Control of concentrations between undertakings. EC Merger Regulation

2002/0296(CNS) - 08/07/2003

The committee adopted the report by Benedetto DELLA VEDOVA (Ind, I) amending the Commission proposal under the consultation procedure. While agreeing with many of the innovations introduced by the Commission, such as the increased flexibility of the time frame, MEPs nevertheless proposed a number of amendments. They deleted the Commission's new definition of "dominant position", arguing that, if it was broadened in the way the Commission envisaged, this would actually lead to less legal certainty than before, whereas one of the purposes of this revision of the legislation was to increase legal certainty. All parties concerned were used to applying the existing definition, on which ample case-law now existed. The committee also amended the provisions on determining whether a concentration has significant cross-border effects. It laid down objective benchmarks for evaluation: i.e. in at least three Member States the combined aggregate turnover of all undertakings concerned is more than 10% of the combined aggregate Community-wide turnover of all undertakings concerned, or the concentration is subject to national merger control rules of several Member States. The committee also made provision for "other reasons" to be taken into account in the assessment. In addition, MEPs adopted a series of amendments aimed at reinforcing due processes and the right of defence. They were also concerned to rein in the Commission's powers of investigation and to restrict the number of cases in which the Commission could impose fines on undertakings, arguing that there is an essential difference between the aim of merger control and that of combating violations of cartel rules. Increased powers for the Commission in the field of concentrations were therefore inappropriate.