Annual report on EU competition policy

2015/2140(INI) - 19/01/2016 - Text adopted by Parliament, single reading

The European Parliament adopted by 500 votes to 137, with 73 abstentions, a resolution following the 2014 Annual report on EU Competition Policy.

Welcoming the report by the Commission, which underlines the importance of competition policy in the EU, Parliament called on the Commission **not to implement internal EU competition policy in such a way as to restrict firms' market strategies**, so that they can compete on world markets with actors from outside the EU.

An effective and credible competition policy must not be directed exclusively towards bringing down prices for consumers, but must also be **mindful of the strategic interests of the European economy**, such as: the ability to innovate; investment; competitiveness and sustainability; the special competitive conditions for SMEs, start-ups and microenterprises; and the need to promote high labour and environmental standards.

The Commission was called upon to:

- put a stop to **social dumping**, and ensure that competition policy decisions take particular account of the social impact;
- adapt its competition policy to the **specificities of the digital economy sector**, and support all initiatives connected with the development of e-government;
- **complete the internal market** in areas where it is still fragmented and incomplete, and to end unjustified market restrictions and distortions of competition as soon as possible wherever they are found;
- ensure that competition policy strengthens **social cohesion** in the Union;
- ensure that the Member States implement the new **public procurement legislation** in a timely manner, in particular as regards the deployment of e-procurement and e-administration, and the new provisions on consideration of social and environmental criteria and on the division of contracts into lots;
- promote **better convergence of, and cooperation** among, national competition authorities in the EU;
- safeguard competition in the **telecommunication** sector, including in the allocation of spectrum;
- scrutinise the unfair and unlawful clauses and practices employed by the **banking sector** in consumer contracts;
- examine **ATM networks** from the perspective of competition policy, given that this is a network infrastructure;
- ensure coherence between the **Union's trade and competition policies and the objectives of its industrial policy**, and ensure at the same time that the Union's competition policy should not hinder the emergence of European industrial champions in economy;
- review EU State aid rules for **energy-intensive industries**, guaranteeing effective carbon leakage protection and providing fair opportunities for EU industries.

Antitrust proceedings – cases of abuse of dominant position: in this regard, Parliament also asked the Commission:

- to increase its efforts as regards investigations of instances of abuse of dominant market positions to the detriment of EU consumers;

- take action internationally against cartels and anticompetitive, oligopolistic and monopolistic practices that are damaging to competition;
- incorporate the rules on **fines,** such as those imposed in cartel proceedings, into a legislative instrument; the fines should be high enough to act as a deterrent;
- carry out, on the basis of new criteria, a **comprehensive legal and economic assessment of fast-moving markets** and ephemeral business models employed by digital undertakings, in order to obtain a clear understanding of the market structure and market trends, take appropriate measures to protect consumers;
- provide effective protection for standard **essential patents** (SEPs) and to exercise close supervision to ensure that patent users obtain licences in the proper way.

Parliament called into question the **long duration of the investigations into US internet giant Google,** and regretted the fact that these investigations have already dragged on for several years, with no transparency and creating uncertainty for all parties.

The Commission was asked to: ((i) conduct a thorough investigation into the Google practice whereby the '**Android**' operating system is offered only in conjunction with other Google services, and whereby manufacturers may not pre-install rival products; (ii) examine in detail Google's dominant market position in the area of **direct hotel bookings**.

The resolution noted that the Google case has triggered a general discussion on the power of **dominant internet platforms** such as eBay, Facebook, Apple, LinkedIn, Amazon, Uber, Airbnb, etc., their influence on markets and on the public sphere, and the need to regulate them to protect both.

State aid: Parliament:

- called on the Commission, the Member States and the **authorities at regional and communal** administrative levels actively to promote compliance with EU competition policy and to explain its legal basis;
- emphasised the importance of addressing horizontal and vertical State aid in the same way but took the view that remote or outlying regions and islands should be given greater leeway than at present when it comes to applying rules on State aid;
- called on the Commission to examine evidence provided by the Member States more rigorously, and improve fact security, since there are regular attempts to circumvent the legal basis and the legal constraints, or to seek more or fewer borderline compromises;
- recalled that the **structural** funds may not be used in a way that directly or indirectly encourages the relocation of services or production to another Member State.

Members welcomed the introduction of **new guidelines on State aid for risk financing**, the primary purpose of which is to make it possible to promote more effectively SMEs, innovative midcaps and start-ups, which have a significant size disadvantage.

Financial aid and taxation: Members recalled that the temporary State aid in the financial sector was necessary for the stabilisation of the global financial system, but must **quickly be reduced, or totally removed and scrutinised,** if the Banking Union is to be completed. They called on the Commission to: (i) clarify the rules and procedures under which State aid in the financial sector can be authorised; (ii) consider the possibility of linking State aid to banks to conditionality on credit to SMEs.

Unfair tax competition between Member States is another problem raised in the resolution, which brought to light the key importance of EU subsidy law in the **fight against tax avoidance by multinational undertakings.** Members welcomed the investigations initiated by the Commission in 2014 into unlawful State aid, through unfair tax competition, to the benefit of certain individual companies,

which was extended to all the 28 EU countries in 2015. They called furthermore, on Member States in future to present to the Commission all relevant information about their tax practice, and, at long last, to comply with their obligation to disclose to the Commission and to Parliament details of any special arrangements that may have an impact on other Member States and SMEs. The Commission should use the findings of the current investigations as the basis for **more precise and effective guidelines for tax-related State aid.**

In view of studies estimating the annual value of tax fraud and tax avoidance to up to EUR one trillion (1 000 000 000 000), Member States must ultimately tackle and restrict this practice. Parliament called for an **EU legislative framework** to prevent distortions of competition by **aggressive tax planning and tax evasion**. It recommended the introduction of an automatic mandatory exchange of tax rulings, a common consolidated corporate tax base (CCCTB) and a guarantee that no profit leaves the EU untaxed.

Democratic strengthening of competition policy: Members welcomed the regular dialogue between the Competition Commissioner and Parliament, but considers that the right to a hearing on essential matters of principle is not sufficient. They considered that Parliament should have **co-decision powers** in competition policy, particularly with regard to fundamental legislative directives and binding guidelines. The Commission was asked to put forward **proposals for a corresponding amendment to the Treaties** to extend the scope of the ordinary legislative procedure to cover competition law as well.