Basic information

2008/2243(INI) INI - Own-initiative procedure	Procedure completed
Report on Competition Policy 2006 and 2007 **Subject** 2.60 Competition	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	EVANS Jonathan (PPE-DE)	10/07/2007

Committee for opinion	Rapporteur for opinion	Appointed
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
TRAN Transport and Tourism	The committee decided not to give an opinion.	
CULT Culture and Education	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Competition	KROES Neelie

Key events

Date	Event	Reference	Summary

16/06/2008	Non-legislative basic document published	COM(2008)0368	Summary
23/09/2008	Committee referral announced in Parliament		
20/01/2009	Vote in committee		Summary
26/01/2009	Committee report tabled for plenary	A6-0011/2009	
09/03/2009	Debate in Parliament		
10/03/2009	Decision by Parliament	T6-0099/2009	Summary
10/03/2009	Results of vote in Parliament		
10/03/2009	End of procedure in Parliament		

Technical information

Procedure reference	2008/2243(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55-p4 Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/65413

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE414.318	15/10/2008	
Amendments tabled in committee		PE415.293	13/11/2008	
Committee report tabled for plenary, single reading		A6-0011/2009	26/01/2009	
Text adopted by Parliament, single reading		T6-0099/2009	10/03/2009	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2007)0358	25/06/2007	Summary
Document attached to the procedure	SEC(2007)0860	25/06/2007	Summary
Non-legislative basic document	COM(2008)0368	16/06/2008	Summary
Document attached to the procedure	SEC(2008)2038	16/06/2008	Summary

Commission response to text adopted in plenary	SP(2009)3244	06/10/2009	

Report on Competition Policy 2006 and 2007

2008/2243(INI) - 10/03/2009 - Text adopted by Parliament, single reading

The European Parliament adopted by 570 votes to 84, with 9 abstentions, a resolution the Competition Policy Reports for 2006 and 2007.

MEPs welcome the publication of these two reports and continue to support a more proactive role for Parliament in the development of competition policy through the introduction of the co-decision procedure.

Antitrust: Parliament congratulates the Commission on its effective challenging of the operation of unlawful hardcore cartels and the record fines imposed on offenders. It supports the use of the revised leniency notice and procedure to encourage the provision of information about the operation of unlawful hardcore cartels.

The resolution also welcomes the publication of the White Paper on damages actions for breach of EC anti-trust rules but urges that reform be pursued in such a way as to ensure that the negative effects of the US system are not repeated in the European Union. It also calls on the Commission to clarify the role and involvement in competition cases of the Commission Consumer Liaison Officer.

Abuse of market power: reiterating its concern to avoid the abuse of market power by major corporations, Parliament calls on the Commission to:

- undertake an analysis of the effects on competition of unequal relationships between suppliers, namely **food producers, and retailers**;
- consider reviewing the operation of **abusive practices in the services sector**, which may prevent small businesses from being able to tender for work;
- examine how **self-employed people** and free-lancers may organise negotiate and conclude collective agreements consistent with competition law principles;
- consider conducting a sector inquiry into **on-line advertising**;
- undertake an analysis of possible national differences in the application of **public procurement** rules.

Mergers: Parliament welcomes the announcement of the launch of a review of the Merger Regulation and reiterates that it considers the current provisions to be insufficient in view of increasingly integrated and complex EU markets and that a review should be undertaken with a view to seeking a consistent approach in the evaluation of comparable merger operations. Parliament is worried about the increase in market concentration and conflicts of interest within the banking sector and warns against possible global systemic risks that arise from conflicts of interest and concentration.

State aid: Parliament notes the increasing amount of State aid and welcomes the further detailed guidelines aiming for better-targeted State aid. It welcomes the publication of the General Block Exemption Regulation to cover SMEs, research and development aid in favour of SMEs, aid for employment, training aid, and regional aid. It also welcomes the publication of the revised Community guidelines on State aid for environmental protection and calls call for clarification of the existing competition rules and their practical application in relation to services of general economic interest.

Parliament calls on the Commission to undertake analyses of the **effectiveness of State aid** and urge that a revision of the scoreboard identify those Member States that have failed to pursue the recovery of illegal State aid adequately. The Commission is also urged to enforce behavioural constraints on **financial institutions** in receipt of State aid in order to ensure that such institutions do not engage in aggressive expansion against the background of the guarantee to the detriment of competitors.

