



**2022/2060(INI)**

6.3.2023

# **OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Economic and Monetary Affairs

on the competition policy - annual report 2022  
(2022/2060(INI))

Rapporteur for opinion: Dita Charanzová

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## SUGGESTIONS

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

1. Recalls that fair competition is key to a properly functioning single market and economy and creates incentives for providing a diversity of products, better quality, lower prices, higher value, resilience and standards, innovation, research and better services for the consumer; stresses that consumer welfare must remain an essential aspect of competition policy; stresses, furthermore, that a strong and robust competition policy is a fundamental part of the single market, as set out in the Treaties, and is crucial for the development of a fair and level playing field for all market players, particularly small and medium-sized enterprises (SMEs), which ensures and boosts sustainable growth, jobs and competitiveness; calls on the Commission to introduce changes that create a more favourable environment for all, including start-ups and entrepreneurs, while reaffirming that SMEs could benefit from a stricter application of EU competition rules; agrees with an Organisation for Economic Co-operation and Development (OECD) recommendation<sup>1</sup> that active enforcement of competition rules in the European market and openness to international trade and investment should remain policy priorities;
2. Notes that the removal of State aid limits due to the COVID-19 crisis and now Russia's war of aggression against Ukraine has led to Member States providing different amounts of support to the same sectors; underlines that this has led to a playing field that is not level for the same industries within the single market; calls on the Commission to seek ways to offset this problem; notes, in particular, sharp divergences in the level of energy subsidies provided by Member States in response to rising energy prices; stresses the importance of a coordinated response that avoids distortion of the EU internal energy market; calls on the Commission to improve the transparency of the State aid assessment process and stresses the need for ex post monitoring of the effective implementation of State aid adopted;
3. Reiterates its call on the Commission to address the anti-competitive effect of territorial supply constraints with a view to ensuring a fully functional single market and harnessing its potential benefit for consumers; reiterates that these types of constraints can take different forms, such as refusals to supply certain products or services, threats to interrupt supply to a particular distributor, limitation of quantities available for sale, unexplained differentiation within product ranges and prices between Member States or limited of language options on product packaging;
4. Underlines that State aid frameworks for responding to the COVID-19 crisis and Russia's war of aggression against Ukraine should remain temporary; believes that the challenges arising from these crises should be duly taken into account in a broad reflection on industrial policy and through the updated EU industrial strategy that could help allocate resources to certain key sectors, taking into account our dependencies in

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<sup>1</sup> OECD, 'Enhancing regional convergence in the European Union', OECD Economics Department Working Papers No. 1696, OECD Publishing, Paris, 2021. <https://dx.doi.org/10.1787/253dd6ee-en>.

key strategic areas in a way that does not distort competition between firms and can also help to lay the ground for a resilient, competitive and sustainable economy in the long term; considers that competition rules should not hamper sustainability goals but contribute to them;

5. Considers it essential to ensure a consistent application of EU competition rules throughout the single market; stresses that EU legislation should be applied equally in all Member States and that when EU competition legislation is being implemented account should also be taken of whether suitable national funding that can be delivered in a timely manner is available; calls on the Commission to avoid creating monopolies through standardisation;
6. Believes that competition is likely to assist rather than impede recovery from the crisis and improve resilience of the single market, stresses that a recent study<sup>2</sup> rejected the argument that relaxation of EU competition policy would promote economic recovery; regrets that according to the analysis from times before the crisis<sup>3</sup> the State aid in the EU was ineffective in promoting economic growth and investments; urges the Commission to assess the contribution of State aid in the EU to economic and productivity growth based on measurable indicators and systematically review its results and impact;
7. Recalls that we should learn from previous crises if we want to achieve real measurable results and impact, recovery and a level playing field; recalls the lesson from the financial crisis that actions based on immediate needs are a poor substitute for policy interventions based on sound economic analysis; regrets that several proposals were not accompanied by impact assessments due to the urgent nature of the situation according to the Commission's explanation; calls on the Commission to refrain from using urgency as a vindication for not preparing impact assessment for legislative proposals; calls on the Commission to prepare an in-depth analysis of impacts on competition, productivity and efficient investments for each proposal;
8. Welcomes the recent adoption of the Digital Markets Act (DMA)<sup>4</sup> and the Digital Services Act (DSA)<sup>5</sup> as essential steps towards a harmonised, fair and competitive digital single market; notes that the Commission is making significant efforts to ensure that the DMA and the DSA are fully enforced by providing sufficient additional Commission staff and resources for this task; invites the Commission to increase the resources for effective and robust implementation and enforcement of these Regulations; asks the Member States, furthermore, to second additional staff and national experts to the Commission for this task; asks the Commission to regularly update Parliament on the progress made on the implementation of the DMA and DSA;

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<sup>2</sup> Massey, Patrick and McDowell, Moore, 'EU Competition Law: An Unaffordable Luxury in Times of Crisis?'. *World Competition* 44, no. 4, 2021, pp. 405–432.

