

# Report on Competition Policy 2006 and 2007

2008/2243(INI) - 16/06/2008 - Non-legislative basic document

**PURPOSE:** to present the annual report on competition policy (2007).

**CONTENT:** the first section of this report provides an overview of how the instruments of competition policy, namely the antitrust, merger and State aid rules, were further developed and applied. The second section discusses how these and other instruments were deployed in selected sectors (energy, financial services, electronic communications, IT, media, automobile, transport, postal services). The third section gives an overview of cooperation within the European Competition Network (ECN) and with national courts. Section four deals with international activities. Finally, in section five, a brief description of interinstitutional cooperation is given.

The main issues of the report are as follows:

**Antitrust:** apart from sanctions to punish and deter cartels, effective action against this most pernicious form of anti-competitive conduct requires incentives for participants to report cartels. The Commission's **leniency policy** offers incentives to cartelists to report their illegal activities. December 2006 saw the introduction of a revised leniency Notice (the 2006 Notice). The Commission continued to attach high priority to the detection, investigation and sanctioning of cartels, focusing on **significant hard-core cartels**, in particular those with European or worldwide scope. The Commission issued eight final Decisions in which it fined 416 undertakings a total of EUR 3 334 million (compared with seven final Decisions, 417 undertakings fined and a total of EUR 1 846 million in 2006).

The Commission continued to sanction abuses of dominance, not least in network industries which are key for European competitiveness. On 4 July, the Commission adopted a Decision against the Spanish incumbent telecoms operator Telefónica for a very serious abuse of its dominant position in the Spanish broadband market. The fine imposed amounted to EUR 151 875 000.

**Mergers:** the number of merger cases notified to the Commission reached an all-time high of 402, a rise of more than 12% compared to the 356 transactions notified in 2006. In the last quarter of the year the number of notifications fell both in relation to the previous quarters and the last quarter of 2006. In total the Commission adopted 396 final Decisions in 2007, of which 368 were cleared in the first phase without conditions.

One transaction - a **horizontal merger** involving a proposed takeover by Ryanair of Aer Lingus - was prohibited.

To clarify its policy with regard to remedies in merger control, the Commission launched a **public consultation** on the draft Revised Remedies Notice.

**State Aid:** the Commission continued implementation of the State Aid **Action Plan** launched in 2005. It adopted a new method for setting **reference and discount rates** more aligned with market principles as the specific situation of the company or project is taken into account. Following the exceptionally high level of State aid notifications in 2006 (922), the number of new cases notified by Member States stood at 777 in 2007. Moreover, the decrease is in line with the Commission's commitment to facilitate the granting of aid through block exemptions and to focus policy on the most distortive types of aid. The Commission took 629 final State aid Decisions in 2007.

During 2007, the Commission approved the **regional aid maps** of Bulgaria and Romania, as well as for Belgium, Cyprus, Denmark, France, Italy, the Netherlands and Portugal. As a result, regional aid maps covering the period 2007–2013 have now been approved for all Member States. The Commission authorised regional aid for a number of **large investment projects**. It seems that over the past six years Member States have been moving towards the European Council objective of **less and better targeted aid**.

Notifications of **aid for research, development and innovation** pending on 1 January as well as all new notifications received in the reporting year were assessed on the basis of the new Framework. In a number of **rescue aid cases**, the Commission again emphasised that such aid is no more than a temporary measure facilitating the preparation of a restructuring plan or the liquidation of the company. The Commission made significant progress in achieving more effective and immediate execution of recovery Decisions.

**Role of the Commission:** on 11 December the Commission reviewed the Lisbon strategy and made proposals with a view to the next three-year cycle (2008–2010). The review proposes to **further embed competition in the wider Lisbon strategy framework**. A particular focus is placed on the need to enhance sectoral market monitoring, and improve regulation where necessary, notably focussed on **key services and network industries**. Thus, the review proposes that competition policy contribute to the Lisbon strategy objectives in the gas, electricity and financial services sector through the follow-up of sector inquiries launched in 2005.

Competition policy is also considered to be a complementary instrument in connection with efforts to enhance efforts to ensure interoperability and standardisation in a timely manner. The review also mentions ‘competition rules’ among the policies where the EU can contribute specific expertise which could be beneficial to its key partners. This is strongly linked to the need to ensure fair competition and a level playing field internationally.

**European Competition Network:** 2007 was the third full year of implementation of the enforcement system set up by Regulation 1/2003. It saw a further strengthening of cooperation between the members of the European Competition Network (ECN), i.e. the EU Member States’ National Competition Authorities (NCAs) and the Commission. The Commission was informed of around 140 new case investigations launched by NCAs. **Continuous training and education of national judges** in EU competition law is very important in order to ensure both effective and coherent application of those rules (training has been provided for approximately 3 500 judges by the end of 2007).

**International activities:** in the context of Enlargement, cooperation was particularly close with Croatia and Turkey in 2007. The Commission cooperates with numerous competition authorities on a bilateral basis, in particular with the authorities of the European Union’s major trading partners. The European Union has entered into dedicated cooperation agreements in competition matters with the United States, Canada and Japan.

In the course of the year, DG Competition and the Korean Fair Trade Commission (KFTC) met on several occasions to negotiate a bilateral cooperation agreement in the competition field. Moreover, DG Competition played an active role in the ongoing negotiations on Free Trade Agreements with India and South Korea, and on the trade part of the Association Agreements with the Andean Community.