Economic crisis: Parliament expresses concern at the ongoing contraction in economic activity in the European Union and considers it appropriate that, in the framework of the competition rules, adequate response mechanisms, such as restructuring aid or the globalisation adjustment fund, are deployed to combat the growth and employment impact from the credit crisis.

Energy: Parliament regrets that energy consumers in the European Union continue to suffer from disproportionate price increases and a distorted energy market, which was recognised as a result of the Commission's sector inquiry as not functioning properly. It stresses again the importance of a fully completed and well-functioning internal market for energy. It supports the Commission in its endeavours to further develop the European gas and electricity markets.

Effective implementation: the Commission is called upon to ensure that its Directorate General for Competition has appropriate staff numbers to deal with its rising workload. The Commission should also review the structure of its participation in the International Competition Network and at the European Competition Day in order to ensure that the public is more widely and better informed about the key importance of competition policy.

Report on Competition Policy 2006 and 2007

2008/2243(INI) - 25/06/2007 - Document attached to the procedure

PURPOSE: to present the annual report on competition policy (2006).

CONTENT: the first section of this report provides an overview of how the instruments of competition policy, namely the antitrust, merger and State aid rules, were further developed and applied in general. The second section discusses how the mix of these and other instruments was used in selected

priority sectors to pursue the aims of competition policy. The third section gives an overview of cooperation within the European Competition Network (ECN) and with national courts. In section four, international activities are discussed. Finally, in section five, a brief description of interinstitutional cooperation is given.

The main issues of the report are as follows:

Antitrust: the Commission took an important step towards uncovering and putting an end to cartels by adopting a revised Notice on **Immunity from Fines and Reduction of Fines in Cartel Cases**. Improvements have been made in several areas to provide more guidance to applicants and to increase the transparency of the procedure. Improvements include clarification of the thresholds for immunity and reduction of fines and the conditions that must be fulfilled by applicants, and amendments to the procedure, such as introducing a discretionary marker system.

In order to increase the deterrent effect of its sanctions, the Commission adopted **new Guidelines on the method of setting fines** imposed on undertakings. According to the new Guidelines, for each participant in the infringement, the basic amount of the fine will be based on a percentage of its yearly sales of the product to which the infringement relates, in the geographic area concerned, and may be up to 30 % of the relevant sales. In order to fully reflect the duration of the infringement, the corresponding amount will then be multiplied by the number of years of the undertaking's participation.

In 2006, the Commission continued to give a high priority to the detection and deterrence of **cartels**. It focused its actions on significant hard-core cartels of mainly worldwide or European scope and involving a number of economic entities. The Commission issued seven final decisionsin which it fined 41 undertakingsa total of EUR 1 846 million (compared with 33 undertakings and a total of EUR 683 million in fines in 2005). Further steps were taken to sanction **abuses of dominance**. The Commission focussed on **network industries** that are key for European competitiveness and the development of the knowledge economy in Europe.

Mergers: the number of mergers notified to the Commission in 2006 reached a record level of 356, surpassing the previous record number reached during the last merger wave in 2000. The Commission gained further experience applying the new substantive test, introduced in the Merger Regulation in 2004. Two noteworthy cases of "non-coordinated" effects were *Linde/BOC*, concerning - inter alia - the worldwide wholesale market for helium, and *T-Mobile Austria/tele.ring*, concerning the Austrian retail market for the provision of mobile telephony services to end customers. Both cases were cleared subject to sufficient remedies proposed by the parties.

State Aids: significant progress was made in modernising the current framework of State aid rules, in line with the State Aid Action Plan (SAAP) launched by the Commission in 2005.

The Commission simplified the approval of regional aid by adopting a block exemption Regulation for regional investment aid. The Commission also adopted the new State aid framework for Research,

Development and Innovation (R,D&I) as well as new Risk capital Guidelines allowing Member States

to improve access to finance for SMEs. There was a significant increase in the State aid control workload, with 921 new cases registered in 2006 (a 36 % increase compared with the previous year). The Commission took 710 final decisions, a 12 % increase compared to 2005.

