Basic information

2010/2137(INI) INI - Own-initiative procedure	Procedure completed
Report on competition policy 2009 **Subject** 2.60 Competition	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	EPPINK Derk Jan (ECR)	18/05/2010

Committee for opinion	Rapporteur for opinion	Appointed
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	KOCH-MEHRIN Silvana (ALDE)	07/10/2010
IMCO Internal Market and Consumer Protection	BUŞOI Cristian-Silviu (ALDE)	19/08/2010
TRAN Transport and Tourism	CRAMER Michael (Verts/ALE)	12/07/2010
CULT Culture and Education	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Competition	ALMUNIA Joaquín

Key events

Date	Event	Reference	Summary
03/06/2010	Non-legislative basic document published	COM(2010)0282	Summary
09/09/2010	Committee referral announced in Parliament		

01/12/2010	Vote in committee		Summary
15/12/2010	Committee report tabled for plenary	A7-0374/2010	
20/01/2011	Decision by Parliament	T7-0023/2011	Summary
20/01/2011	Results of vote in Parliament		
20/01/2011	Debate in Parliament		
20/01/2011	End of procedure in Parliament		

Technical information

Procedure reference	2010/2137(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/03225

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE448.794	08/09/2010	
Amendments tabled in committee		PE450.582	12/10/2010	
Committee opinion	TRAN	PE448.679	09/11/2010	
Committee opinion	ITRE	PE450.909	09/11/2010	
Committee opinion	IMCO	PE448.944	24/11/2010	
Committee report tabled for plenary, single reading		A7-0374/2010	15/12/2010	
Text adopted by Parliament, single reading		T7-0023/2011	20/01/2011	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2010)0282	03/06/2010	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary

Contribution	PT_PARLIAMENT	COM(2010)0282	14/12/2010	

Report on competition policy 2009

2010/2137(INI) - 03/06/2010 - Non-legislative basic document

PURPOSE: to present the Commission report on competition policy in 2009.

CONTENT: the Commission's annual report on competition policy 2009 is divided into six sections, as follows:

- it provides an overview of how the instruments of competition policy, namely the State aid, anti-trust and merger control rules, were further developed and applied;
- it discusses how these and other instruments were deployed in selected sectors, including financial services, energy and environment, electronic communications, information technology, the media, the pharmaceutical industry, health care services transport, postal services, the automotive industry and the food industry;
- it gives an overview of consumer related activities developed last year;
- it looks at cooperation within the European Competition Network (ECN) and with national courts;
- section five deals with international activities;
- in section six, a brief description of inter-institutional cooperation is given.

The report notes that in 2009, the European Parliament adopted a resolution on the White Paper on Damages Actions for breach of the EC antitrust rules and the Annual Competition Reports for 2006 and 2007. In addition to the regular dialogue between the Commissioner for Competition and the ECON committee, the Commission participated in discussions held in other Parliamentary committees and on a range of subjects including the Annual Competition Report, the White Paper on Damages Actions, the Broadcasting Communication, State aid and the financial crisis, the Pharmaceutical Sector Inquiry and the Motor Vehicle Block Exemption Regulation. Bilateral meetings with MEPs were held on these and on a range of other issues.

The Annual Report on Competition also features a focus chapter on a topic considered of particular importance in the field of competition policy. The topic chosen for this year is "Competition policy and the financial and economic crisis". Special attention is paid to the Commission's assessment of national measures adopted as a response to the financial crisis, whether these measures consist of national schemes or measures targeting individual companies of the financial sector. In a similar way, particular attention is also given to the measures implemented within the **Temporary Framework**, to palliate the effects of the crisis on the real economy. A request to that end was made by the European Parliament in its draft resolution on the Annual Report on Competition Policy for 2008, under discussion at the time of finalising this edition of the Annual Competition Report.