<sup>3</sup> Tunali, Çiğdem Börke and Fıdırmuc, Jan, 'State Aid Policy in the European Union'. *Journal of Common Market Studies*, 53.5, 2015, pp. 1143–1162, published online.

<sup>4</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1).

<sup>5</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).

welcomes the Commission's initiative to organise workshops on various topics related to DMA implementation;

9. Calls on the Commission to assess the degree of implementation of the Unfair Commercial Practices Directive<sup>6</sup> in the Member States and to report on the results of its application;
10. Welcomes the revision of the Vertical Block Exemption Regulation<sup>7</sup>; encourages the Commission to continue to ensure that selective distribution agreements and other technical issues, such as national model numbers and serial numbers, are not abused to limit the free flow of goods across national borders and to prevent consumers from comparing goods available in other Member States;
11. Believes that net neutrality must be maintained and protected and that competition policy must support it;
12. Reiterates its call on the Commission to continue actively monitoring and removing unjustified geo-blocking and other restrictions on cross-border online sales and having to follow at core a pro-consumer approach to allow them access to a greater choice of products and services across the EU;
13. Welcomes the Commission's proposal for a data act (COM(2022)0068) which aims to address market imbalances arising from the concentration of data and to create fair and competitive market conditions for the internal market in cloud, edge and related services;
14. Calls on the Commission to assess, in relation to the recent Regulation (EU) 2022/612 on roaming on public mobile communications networks in the EU<sup>8</sup>, whether the doubtful concept of 'fair use policy' applied by telecom companies respects consumers' right not to pay additional surcharges for using their mobile phone when travelling within the EU and their right to receive appropriate prior information to be able to take decisions according to their needs;
15. Notes that by its nature, competition can be local/regional, EU-European Economic Area and global; encourages the Commission, therefore, in the case of global competition, to use all tools provided for in the Union's trade agreements and the Union's Customs Code to counter unfair commercial trading practices, including by addressing environmental and social dumping, and unfair competition from non-EU companies which could affect the single market in order to maintain a level playing field in the single market and attract more investments;
16. Calls on the Commission to continue assisting and supporting Member States in the

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<sup>6</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (Unfair Commercial Practices Directive) (OJ L 149 11.6.2005, p. 22).

<sup>7</sup> Commission Regulation (EU) 2022/720 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 134, 11.5.2022, p. 4).

<sup>8</sup> OJ L 115, 13.4.2022, p. 1.

transposition of the ECN+ Directive<sup>9</sup> into national law in order to ensure that national competition authorities cooperate and work together to enforce EU competition rules;

17. Believes that securing reciprocal market access for EU exports rather than protectionist measures would promote recovery and sustainable growth in the single market;
18. Notes that consumers are facing rising energy prices in general, while the number of energy producers in some markets has collapsed; asks the Commission to help ensure the availability of a suitable and informed choice of providers for consumers; asks the Commission to work with Member States to facilitate boosting the availability of renewable energy, including through energy community schemes;
19. Calls on the Commission to ensure that Member States correctly apply the Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia in order to ensure that support for energy costs reaches those that require it, such as the retail and wholesale sectors, which are being hit by the current crisis but are not traditionally thought of as energy intensive; calls on the Commission, furthermore, to closely monitor compliance with the Temporary Crisis Framework;
20. Observes that the uptake of electric vehicles will lead to higher electricity consumption in the future and new ways for consumers to charge their vehicles; asks the Commission and Member States to ensure interoperability, competition and price transparency between energy providers for electric vehicle charging stations; notes that a lack of competition may lead to consumers paying higher rates than necessary for charging their vehicles; calls on the Commission to undertake a cost-benefit analysis of EU and national public spending on the building of charging stations infrastructure;
21. Notes the risks of anti-competitive behaviour in the roll-out of artificial intelligence (AI), which could adversely affect the market for this; points out that the Commission needs to be equipped with the technical and human resources to research and investigate the potential impact of AI on competition; notes at the same time the benefits to consumers of AI solutions, should they reach their pro-competitive potential; calls on the Commission to consider these risks, the likelihood of them materialising and how they can be solved, and to include any relevant conclusions in the Union's analyses of this and, if indispensable, in competition rules;
22. Stresses the importance of helping consumers and users gain greater control over the use of their data and calls for a high level of protection of personal data and emphasises that the lack of enforcement of the General Data Protection Regulation<sup>10</sup> can have significant anti-competitive effects;
23. Believes that current merger control rules should be assessed with a view to determining if they are fit to deal with so-called killer acquisitions and ensure fair competition, both

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<sup>9</sup> Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (OJ L 11, 14.1.2019, p. 3).