The main regional aid cases concerned **large investment projects** covered by the 2002 Multi-sectoral framework on regional aid for large investment projects.

In the area of **State aid for R,D&I**, a major scheme concerning the French Innovation Agency was approved, for which the State allocated a budget of EUR 2 billion. Concerning **risk capital measures**, the Commission approved *Investbx*, an investment vehicle creating a means for SMEs in the West Midlands region of the UK to raise equity capital. **Rescue and restructuring** (R&R) aid to firms in difficulty may be regarded as legitimate only if strict conditions are fulfilled. During 2006 the Commission applied the amended rules, laid down in the 2004 R&R Guidelines, in a number of decisions.

European Competition Network (ECN): 2006 has been the second full year of implementation of the enforcement system set up by Regulation 1/2003. It saw a further strengthening of the cooperation between the members of the ECN, i.e. the EU Member States' NCAs and the Commission, on the one hand, and between national courts and the Commission, on the other.

International activities: in the run-up to the accession of Romania and Bulgaria in January 2007, the Commission closely monitored the preparations for membership and assisted in the enforcement of the competition rules. The Commission continued intensive cooperation with numerous competition authorities on a **bilateral** basis and in particular with the authorities of the Community's major trading partners. Based on dedicated cooperation agreements in competition matters, cooperation with the United States, Canada and Japan included case-related contacts, coordinated enforcement action and discussions on remedies. The Competition DG offered assistance in the drafting of competition law in China and Russia.

Report on Competition Policy 2006 and 2007

2008/2243(INI) - 16/06/2008 - Document attached to the procedure

In annex to the Commission’s annual report on competition policy (2007), this Commission staff working document examines the Commission’s policy to strengthen the development and the application of competition instruments, for instance rules concerning antitrust, mergers and state aid. The document also concentrates on the way these instruments have been used in certain sectors. Lastly, it deals with aspects such as the cooperation within the European Competition Network (ECN), international activities and interinstitutional cooperation.

On the basis of this detailed analysis, the Commission sets out the following **principal perspectives for 2008**:

Antitrust: during 2008, the Commission will commence a review of the block exemption regulations on vertical restraints and horizontal cooperation which expire in 2010, with a view to either amending or extending them.

Mergers: during 2008, the Commission will undertake a review of the functioning of the jurisdictional provisions of the EC Merger Regulation, including the operation of the system of case referral between the Commission and Member States, with a view to submitting a Report to the Council of Ministers by 1 July 2009.

State Aid: the Commission will continue to implement the State Aid Action Plan. It will adopt, in particular, the new environmental State aid guidelines, the General Block Exemption Regulation and the new Communication on guarantees. The Commission will also ensure the effective implementation of these new texts, including in-depth assessment of major cases. As announced in the State Aid Action Plan, it will pursue the systematic recovery of incompatible aid in cooperation with Member States. In the field of Services of General Economic Interest, the Commission will contribute to improving predictability by responding to questions from stakeholders in the context of the interactive information system announced in the Communication on services of general interest adopted on 20 November 2007.

International activities: DG Competition's work with the candidate countries, the Western Balkan countries and the Neighbourhood Policy countries will continue in 2008. It intends to further strengthen its cooperation with the Korean competition authority by concluding a dedicated intergovernmental cooperation agreement in the field of competition. The focus in 2008 will be on cooperation with emerging economies such as China and India. DG Competition will contribute to the negotiations on the competition provisions of these agreements aimed at guaranteeing a level playing field for European companies.

Sector developments

- **Electronic Communications**: the wide discrepancy of termination rates in the EU demonstrates the need to achieve real cost orientation. The Commission will cooperate with the European Regulators Group to propose a Commission Recommendation on remedies in termination markets. It is planned to adopt such a Recommendation by mid-2008. A Commission Recommendation on the regulation of next generation access networks is scheduled to be adopted towards the end of 2008. In addition the adoption of a new Procedural Recommendation (notifications, time limits and consultations) as provided for in Article 7 of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services is planned for Spring 2008.

While in the area of State aid the Commission expects further cases of broadband support in densely-populated and rural areas to be notified for approval, the move towards "next generation networks" is expected to lead to new patterns of public intervention. In the area of mergers, the Commission will continue to preserve the efficient competitive structure of electronic communications markets.

