

Implementation of the rules on competition

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The Commission presents this Staff Working Paper accompanying the Communication from the Commission on the report on the functioning of Council Regulation (EC) No 1/2003.

Council Regulation (EC) No 1/2003 entered into application on 1 May 2004. Article 44 of the Regulation provides that the Commission shall by 1 May 2009, i.e. after five years of application, report to the European Parliament and the Council on its functioning.

The Regulation was the result of the most comprehensive reform of antitrust procedures since 1962. Its key objectives are effective and coherent enforcement of the EC antitrust rules in the interests of consumers and businesses, while bringing about a more level playing field and reducing red tape for companies operating in Europe.

This Staff Working Paper, which accompanies the report on the functioning of the Regulation, examines the following issues:

- the system change from the notification system to direct application of Article 81(3) EC;
- how the Commission has used the tools provided by the Regulation for effective enforcement in its enforcement procedures;
- how the Regulation has led to more level playing field through the application of EC competition law;
- the enforcement of Articles 81 and 82 EC by national competition authorities and cooperation in the ECN;
- the interaction of the Commission with national courts;
- certain aspects of the interface with third country enforcement.

The aim of the report is to understand and assess how modernisation of the EC antitrust enforcement during the first five years has worked. The report concludes that the Regulation has brought about a landmark change in the way the European competition law is enforced; it has significantly improved the Commission's enforcement of Articles 81 and 82 EC. The Commission has been able to become more proactive, tackling weaknesses in the competitiveness of key sectors of the economy in a focused way. Moreover the Regulation has entrusted the Member States' competition authorities and courts with the role of ensuring that the EU competition rules are applied efficiently and effectively, in conjunction with the Commission.

In addition, the EC competition rules have, to a large extent, become the "law of the land" for the whole of the EU. Cooperation in the European Competition Network (ECN) has contributed towards ensuring their coherent application. The network is an innovative model of governance for the implementation of Community law by the Commission and Member State authorities.

Lastly, in a limited number of areas, the report highlights aspects which merit further evaluation, but leaves open the question of whether any amendment to the existing rules or practice is required. It will serve as a basis for the Commission to assess, in a further stage, whether it is appropriate to take further policy initiatives.