



---

*Committee on the Internal Market and Consumer Protection*  
*The Chair*

---

25.10.2023

Ms Irene Tinagli  
Chair  
Committee on Economic and Monetary Affairs  
BRUSSELS

Subject: Opinion on Competition policy – annual report 2023 (2023/2077(INI))

Dear Madam Chair,

Under the procedure referred to above, the Committee on the Internal Market and Consumer Protection has been asked to submit an opinion to your committee. At its meeting of 23 May 2023, the committee decided to send the opinion in the form of a letter.

The Committee on the Internal Market and Consumer Protection considered the matter at its meeting of 25 October 2023. At that meeting<sup>1</sup>, it decided to call on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution.

Yours sincerely,

Anna Cavazzini

---

<sup>1</sup> The following were present for the final vote: Anna Cavazzini (Chair), Andrus Ansip (Vice-Chair), Maria Grapini (Vice-Chair), Alex Agius Saliba, Pablo Arias Echeverría, Laura Ballarín Cereza, Alessandra Basso, Brando Benifei, Adam Bielan, Biljana Borzan, Vlad-Marius Botoș, Dita Charanzová, Deirdre Clune, Geoffroy Didier, Malte Gallée, Claude Gruffat, Svenja Hahn, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Kateřina Konečná, Andrey Kovatchev, Maria-Manuel Leitão-Marques, Antonius Manders, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, René Repasi, Catharina Rinzema, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Dominik Tarczyński, Róza Thun und Hohenstein, Tom Vandenkendelaere, Kim Van Sparrentak, Marion Walsmann, Stéphanie Yon-Courtin, Eric Minardi (pursuant to Rule 209(7)).

## SUGGESTIONS

1. Recalls the integral connection between competition policy and the internal market, which is clear from the text itself of the Treaty articles governing EU competition policy, Articles 101 and 102 TFEU; welcomes the fact that the Commission, in both its legislative and policy work, has recognised the need to integrate competition policy with the internal market objectives which frame it; notes, in this regard, that the foreword of Executive Vice-President Vestager to the Commission's Annual Competition Report 2022 (COM(2023)184) starts from the 30th anniversary of the single market;
2. Further recalls the fundamental orientation of competition policy towards strengthening the single market and empowering businesses to foster the green and digital transitions; recalls that competition policy is designed to maintain an open market economy with free, fair and effective competition favouring an efficient allocation of resources in order to enhance consumer welfare by not only delivering affordable prices and greater choice of innovative and more sustainable products and services, but also better quality production, guaranteeing a high level of consumer protection;
3. Points out the need to effectively address market distortions and boost competition by removing existing unjustified regulatory barriers and reducing unnecessary administrative burdens to facilitate entry for new competitors; stresses that increased product market competition coupled with eliminating unjustified regulatory barriers reduces profit margins and price levels;
4. Considers that competition rules should align with the overall goals of a sustainable and fair transition, including by supporting the objectives of the European Green Deal and Climate Paris Agreement;
5. Recalls the adoption of the Digital Markets Act (DMA)<sup>1</sup> and the Digital Services Act (DSA)<sup>2</sup> as essential steps towards a harmonised, fair and competitive digital single market;
6. Reiterates the need for full and timely implementation of the DMA, so as to deliver on the potential which open markets can bring for businesses and consumers; encourages the Commission, in this regard, to pay particular attention to full and timely enforcement of the interoperability obligations for gatekeepers under Article 7, including the possibility of extension of the scope of this provision to cover social networking services, as foreseen in the DMA's review clause; looks forward to a transparent and successful conclusion of the process for designation of gatekeepers not only on the basis of the quantitative criteria in Article 3(2), but also on the basis of the qualitative assessment in Article 3(8);
7. Invites the Commission to envisage already now launching a market investigation under Article 19 DMA with the aim of examining whether there are new services in the digital sector that should be added to the list of Article 2(2) DMA in the light of the latest technological developments; encourages the Commission to adopt delegated acts soon in order to extend the modalities of application or to specify the modalities of implementation of the obligations laid

---

<sup>1</sup> Regulation (EU) 2022/1925.