- **Information Technology**: the Commission will continue to monitor market developments closely and ensure that competition is not hindered, for example through reduced interoperability and compatibility with open standards.Continued attention will also be given to the growing importance of intellectual property rights in standards and the concomitant actions taken by standards-setting organisations to accommodate these rights.

- Media: DG Competition will focus on ensuring that scarce premium media content is made available in compliance with EU competition rules, and will monitor the transition from analogue to digital broadcasting and maximise consumer benefits from new forms of distribution by fighting anti-competitive restrictions at both the collective rights management level and the distribution level. The Commission will continue to apply its established policy concerning State aid for the digital switchover. It will pay particular attention to technological neutrality and to the ultimate objective of ensuring wide consumer access to digital broadcasting. The Commission will come forward – where appropriate – with a proposal for a revised Broadcasting Communication, possibly by mid-2008.

- **Health**: in 2008 the work of DG Competition in the area of health-related markets will be largely determined by the inquiry into the pharmaceutical sector that was initiated on 15 January 2008. The scope of the inquiry is defined as "the introduction of innovative and generic medicines for human consumption onto the market". In particular, the inquiry will examine whether agreements between pharmaceutical companies, such as settlements in patent disputes, may infringe the Treaty's prohibition of restrictive business practices. It will also investigate whether companies may have created artificial barriers to entry and whether such practices may infringe the Treaty's prohibition of abuses of dominant positions. An interim report is due in the autumn of 2008 and final results are expected in the spring of 2009.

- **Financial services**: the outlook of the financial services sector for 2008 is to a large extent determined by the entry into force of the Single Euro Payments Area (SEPA).The creation of a Single Euro Payments Area is expected to enhance competition by removing national barriers, thereby increasing competition between banks. However, the design and implementation of the SEPA project is led by the European Payments Council (EPC), which is an association of undertakings. SEPA thus consists of agreements and cooperation between competing undertakings. It therefore merits close competition scrutiny to assess whether the co-operation produces foreclosure effects which might amount to a restriction of competition.

The possibility cannot be excluded that the instability and volatility which affected markets towards the end of 2007 will continue well into 2008. Against this background it is possible that banks may suffer significant losses, for example as a result of mortgage payment defaults or mortgage asset devaluation, in their 2007 accounts. The possibility cannot be ruled out that other banks may need additional capital or State support in order to overcome the ongoing crisis.

- Postal services: while the adoption of the Postal Directive is expected to happen swiftly, most EU Member States will still maintain monopoly rights to universal service providers (USPs). In 2008, EU competition rules will thus continue to apply in a context in which most USPs in the EU will still have legal monopolies or positions of unparalleled strength and in which the most dynamic segments of the market are exist alongside such monopolies. Preserving residual or nascent competition in service markets adjacent to the monopoly will thus continue to be a key concern.

From a State aid viewpoint, the Commission will continue to ensure that Member States do not over-compensate postal operators entrusted with Services of General Economic Interest (SGEI) and that commercial activities outside the SGEI are not cross-subsidised. Pending the final vote of the European Parliament on the new Postal Directive, the Commission will continue to prepare for market opening from 2011.

Interinstitutional cooperation: as is the case each year, the European Parliament issued an own-initiative report on the Commission's Annual Report on Competition Policy of the previous year, following an exchange of views on the issues raised in the report. The Commission also participated in discussions held in the European Parliament on Commission policy initiatives, such as on State aid reform (in particular on the environmental guidelines and on the proposal for a General Block Exemption Regulation) and the inquiry into the financial services sector.

In 2007, there were four exchanges of views were held with the Economic and Monetary Affairs Committee and one meeting with the Parliamentary Committees. Issues of major importance during these 2007 meetings included the energy sector inquiry and its follow-up, implementation of the State Aid Action Plan, the report on the retail banking sector inquiry, the business insurance inquiry and the continued efforts to combat illegal cartels. The Commission also cooperates closely both with the European Ombudsman and Members of the European Parliament by replying to Parliamentary Questions and Petitions. Lastly, the Commission also cooperates closely with the Council, informing it of important policy initiatives in the field of competition, such as on the State aid reform and the energy and financial services sector inquiries.

