Annual report on competition policy


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 Treaty¹,


– 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 forward,

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 2018 and 14 February 2017 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 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 (SMEs);

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

3 OJ C 252, 18.7.2018, p. 78.
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;

3. Welcomes and remains supportive of the ambitious agenda and priorities of the Commission’s DG Competition, while noting that important challenges remain, for example in the area of merger control, where the sheer number of mergers constitutes a challenge; notes that Commission decisions about mergers, antitrust and State aid are often subject to political discussion, and underlines that, while some examples of recent decisions are illustrated in this report, the overall picture is broader, and that Parliament’s intention is not to take a position on individual cases, since it is the role of the Commission to decide on when competition law is not being followed;

4. Asks the Commission to analyse the potential harmful impact of the proposed Siemens / Alstom merger on the competitiveness of the European rail market and its adverse effects on rail users;

5. 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;

6. Stresses that the consumer is the chief beneficiary of effective competition in the European single market;

7. 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;

8. 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;

9. 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;

10. 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;

11. 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;

12. 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 of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (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 house;

---

2 ‘Privacy and competitiveness in the age of big data: The interplay between data protection, competition law and consumer protection in the Digital Economy’
13. 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 concentration issues surrounding these tracking companies;

14. 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;

15. 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;

16. 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;

17. 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;

18. 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 preliminary opinion of the European Data Protection Supervisor, March 2014, https://edps.europa.eu/sites/edp/files/publication/14-03-26_competitition_law_big_data_en.pdf
regard that the Commission learn from best practices in other jurisdictions;

19. 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;

20. 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;

21. Welcomes the Commission’s proposal on the digital services tax (COM(2018)0148) 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;

22. 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;

23. Takes the view that current and savings accounts should not incur commissions for users unless they are linked to specific services;

24. 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;

25. 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;

26. 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;

27. 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; notes that when a Member State’s actions are distorting competition within the internal market, Parliament and the Council, under certain circumstances and as outlined in Article 116 of the TFEU, can issue directives to eliminate the distortion;

28. 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;

29. 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;

30. 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;

31. Observes that a number of studies\(^1\) have demonstrated the hidden social cost and

\(^1\) Common Ownership by Institutional Investors and its Impact on Competition, OECD, 5-6 December 2017.
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;

32. 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, benefitted 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 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 Treaty on European Union, which contains the so-called principle of loyalty;

33. 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;

34. 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;

35. 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;

36. 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;

37. 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;

38. 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;

39. 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;

40. 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;

41. 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;

42. Regards it as essential for the Commission to monitor more closely the use of patents in agriculture;

43. 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;

44. 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);

45. 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;

46. 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;

47. 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 EC 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;

48. 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.

49. 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;

50. 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;

51. 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;

52. Welcomes the Commission’s investigation into pricing practices for life-saving medicines, particularly in the case involving Aspen;

53. 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;

54. 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;
55. 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;

56. 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);

57. 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;

58. 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;

59. 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;

60. 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;

61. Recalls that international trade and investment agreements should have a specific and strong competition chapter;

62. 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;

63. 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;

64. 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;

65. 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;

66. 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 World Trade Organization (WTO)-compatible;

67. 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;
68. 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;

69. Calls on the Commission to increase its support for 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;

70. 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.

71. 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;

72. 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;

73. 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;

74. 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;

75. 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;

76. 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;

77. 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;

78. 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 rules\(^1\) 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;

79. 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.);

80. Welcomes the fact that the Omnibus Regulation\(^2\) 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 Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations

---

\(^1\) COM(2013)0192.

(EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (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;

81. 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;

82. Welcomes the developments brought about by the Omnibus Regulation, in order to facilitate the application of the provisions of Article 222 of the Single 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 the Single CMO Regulation 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;

83. 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.

84. 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.