

Competition policy 2005

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PURPOSE: to present the 2005 Competition Policy Report.

CONTENT: in 2005, DG Competition made substantial progress towards a more effective and targeted application of the competition rules. It saw:

- the launching of the “State Aid Action Plan” (SAAP);
- giving the highest priority to detecting, dismantling and sanctioning cartels;
- the sanctioning of AstraZeneca for misusing the regulatory system in order to delay market entry of generic drugs competing with its blockbuster product Losec;
- the launching of two sector inquiries (one on financial services and one in the energy sector);
- an increased enforcement activity in the field of mergers;
- the effective implementation of Commission decisions in the field of competition – as shown by opening formal proceeding for non-compliance in the Microsoft case; and
- the investment of considerable resources in support of better regulation initiatives.

All in all, 2005 was a year of important progress both in terms of consolidation of the reformed competition regime for antitrust and mergers, and in terms of the far-reaching reform of state aid. 2005 also brought important advances in the implementation of a more impact oriented, economic based approach to competition problems across existing instruments.

The 2005 Report on competition policy also provides an opportunity to set out the future direction that the Commission will take vis-à-vis Competition in 2006. The three multi-annual objectives identified by the Competition DG enable the EU to make a significant contribution towards the EU’s Lisbon Strategy. The goals are:

- to focus enforcement actions on those practices that are most harmful to the EU economy;
- to enhance competitiveness within the EU by helping to shape the regulatory framework; and
- to focus action on key sectors relating to the internal market and the Lisbon Strategy.

Anti-trust: In 2006, DG Competition will give high priority to both the prevention and deterrence of cartels. The detection and deterrence of cartels brings important benefits to the EU economy and to European consumers. The Commission will seek to effectively complete the sector inquiries launched by the Commission in 2005 into the gas and electricity markets and the retail banking and insurance sectors. The findings of the sector inquiries will allow the Commission to decide on the right type of policy mix needed to solve the problems that have been identified. The “mix” will include competition enforcement and/or advocacy. It could also include regulating areas of the internal market and/or consumer protection. Lastly, DG Competition will seek to enhance co-ordination with the European Competition Network (ECN) to ensure the application of EU competition rules in a coherent and uniform manner.

Mergers: As far as merger controls are concerned, DG Competition will continue to identify competition concerns – but only on the basis of sound economic analysis and solid fact finding. Particular attention will be given to mergers that might impede the achievement of EU liberalisation. In 2006, the Commission will adopt revised and consolidated jurisdictional guidelines and it will also prepare guidance on non-horizontal merges. Work will begin on the re-examination of the two-thirds rules, one of the criteria's set for establishing the Commission's jurisdiction for mergers with a Community dimension.

State aid: In the field of state aid, the specific priorities for 2006 are those set out in the "State Aid Action Plan". DG Competition will introduce a more economics-based approach to the design of state aid rules, focusing in particular on market failures. It will, accordingly, revise existing horizontal texts – both on substance and on procedure. Furthermore, it will continue to pursue an active State aid control by strengthening the economic analysis in case assessment and through the systematic recovery of incompatible aid granted. DG Competition will continue to promote an increased sense of shared responsibility between the Commission and the Member States for the reform of state aid rules and will consider the establishment of a state aid network in this context. It will also continue to encourage national courts to play a more active role in the enforcement of state aid rules at national level.

International activities: The Commission will work with candidate countries and other Western Balkan countries. It is also keen to further strengthen co-operation with major third-country jurisdictions. As such it will prepare a framework for a Second Generation Agreement which would allow the exchange of confidential information. On a final point, within the framework of the formal EU-China bilateral competition dialogue, the Commission will continue to assist China in targeting its competition law.