Report on Competition Policy 2006 and 2007

2008/2243(INI) - 16/06/2008 - Non-legislative basic document

PURPOSE: to present the annual report on competition policy (2007).

CONTENT: the first section of this report provides an overview of how the instruments of competition policy, namely the antitrust, merger and State aid rules, were further developed and applied. The second section discusses how these and other instruments were deployed in selected sectors (energy, financial services, electronic communications, IT, media, automobile, transport, postal services). The third section gives an overview of cooperation within the European Competition Network (ECN) and with national courts. Section four deals with international activities. Finally, in section five, a brief description of interinstitutional cooperation is given.

The main issues of the report are as follows:

Antitrust: apart from sanctions to punish and deter cartels, effective action against this most pernicious form of anti-competitive conduct requires incentives for participants to report cartels. The Commission's **leniency policy** offers incentives to cartelists to report their illegal activities. December 2006 saw the introduction of a revised leniency Notice (the 2006 Notice). The Commission continued to attach high priority to the detection, investigation and sanctioning of cartels, focusing on **significant hard-core cartels**, in particular those with European or worldwide scope. The Commission issued eight final Decisions in which it fined 416 undertakings a total of EUR 3 334 million (compared with seven final Decisions, 417 undertakings fined and a total of EUR 1 846 million in 2006).

The Commission continued to sanction abuses of dominance, not least in network industries which are key for European competitiveness. On 4 July, the Commission adopted a Decision against the Spanish incumbent telecoms operator Telefónica for a very serious abuse of its dominant position in the Spanish broadband market. The fine imposed amounted to EUR 151 875 000.

Mergers: the number of merger cases notified to the Commission reached an all-time high of 402, a rise of more than 12% compared to the 356 transactions notified in 2006. In the last quarter of the year the number of notifications fell both in relation to the previous quarters and the last quarter of 2006. In total the Commission adopted 396 final Decisions in 2007, of which 368 were cleared in the first phase without conditions.

One transaction - a **horizontal merger** involving a proposed takeover by Ryanair of Aer Lingus - was prohibited.

To clarify its policy with regard to remedies in merger control, the Commission launched a **public consultation** on the draft Revised Remedies Notice.

State Aid: the Commission continued implementation of the State Aid **Action Plan** launched in 2005. It adopted a new method for setting **reference and discount rates** more aligned with market principles as the specific situation of the company or project is taken into account. Following the exceptionally high level of State aid notifications in 2006 (922), the number of new cases notified by Member States stood at 777 in 2007. Moreover, the decrease is in line with the Commission's commitment to facilitate the granting of aid through block exemptions and to focus policy on the most distortive types of aid.The Commission took 629 final State aid Decisions in 2007.

During 2007, the Commission approved the **regional aid maps** of Bulgaria and Romania, as well as for Belgium, Cyprus, Denmark, France, Italy, the Netherlands and Portugal. As a result, regional aid maps covering the period 2007–2013 have now been approved for all Member States. The Commission authorised regional aid for a number of **large investment projects**. It seems that over the past six years Member States have been moving towards the European Council objective of **less and better targeted aid**.

Notifications of **aid for research, development and innovation** pending on 1 January as well as all new notifications received in the reporting year were assessed on the basis of the new Framework. In a number of **rescue aid cases,** the Commission again emphasised that such aid is no more than a temporary measure facilitating the preparation of a restructuring plan or the liquidation of the company.The Commission made significant progress in achieving more effective and immediate execution of recovery Decisions.

Role of the Commission: on 11 December the Commission reviewed the Lisbon strategy and made proposals with a view to the next three-year cycle (2008–2010). The review proposes to **further embed competition in the wider Lisbon strategy framework**. A particular focus is placed on the need to enhance sectoral market monitoring, and improve regulation where necessary, notably focussed on **key services and network industries**. Thus, the review proposes that competition policy contribute to the Lisbon strategy objectives in the gas, electricity and financial services sector through the follow-up of sector inquiries launched in 2005.

Competition policy is also considered to be a complementary instrument in connection with efforts to enhance efforts to ensure interoperability and standardisation in a timely manner. The review also mentions ‘competition rules’ among the policies where the EU can contribute specific expertise which could be beneficial to its key partners. This is strongly linked to the need to ensure fair competition and a level playing field internationally.

