Competition policy - annual report 2022

2022/2060(INI) - 08/05/2023 - Committee report tabled for plenary, single reading

The Committee on Economic and Monetary Affairs adopted the own-initiative report by René REPASI (S&D, DE) on Competition policy - Annual report 2022.

General considerations

The report stressed that the aim of competition policy should be to contribute to the objectives of the European Green Deal and the Digital Compass goals and to strengthen the resilience of the EU internal market. Competition policy should provide legal certainty and regimes allowing greater flexibility should be temporary and targeted and should not undermine the integrity of the internal market.

Members welcomed the Commission's clarification in a draft communication that the definition of the relevant market should not be based solely on the price of the product, but also on its level of innovation. They believe that competition in innovation is a key factor in determining the relevant market and called on the Commission to take a longer-term view encompassing the global dimension and potential future competition in its competition assessments.

The report welcomed the revision of the General Block Exemption Regulation to allow Member States to invest more in areas important for the transition to a net-zero economy, such as low-carbon hydrogen and research and development, as well as in accompanying measures to facilitate the digital transition of all sectors. It noted that a strong competition policy will strengthen the resilience of the EU's single market, particularly for small and medium-sized enterprises (SMEs).

Political reaction to the war in Ukraine and the law on reducing inflation

Members welcomed the swift adoption of the temporary crisis framework for state aid measures to support the economy following Russia's aggression against Ukraine, and its subsequent prolongations. They considered that the purpose of the temporary crisis and transitional framework is to create the conditions for companies to compete in the public interest.

The report pointed out that rulings in various cases have made it clear that State aid cannot be granted if the recipient infringes environmental rules. It insists that the Commission should only authorise State aid granted by Member States if it pursues an objective of common interest and encouraged Member States to put in place other binding conditions for the receipt of State aid.

Members are deeply concerned about the **risk of further fragmentation of the internal market** as a result of excessive relaxation of state aid rules and the use of subsidies in response to the US Inflation Reduction Act. They warned the Commission against international competition in subsidies and urged it to use the tools at its disposal to prevent and sanction unfair competition in this area. They asked the Commission to pay particular attention to the differing levels of fiscal space available to Member States to provide support and monitor potential distortionary effects.

Members reiterates that the EU's response to the US Inflation Reduction Act should not be based solely on state aid, but should also include other areas of competition policy, such as merger control.

The report called for the **modernisation of public procurement rules** to foster a greener industry and promote European standards to facilitate the rapid deployment of key technologies. It stressed that a renewed competition framework should establish a predictable and simplified regulatory framework,

increasing confidence, speed and flexibility and reducing the administrative burden for companies investing and competing fairly in Europe. It called on the Commission to improve the transparency of the State aid assessment process and to take account of sustainability and European sovereignty criteria in public procurement rules.

The report stressed that a new European Sovereignty Fund could support the EU's industrial strategy. The use of European investment funds and changes to state aid rules offer the opportunity to avoid fragmentation of the internal market.

Members reiterated that the Commission must use all the tools available under competition law to impartially combat market distortions and unfair pricing practices in the **energy and food markets**. They called on the Commission to offer a set of effective instruments, including the establishment of a permanent market investigation mechanism, which should be triggered automatically when certain conditions, such as a specific rise in prices, are met.

Merger control

Members considered that turnover-based merger thresholds are not fit for the digital economy, in which value is often represented by other factors, and also considered that the Commission should not focus solely on prices in its merger assessments. The report supports the introduction of a rebuttable presumption that effective competition is significantly impeded by any merger leading to a dominant position of a company in a relevant market or any merger involving a dominant market player or gatekeeper, as defined in the Digital Markets Regulation.

Members urged the Commission to take decisive action, in accordance with Article 22 of the EC Merger Regulation, against "killer acquisitions" notifiable to the Commission under the Digital Market Regulation, as well as in relation to mergers in other strategic sectors.

Competition policy in the digital age

Members welcomed the creation of new Commission Directorates responsible for the application of the Digital Markets Regulation and called on the Commission to allocate a larger budget to properly apply and enforce the Digital Markets Regulation.

The Commission is invited to:

- ensure swift and effective enforcement against anti-competitive practices by application shops acting as gatekeepers in ongoing cartel cases and in the application of the Digital Market Regulation;

- build on existing initiatives to build on existing initiatives to increase collaboration between antitrust and data privacy regulators to both control corporate data misuse and prevent companies from using consumer data to gain an unfair competitive advantage.

Regarding **state aid**, Members are also calling for companies that engage in tax evasion using third country tax havens to be excluded from public procurement procedures and to be barred from receiving state aid.

Parliamentary important

The report stressed that Parliament should be properly involved in shaping competition policy. It called on the Commission to start negotiations on an interinstitutional agreement on competition policy. It asked the

European Council to adopt a decision under the second subparagraph of Article 48(7) of the EU Treaty allowing for the adoption of legislative acts in the field of competition policy in accordance with the ordinary legislative procedure.