The role of competition policy in the context of the financial crisis: the paper recalls that early on in the crisis, Member States decided to inject large amounts of State aid into the financial sector and had identified various types of solutions, from guarantee-based schemes to recapitalisations. It discusses the adoption of various Communications, including the Banking and Recapitalisation Communications, the Impaired Assets Communication, which responded to a growing consensus on the need to tackle the root causes of the crisis in the form of toxic assets on banks' balance sheets, and the Restructuring Communication which reflects the Commission's thinking for a future beyond the current crisis, with a viable banking sector. Restructuring plans have been approved amongst others for Commerzbank, ING, RBS, Lloyds' Banking Group and KBC, whilst many others are currently being assessed.

As banks were deleveraging and becoming much more risk-averse than in previous years, companies started to experience difficulties with access to credit. The Commission adopted the **Temporary Framework for State aid measures to support access to finance** in the current financial and economic crisis. This Temporary Framework (applicable until end-2010), which has been amended on several occasions, gives Member States additional options on tackling the effects of the credit squeeze on the real economy. The Temporary Framework focuses on two objectives:

- maintaining continuity in companies' access to finance (e.g. by allowing Member States to grant State guarantees for loans at reduced premia or subsidised interest rates for loans and the granting of up to EUR 500 000 per company); and
- encouraging companies to continue investing in a sustainable future (e.g. by allowing subsidised loans for the development of green products).

It also includes temporary adaptations of existing guidelines as a simplification of the rules on short term export credit insurance and an increase in the ceilings for risk capital investments. By 31 December 2009, the Commission had approved 79 measures in 25 Member States aimed at stabilising companies and jobs in the real economy. The Temporary Framework was widely used to support the car industry, which can benefit from aid up to EUR 500 000 per company for the next two years (small amounts of aid), State guarantees on loans, subsidies loans (including specifically for green cars) and facilitated access risk capital for SMEs. Some of the measures the temporary framework provides for, are of particular relevance for the car industry since they allow the financing of projects for the development of low emission vehicles.

The Commission approved aid for green products, notified by France, United Kingdom, Spain, Germany and Italy. Furthermore, a number of Member States including France, United Kingdom, Germany, Belgium (Flemish region), and Romania have installed guarantee and/or subsidised loan schemes from which the car industry (as well as other industries) can benefit. For instance, a subsidised loan of EUR 1.5 billion was granted by Germany to Opel following the bankruptcy proceedings of its mother company General Motors, while France granted both Renault and PSA subsidised loans of EUR 3 billion. In addition, the Commission approved a State guarantee on an EIB loan notified by Sweden for Volvo Cars.

In general, Member States considered the Temporary Framework as a useful tool which has provided an important support for companies.

On **deliveries and the costs involved**, the Commission notes the following:

- between October 2008 and 31 December 2009, the Commission had adopted 73 decisions in relation to 33 schemes and 68 decisions on individual measures to 38 banks. These 141 decisions encompass 21 Member States. Because of the urgency, some of those decisions were taken overnight, to avoid a domino effect and the major collapse of the EU's financial system;
- between October 2008 and the end of 2009, the Commission approved around EUR 3.63 trillion (equivalent to 29% of the EU-27 GDP) of State aid measures to financial institutions;
- as far as the real economy is concerned, by 31 December 2009, the Commission had approved 79 State aid measures in 25 Member States. Out of these measures, 18 related to guarantees, 11 to short-term export credit measures, nine to reduced interest rate loans, six to risk capital measures and five to reduced interest rate loans for green products. A large number of the measures approved (30) related to the granting of up to EUR 500 000 per undertaking;
- the autumn 2009 State aid Scoreboard shows that the overall aid volume rose in 2008 from around 0.5% of GDP to 2.2% of GDP or EUR 279.6 billion due to the financial and economic crisis. Crisis-related aid represented roughly 1.7% or EUR 212.2 billion and related to aid to financial institutions only. Aid to the real economy under the Temporary Framework started to be implemented by Member States only in 2009. Crisis measures aside, total aid amounted in 2008 to 0.5% of GDP or EUR 67.4 billion, a level similar to 2007 and the years before. Aid was mainly directed towards horizontal objectives of common interest (on average 88%), of which regional aid, research and development and environmental aid represented around two third whereas rescue and restructuring aid fell. Although figures for 2009 are not yet available, the volume and share of non-financial aid in 2009 is not expected to change dramatically.