<sup>10</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

online and offline;

24. Recalls that services are the largest economic activity in the European Union in terms of gross added value, that they have still not yet reached their competitive potential and that the single market for services lags far behind the single market for goods; believes that the work to remove remaining obstacles should be accelerated and a single market for services fully established, including through the enforcement of competition rules; calls on the Commission and the Member States to effectively target unnecessary restrictions and to diminish unjustified barriers in the services sector, as effective regulation is beneficial for both consumers and professionals and has a positive impact on the productivity and competitiveness of the EU economy; recalls that empirical analyses have shown that restrictions on the services sector have an impact on trade and stresses that a fragmented services market hampers productivity growth in services;
25. Underlines that services of general economic interest (SGEI) are subject to specific rules to protect citizens' access to basic public services below a clear threshold; recalls the need for better targeted and properly justified State aid, especially for SGEI, including energy, transport, telecommunication, health and social housing; calls on the Commission to swiftly follow up on the recent publication of its staff working document entitled 'Evaluation of the State subsidy rules for health and social services of general economic interest ("SGEIs") and of the SGEI de minimis Regulation' (SWD(2022)0388), which includes a proposal for the revision of SGEI rules;
26. Notes with satisfaction that an agreement has been reached on a regulation on foreign subsidies distorting the internal market; calls on the Commission and the Member States to ensure full implementation of this new EU instrument to ensure a level playing field<sup>11</sup> for all companies operating in the single market so that non-EU subsidies can be thoroughly examined and distortions can be adequately addressed; notes the lack of transparent criteria on how the Commission will assess distortions of the internal market and thus impose remedies; calls on the Commission to publish these criteria;
27. Asks the Commission to further strengthen the role of the European Consumer Centres Network (ECC-Net);
28. Stresses the role of competition policy in also enhancing regional convergence in the EU; believes that EU policies should be better geared towards improving regional productive specialisation while avoiding any counterproductive impacts, such as support to inefficient firms; stresses that industrial policy should not conflict with competition policy; agrees with OECD<sup>12</sup> that providing support to new activities should be time-limited in order to avoid ending up supporting inefficient, rent-seeking activities; urges the Commission to carry out an ex post evaluation of the EU legislation and enforcement decisions, focused on their results and impact including effectiveness of the fines and sanctions imposed for anti-competitive conduct in the internal market.

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<sup>11</sup> Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market (COM(2021)0223).

<sup>12</sup> OECD, 'Enhancing regional convergence in the European Union', OECD Economics Department Working Papers No. 1696, OECD Publishing, Paris, 2021. <https://dx.doi.org/10.1787/253dd6ee-en>.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	2.3.2023
<b>Result of final vote</b>	<div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">+:</div> <div>35</div> </div> <div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">-:</div> <div>0</div> </div> <div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="margin-right: 10px;">0:</div> <div>2</div> </div>
<b>Members present for the final vote</b>	Alex Agius Saliba, Andrus Ansip, Adam Bielan, Anna Cavazzini, Deirdre Clune, David Cormand, Maria Grapini, Svenja Hahn, Krzysztof Hetman, Eugen Jurzyca, Arba Kokalari, Andrey Kovatchev, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Beata Mazurek, Leszek Miller, Anne-Sophie Pelletier, René Repasi, Andreas Schwab, Tomislav Sokol, Róza Thun und Hohenstein, Marion Walsmann, Marco Zullo
<b>Substitutes present for the final vote</b>	Clara Aguilera, Marc Angel, Vlad-Marius Botoș, Jordi Cañas, Christian Doleschal, Malte Gallée, Ivars Ijabs, Katrin Langensiepen, Tsvetelina Penkova, Romana Tomc, Kosma Złotowski
<b>Substitutes under Rule 209(7) present for the final vote</b>	Patrick Breyer, José Manuel Fernandes, Ljudmila Novak



## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

35	+
ECR	Adam Bielan, Beata Mazurek, Kosma Złotowski
PPE	Deirdre Clune, Christian Doleschal, José Manuel Fernandes, Krzysztof Hetman, Arba Kokalari, Andrey Kovatchev, Ljudmila Novak, Andreas Schwab, Tomislav Sokol, Romana Tomc, Marion Walsmann
Renew	Andrus Ansip, Vlad-Marius Botoș, Jordi Cañas, Svenja Hahn, Ivars Ijabs, Róza Thun und Hohenstein, Marco Zullo
S&D	Alex Agius Saliba, Clara Aguilera, Marc Angel, Maria Grapini, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Leszek Miller, Tsvetelina Penkova, René Repasi
Verts/ALE	Patrick Breyer, Anna Cavazzini, David Cormand, Malte Gallée, Katrin Langensiepen

0	-

2	0
ECR	Eugen Jurzyca
The Left	Anne-Sophie Pelletier

Key to symbols:

+ : in favour

- : against

0 : abstention