<sup>2</sup> Regulation (EU) 2022/2065.

down in Articles 5, 6 and 7 as set out in Article 12 DMA in the light of what has been learnt - also- from the workshops organised over the past year;

8. To this end, acknowledges the significant work the Commission has done so far in providing the necessary resources for implementation; nevertheless emphasises the urgent need for the Commission to deploy as many resources, both financial and human, as possible and as efficiently as possible to ensure successful implementation of the DMA;

9. Welcomes the recent adoption of the delegated act specifying the very large online platforms and very large search engines under the DSA; underlines that such platforms and search engines must identify, analyse, and assess systemic risks and put in place effective mitigation measure; encourages the Commission to pay particular attention to the enforcement of these requirements alongside the enforcement of the DSA as a whole;

10. Insists on the need for the Commission to continue to pursue, as a fundamental approach, a policy of active enforcement of the competition rules as regards the digital single market, which is crucial if consumers are to feel the benefits of such important markets in terms of greater choice and lower prices and to boosting business competitiveness; in this regard, welcomes the Commission's active case management over the past few years concerning several players in digital markets, although sometimes the decision-making process both to open new investigations and to close open ones still takes too long; calls for such robust and impartial enforcement of the competition rules to be continued and for enforcement proceedings which have been opened to be brought to a conclusion as quickly as possible, with the greatest regard for the full maintenance of competition on the EU's digital markets;

11. Insists also on the need for the Commission to coordinate its on-going enforcement in relation to digital markets under the traditional competition rules laid down in the Treaty, i.e. Articles 101 and 102 TFEU, which represents down-stream *ex post* enforcement, with upstream, *ex ante* enforcement in relation to the same markets as now is possible under the DMA, especially in those market areas that do not (yet) fall within the scope of the Regulation; calls for the Commission to be vigilant in this regard with regard to the legal effects of the different enforcement routes, and to ensure coherence in its approach as regards policy outcomes and strength of enforcement across the board;

12. Calls on the Commission to strengthen merger control rules addressing so-called "killer acquisitions" in order to guarantee a level playing field for SMEs in Europe and the economy as a whole; adds that particular attention should be given to the impact of data concentration resulting from the concentration on the right to privacy and data protection; urges the Commission to take the aforementioned factors and non-monetary factors into account when defining digital markets and positions of power on such markets;

13. Reiterates furthermore its call to the Commission to continue actively monitoring and removing unjustified geo-blocking and other restrictions on cross-border online sales, having at core a pro-consumer approach to allow consumers access to a greater choice of products and services across the EU;

14. Welcomes the new approach in the latest antitrust cases, where the Commission for the first time and under certain conditions foresees the imposition of structural remedies to stop anti-competitive conducts, especially when the anti-competitive practice in question has been

reiterated in other market segments by the same company over the years; in this regard encourages the Commission to continue in this direction for an effective ex-post antitrust enforcement;

15. 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; recalls that product differentiation and price discrimination do not automatically constitute territorial supply constraints and, as long as they are compliant with applicable Union law, might be based on reasonable and justifiable practices or business decisions;

16. Recalls, globally, the need for efficient allocation of sufficient public funding, and access to affordable private financing, on a yearly and on-going basis, to ensure the fulfilment of the objectives of the Single Market Programme,<sup>3</sup> including its competition policy component, namely improving the functioning of the internal market and protecting and empowering citizens, consumers and businesses, in particular SMEs;

17. Notes that in March 2022 the Commission adopted a Temporary Crisis Framework, now prolonged until the end of 2023, to reduce the negative social and economic impact on the EU by Russia's war of aggression against Ukraine; calls on the Commission to monitor closely any developments in this field and assess whether further temporary changes to the State aid rules are called for, while ensuring that these temporary measures do not create permanent distortions in the internal market;

18. Notes that mobilising investments at the scale needed to meet the 2030 emissions reduction targets will require in certain appropriate cases the provision of State aid as recognised by the Commission; calls therefore on the Commission to align State aid rules with the EU's efforts towards decarbonisation, in particular for the energy transition; deplores that, as a general rule, no green conditioning is attached to the approval of State aid; calls for State aid rules to be aligned with the overall goals of a sustainable and fair transition;

19. Emphasises that competition rules in the area of services of general economic interest (SGEI) should protect citizens' access to basic public services; recalls the need for better-targeted State aid for SGEI, including energy, transport, telecommunication, health and housing.

---

<sup>3</sup> Regulation (EU) 2021/690.