensuring the development of innovative ideas;
7. Calls on the Commission to examine and correct the situation of independent retailers who are allowed under competition law to work together through their brick-and-mortar shops, but are accused of unfair competition if they provide joint e-commerce offerings;

8. Notes that online platforms permit millions of undertakings, including many European SMEs, to exploit the advantages of e-commerce; considers that, in order to create fair conditions of competition, it is necessary to guarantee comparable rules for comparable digital services; takes the view that the new commercial models represented by platforms and sharing economy intermediaries raise urgent questions relating inter alia to the application of EU and national law, B2B relations, ensuring payment of the relevant taxes and recognition of employment rights; calls on the Commission and the Member States, therefore, to address these concerns;

9. Believes the Commission should investigate anti-competitive practices by Member States and regional and local authorities towards sharing economy intermediaries; underlines that special attention should be given to excessive regulatory burdens, disproportionate application of existing rules to non-comparable business models, and the legality of outright bans;

10. Reiterates the need for the timely and proper implementation of Directive 2014/104/EU on antitrust damages actions under national law for infringements of competition rules in the Member States; strongly regrets that implementation in national law is proceeding slowly, and that many Member States have not even adopted a proposal for implementing legislation; encourages the Commission, therefore, in the strongest possible terms to monitor implementation of the Directive closely, to pursue the issue with the Member States, and to present annual reports concerning actions brought within the scope of this Directive; stresses that access to justice, which may include the availability of collective redress, is essential for the attainment of the objectives of EU competition policy;

11. Welcomes the Commission’s reflections on the need for more tools to strengthen efforts in favour of fair competition; looks forward to the Commission’s proposal on the ECN+, and calls for the full involvement of Parliament under the ordinary legislative procedure; considers that effective tools to tackle distortions of competition are crucial for the functioning of the single market, and that it is imperative to ensure that consumers and businesses can rely on the consistent application of EU competition rules throughout the Union; underlines that EU law should be equally enforced in all Member States; considers that Europe-wide minimum standards are particularly needed as regards leniency programmes, sanctions and the independence of national competition authorities; refers to the possibility of setting up investigative tools for the Commission, with which it could, independently of Member States’ information, investigate suspected illegal State aid;

12. Stresses that tax coordination is one of the crucial elements of competitiveness in the Single Market, and reiterates that all market players should pay their fair share of tax; welcomes the Commission’s in-depth investigations into anti-competitive practices such as selective tax advantages or excess profit ruling systems in certain Member States, which are potentially illegal under EU State aid rules, and welcomes the recent State aid decisions by the Commission in this context; points out, however, that these decisions were not against the companies as such, but against the conditions offered by the Member States, which allegedly do not comply with EU State aid rules; calls on the Commission to
take this into account and to pursue similar cases in the same direction;

13. Calls on the Commission to ensure that the EU public procurement rules are implemented in a timely manner, with particular reference to the deployment of e-procurement and the new provisions encouraging the division of contracts into lots, which is essential to foster innovation and competition and to support SMEs in procurement markets;

14. Calls on the Commission to avoid creating monopolies or closed value chains through standardisation; believes that an appeals process should be introduced to review standards where they may carry a risk of impacting competitiveness;

15. Expresses its concern at the level of concentration in some sectors, such as the chemical sector, in light of recent mergers; requests the Commission to explain how it allows for the possibility of market entry, in particular by start-ups; asks the Commission to examine whether the market power of an enterprise resulting from information and data, and the handling of such information and data, as well as the number of users, should be taken into account as test criteria for merger control; calls for considering whether the merging of data and information, in particular on customers, could result in a distortion of competition;

16. Regards competition in the telecommunication sector as crucial to drive innovation and investment in networks, as well as for choice in services for consumers; regards rapid broadband expansion as key to the completion of the digital single market; welcomes in this context the fact that the Commission will consider the strategic connectivity objectives, as set out in the Telecommunications Package, when applying the Broadband State aid Guidelines;

17. Refers to the European Court of Auditors’ most recent report on non-compliance with State aid rules in cohesion policy, which notes a significant level of non-compliance and calls for a number of recommendations to be implemented; expresses concerns about these findings, as it is to the detriment of a well-functioning internal market, and, therefore, asks the Commission to take the recommendations made by the Court into consideration and to increase its efforts to avoid further defects;

18. Urges the Commission, in this context, to ensure the correct enforcement of the General Block Exemption Regulation (GBER) No 651/2014, which entered into force in July 2014; welcomes the current revision of the GBER; recalls that there is legal uncertainty regarding the issue of whether or not the allocation of public funding to tourism organisations in its current form is in line with EU State aid rules; calls on the Commission to provide guidance on the application of State aid for the Member States to support tourism as an important economic factor in the internal market; stresses the need, therefore, to take up a new GBER exemption;

19. Supports the Commission’s actions on anti-cartel enforcement, such as recently in the retail food and optical disc drive sectors, with the aim of guaranteeing fair prices for consumers;

20. Points out that consumers in the single market are being sold products containing ingredients that differ from one consignment to another even though the brand name and packaging are the same; calls on the Commission to determine whether this practice has
negative repercussions for local producers, especially SMEs, and whether it results in discrimination among consumers through the placing of products of lower quality;

21. Notes that, in its resolution on the annual report on competition policy for 2014, Parliament called on the Commission to closely monitor alliances between major distributors in Europe, and welcomes the Commission’s willingness to discuss the impact of such alliances on producers and consumers within the European Competition Network;

22. Welcomes the steps taken to date by the Commission and Parliament to combat unfair trading practices in the food supply chain; acknowledges the Commission’s ongoing analysis aimed at determining whether distributors’ brands can create anti-competitive advantages on the market, and calls on the Commission to inform Parliament of the results of this inquiry; considers that the way forward is the possibility of an EU-level framework laying down general principles and taking account of best practices and voluntary schemes, such as the Supply Chain Initiative;

23. Invites the Commission to allow in its competition policies for certain forms of cooperation between independent food suppliers, in order to avoid and counter any unfair trading practices on the part of supermarkets;
RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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<td><strong>Result of final vote</strong></td>
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<td><strong>Members present for the final vote</strong></td>
<td>Dita Charanzová, Carlos Coelho, Anna Maria Corazza Bildt, Daniel Dalton, Dennis de Jong, Pascal Durand, Vicky Ford, İldikő Gál-Pelez, Evelyne Gebhardt, Maria Grapini, Sergio Gutiérrez Prieto, Robert Jarosław Iwaskiewicz, Liisa Jaakonsaari, Morten Løkkegaard, Marlene Mizzi, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Igor Šoltes, Ivan Štefanec, Mylène Troszcynski, Mihai Țurcanu, Marco Zullo</td>
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<td><strong>Substitutes present for the final vote</strong></td>
<td>Lucy Anderson, Anna Hedl, Kaja Kallas, Roberta Metsola, Dariusz Rosati, Adam Szejnfeld, Marc Tarabella, Theodoros Zagorakis</td>
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<td><strong>Substitutes under Rule 200(2) present for the final vote</strong></td>
<td>Bill Etheridge, Andrey Kovatchev</td>
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