European Competition Network: 2007 was the third full year of implementation of the enforcement system set up by Regulation 1/2003. It saw a further strengthening of cooperation between the members of the European Competition Network (ECN), i.e. the EU Member States’ National Competition Authorities (NCAs) and the Commission. The Commission was informed of around 140 new case investigations launched by NCAs. **Continuous training and education of national judges** in EU competition law is very important in order to ensure both effective and coherent application of those rules (training has been provided for approximately 3 500 judges by the end of 2007).

International activities: in the context of Enlargement, cooperation was particularly close with Croatia and Turkey in 2007. The Commission cooperates with numerous competition authorities on a bilateral basis, in particular with the authorities of the European Union’s major trading partners. The European Union has entered into dedicated cooperation agreements in competition matters with the United States, Canada and Japan.

In the course of the year, DG Competition and the Korean Fair Trade Commission (KFTC) met on several occasions to negotiate a bilateral cooperation agreement in the competition field. Moreover, DG Competition played an active role in the ongoing negotiations on Free Trade Agreements with India and South Korea, and on the trade part of the Association Agreements with the Andean Community.

Report on Competition Policy 2006 and 2007

2008/2243(INI) - 25/06/2007 - Document attached to the procedure

This Annex to the Commission's Report on Competition Policy 2006 provides further details concerning the material covered in the main Report.

The first section looks at the various **instruments** at the Commission's disposal in the area of competition and state aids policy.

- The first instruments examined relate to **antitrust** (Articles 81, 82 and 86 of the EC Treaty).

- **Legislative, Interpretative and Procedural Rules:** in December 2006, the Commission adopted a **revised notice on Immunity from Fines and Reduction of Fines in Cartel Cases** (the 'Leniency' Notice) which is an important step towards uncovering and putting an end to hard-core cartels. In June 2006, the Commission adopted **new Guidelines on the method for setting fines imposed on undertakings that have infringed Article 81 or Article 82 of the Treaty**. This is one of the means employed to achieve a general policy in favour of competition and to steer the conduct of undertakings in the light of the principles laid down. In December 2005, the Commission adopted the **Green Paper on damages actions for breach of the EU antitrust rules as contained in Articles 81 and 82 of the EC Treaty**. The Green Paper was met with broad interest in the antitrust community and discussed at conferences in Europe and elsewhere. During the public consultation, the Commission received almost 150 submissions from governments, competition authorities, industry, consumers' organisations, lawyers and academics.
- **Application of Articles 81, 82 and 86 EC:** in 2006, the Commission continued to give a high priority to the **detection and deterrence of cartels**. It focused its actions on significant hard-core cartels of mainly worldwide or European scope and involving a number of economic entities. The Commission issued 7 final decisions in which it fined 41 undertakings a total of EUR 1 846 million (compared with 33 undertakings and a total of EUR 683 million in fines in 2005). The decisions issued show the economic significance of the sectors involved and the duration of the cartels, hence the average fine per undertaking has increased significantly.
- **Sanctioning anti-competitive behaviour: abuse of dominant positions (Article 82 EC).** In December 2005, the Competition DG published a Discussion Paper on the application of Article 82 EC to exclusionary abuses. The Discussion Paper was in public consultation until 31 March and more than 100 submissions were received. The most important topics raised by the submissions were discussed at a public hearing held in June 2006. The event attracted about 350 participants from Europe and beyond.
- **Compelling undertakings to bring infringements to an end: periodic penalty payments.** The Microsoft case marks the first time the Commission used its powers to fix a periodic penalty payment under Article 24(2) of Regulation (EC) No 1/2003 in order to compel an undertaking to bring an infringement of Article 81 or 82 EC to an end, in accordance with a decision previously taken pursuant to Article 7.

- The second set of instruments relates to **merger control**.

