# Economic concentrations: revision of the Merger Regulation (EEC) No 4064/89. Green Paper

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The committee adopted the report by Luis BERENGUER FUSTER (PES, E), on the Commission's Green Paper. It endorsed the Commission's intention to update existing EU merger legislation to take account of the changing economic environment and enlargement. The committee said that the 1997 changes relating to thresholds were too complex and did not bring about expected improvements. There was therefore a need to simplify criteria with a view to a more uniform interpretation and introducing legal certainty. It supported the Commission's proposal that notification of a merger in three or more Member States should automatically come under the Commission's responsibility. At the same time, the committee recognised the need to harmonise national competition legislation, once again in the interest of legal certainty. Furthermore, it was in favour of maintaining the principle of "the dominance test", i.e. a legalistic approach to a proposed merger from the point of view of one-company domination of a market rather than the much wider "selective lessening of competition" (SLC) test which looks at the broad economic picture and is favoured by US competition policy authorities. The committee did however "deplore" the Commission's failure to come clean and announce its position on this question rather than leaving a decision for the future. The committee also criticised the present procedure whereby the Commission acts as both the investigating and the decision-making body or "prosecutor and judge". To improve matters it suggested strengthening the appeals procedure to the Court of First Instance.