Report on Competition Policy 2006 and 2007

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PURPOSE: to present the annual report on competition policy (2006).

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 in general. The second section discusses how the mix of these and other instruments was used in selected priority sectors to pursue the aims of competition policy. The third section gives an overview of cooperation within the European Competition Network (ECN) and with national courts. In section four, international activities are discussed. Finally, in section five, a brief description of interinstitutional cooperation is given.

The main issues of the report are as follows:

Antitrust: the Commission took an important step towards uncovering and putting an end to cartels by adopting a revised Notice on **Immunity from Fines and Reduction of Fines in Cartel Cases**. Improvements have been made in several areas to provide more guidance to applicants and to increase the transparency of the procedure. Improvements include clarification of the thresholds for immunity and reduction of fines and the conditions that must be fulfilled by applicants, and amendments to the procedure, such as introducing a discretionary marker system.

In order to increase the deterrent effect of its sanctions, the Commission adopted **new Guidelines on the method of setting fines** imposed on undertakings. According to the new Guidelines, for each participant in the infringement, the basic amount of the fine will be based on a percentage of its yearly sales of the product to which the infringement relates, in the geographic area concerned, and may be up to 30 % of the relevant sales. In order to fully reflect the duration of the infringement, the corresponding amount will then be multiplied by the number of years of the undertaking's participation.

In 2006, the Commission continued to give a high priority to the detection and deterrence of **cartels**. It focused its actions on significant hard-core cartels of mainly worldwide or European scope and involving a number of economic entities. The Commission issued seven final decisionsin which it fined 41 undertakingsa total of EUR 1 846 million (compared with 33 undertakings and a total of EUR 683 million in fines in 2005). Further steps were taken to sanction **abuses of dominance**. The Commission focussed on **network industries** that are key for European competitiveness and the development of the knowledge economy in Europe.

Mergers: the number of mergers notified to the Commission in 2006 reached a record level of 356, surpassing the previous record number reached during the last merger wave in 2000. The Commission gained further experience applying the new substantive test, introduced in the Merger Regulation in 2004. Two noteworthy cases of "non-coordinated" effects were *Linde/BOC*, concerning - inter alia - the worldwide wholesale market for helium, and *T-Mobile Austria/tele.ring*, concerning the Austrian retail market for the provision of mobile telephony services to end customers. Both cases were cleared subject to sufficient remedies proposed by the parties.

State Aids: significant progress was made in modernising the current framework of State aid rules, in line with the State Aid Action Plan (SAAP) launched by the Commission in 2005.

The Commission simplified the approval of regional aid by adopting a block exemption Regulation for regional investment aid. The Commission also adopted the new State aid framework for Research,

Development and Innovation (R,D&I) as well as new Risk capital Guidelines allowing Member States

to improve access to finance for SMEs. There was a significant increase in the State aid control workload, with 921 new cases registered in 2006 (a 36 % increase compared with the previous year). The Commission took 710 final decisions, a 12 % increase compared to 2005.

The main regional aid cases concerned **large investment projects** covered by the 2002 Multi-sectoral framework on regional aid for large investment projects.

In the area of **State aid for R,D&I**, a major scheme concerning the French Innovation Agency was approved, for which the State allocated a budget of EUR 2 billion. Concerning **risk capital measures**, the Commission approved *Investbx*, an investment vehicle creating a means for SMEs in the West Midlands region of the UK to raise equity capital. **Rescue and restructuring** (R&R) aid to firms in difficulty may be regarded as legitimate only if strict conditions are fulfilled. During 2006 the Commission applied the amended rules, laid down in the 2004 R&R Guidelines, in a number of decisions.

European Competition Network (ECN): 2006 has been the second full year of implementation of the enforcement system set up by Regulation 1/2003. It saw a further strengthening of the cooperation between the members of the ECN, i.e. the EU Member States' NCAs and the Commission, on the one hand, and between national courts and the Commission, on the other.

International activities: in the run-up to the accession of Romania and Bulgaria in January 2007, the Commission closely monitored the preparations for membership and assisted in the enforcement of the competition rules. The Commission continued intensive cooperation with numerous competition authorities on a **bilateral** basis and in particular with the authorities of the Community's major trading partners. Based on dedicated cooperation agreements in competition matters, cooperation with the United States, Canada and Japan included case-related contacts, coordinated enforcement action and discussions on remedies. The Competition DG offered assistance in the drafting of competition law in China and Russia.