- **Legislative, Interpretative and Procedural Rules:** in September, the Commission published a new draft Commission Consolidated Jurisdictional Notice under the Merger Regulation for public consultation. This was to replace the four Jurisdictional Notices, all adopted by the Commission in 1998 under the previous Merger Regulation 4064/89.
- **Application of the Merger Control Rules:** the number of mergers notified to the Commission in 2006 reached record levels, surpassing the previous record number reached during the last merger wave in 2001. This record level of 356 notifications continued a trend towards increased merger activity already noted in 2005 and is consistent with the widely reported increase in merger activity in Europe and worldwide. In total, the Commission adopted 352 final decisions during the year. Of these final decisions, 323 transactions were cleared without conditions during Phase I. A further 13 transactions were cleared in Phase I subject to conditions. Lastly, 207 decisions (or 64 % of all Phase I clearance decisions) were taken in accordance with the simplified procedure. In 2006, the Commission applied the **new test** introduced in Article 2(2) and (3) of the EU Merger Regulation in 2004, in a number of cases in order to verify whether the concentration would give rise to "non-coordinated" (or "unilateral") effects. In three merger control decisions taken in 2006, the Commission gave careful consideration to substantiated claims that **efficiencies** would be likely to result from the notified transactions. The Commission assessed the extent to which these efficiencies would impact on an overall appraisal of the competitive effects of the transactions in question, in line with the approach set out in the Horizontal Merger Guidelines (paragraphs 76-88).

- The third set of instruments relates to **state aid control**.

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In 2005, the Commission launched its **State Aid Action Plan (SAAP**), a comprehensive reform programme to transform State aid into an effective EU policy tool for growth and jobs. The consultation process showed clear support for these principles and they were at the heart of policy developments in 2006.

- The Commission adopted new **Regional Aid Guidelines (RAG)** for the period 2007- 2013 in December 2005. All Member States accepted the Commission proposals for appropriate measuresto apply the new guidelines, although in the case of Germany only after the opening of the formal investigation procedure.
- In November, the Commission adopted the new **State aid framework for Research, Development and Innovation (R&D&I)**, which entered into force on 1 January 2007. The Commission proposed that Member States adapt their existing aid programmes to the new rules within one year.
- A set of **new risk capital guidelines**, in force since August, cover risk capital measures for investment in SMEs in their early (seed, start-up) and expansion stages. The guidelines replace the 2001 Communication on State aid and risk capital.
- In December, the Commission adopted an evaluation reporton Council Regulation 994/98 (also known as the Enabling Regulation), which has enabled the Commission to adopt **Block Exemption Regulations (BER)for State aid** as well as **de minimis regulations.**
- In December, the Commission adopted a new **de minimis Regulation**exempting small subsidies from the obligation to be notified in advance for clearance by the Commission under EC Treaty State aid rules.
- **Application of the State Aid rules:** State aid control saw a significant increase of workload in case-handling activities, with 921 new cases registered in 2006 (a 36 % increase compared with the previous year). Of these cases, 54 % concern largely the manufacturing and service sectors, 34 % agriculture, 9 % transport and 3 % fisheries. The Commission took 710 final decisions in 2006, a 12 % increase compared with the previous year. In the vast majority of cases, the Commission approved the measures, concluding that the examined aid was compatible with the State aid rules (91 % of all decisions in 2006) or did not constitute State aid (4 % of all decisions).During 2006, the Commission continued its efforts to achieve more effective and immediate **execution of recovery decisions**. In this context, the number of recovery decisions pending completion continues to decrease. At the end of 2006, there were 60 pending recovery decisions, compared to 75 at the end of 2005. During 2006, 21 pending recovery cases were closed, whilst six new recovery decisions were taken. Of the EUR 8.7 billion of aid to be recovered under decisions adopted since 2000, some EUR 7.2 billion (i.e. 83 % of the total amount) had been effectively recovered by the end of 2006.

The second part of the report looks at **developments in specifickey sectors**: energy, financial services, electronic communications, information technology, media, transport and postal services.

The third part of the report provides an overview of **cooperation between the members of the European Competition Network and the national courts**. 2006 was the second full year of implementation of the enforcement system set up by Regulation 1/2003. It saw a further strengthening of cooperation between the members of the ECN, i.e. the EU Member States' NCAs and the Commission. The ECN continues to function well, with the mechanisms provided for by Regulation 1/2003, aiming at ensuring efficient and consistent enforcement of the law, operating smoothly throughout the year.

The fourth and last part of the report looks at **international activities** which cover, firstly, enlargement, the Western Balkans and neighbourhood policy, secondly, bilateral cooperation with countries such as the US, Canada and Japan, and, thirdly, multilateral cooperation, e.g. the International Competition Network.