The paper concludes that there is no doubt about the benefits of the State aid granted to the banking and insurance sector. The liquidity injected has prevented the meltdown of the financial system and has contributed to re-opening markets, provided more funds to the real economy and helped financial markets reach a more normal market functioning. In this crisis context, competition policy helped support financial stability and created the right conditions for stable financial markets in the short and longer terms. The timely intervention of the Commission has also limited the consequences of the credit crunch for the real economy. Equally important, the use of competition rules has helped protect taxpayers' money.

Report on competition policy 2009

2010/2137(INI) - 20/01/2011 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on the Report on Competition Policy 2009. It welcomes this Report and notes that the Commission was quick to react to the financial crisis.

Parliament continues to support a **more active role for Parliament** in the shaping of competition policy through the introduction of a co-legislative role. It asks for Parliament to be informed regularly of any initiatives in this field and invites the Commission once again, as the sole EU-wide competent competition authority, to report to Parliament in detail and annually about the follow-up to Parliament's recommendations and to explain any departure from Parliament's recommendations.

The resolution stresses that an EU competition policy based on the principles of open markets and a level playing field in all sectors is a **cornerstone of a successful internal market** and a precondition for the creation of sustainable and knowledge-based jobs.

Parliament stresses the importance of services of general interest in meeting the basic needs of the public. It also stresses the need to draft clear competition rules that are **helpful and useful for SMEs**.

Members underline the need for developing **synergies between competition and consumer protection policies**, including creating a European form of collective redress for individual victims of competition law violations, based on the criteria laid down in Parliament’s resolution of 26 March 2009, stipulating that compensation should be paid to the identified group of people or their nominee only for the damage actually suffered.

The resolution recalls its resolution of 25 April 2007 on the Green Paper on damages actions for breach of the EC antitrust rules and stresses that the pending legislative proposal in relation thereto should include the content of Parliament’s resolution of 26 March 2009.

Parliament underlines that the current drive for fiscal consolidation and sustainable recovery should be used by Member States in order to progress towards a more level fiscal playing field. It considers, in this respect, that environmental (carbon, resource) taxation provides an appropriate solution.

(1) Competition Policy and the Financial and Economic Crisis: Members welcome the temporary State aid rules established in response to the financial and economic crisis. They emphasise the **need to discontinue temporary measures** and exemptions as soon as possible, particularly in the **automotive sector**. They urge the Commission to provide clarity on the phasing out criteria that will be used to decide on their possible extension.

The Commission is called upon to:

- prepare a detailed evaluation of decisions adopted within the framework of the application of the temporary State aid measures in response to the economic and financial crisis;
- publish, during the course of 2010, a comprehensive report on the effectiveness of State aid granted for 'green recovery' and State aid for environmental protection;
- ensure that banks reimburse State aid as soon as the financial sector has recovered, ensuring fair competition within the internal market and a level playing field with regard to exit conditions;
- clarify the binding restructuring measures related to potential distortive effects resulting in differences in repayment conditions between Member States.

Parliament stresses the need to restore the competitive position of financial institutions which did not have recourse to the temporary rules on State aid.

(2) State aid control: the resolution stresses that it is important for the Commission to monitor the use of State aid carefully in order to ensure that these support arrangements are not used to protect national industries in a manner detrimental to the internal market and European consumers. Members consider it essential, when assessing whether State aid is compatible with the Treaty, to find the **right balance** between the negative effects of State aid on competition and public finances and its positive effects in terms of common interests.

Parliament urges the Commission to **carefully inspect fiscal State aid regimes** in force in certain Member States to check their non-discriminatory and transparent nature. The Commission is urged to examine the extent to which a too generous allocation of free EUA (European Union Allowances) permits in certain sectors may distort competition.

The resolution underlines that State aid should be channelled primarily into **promoting common-interest projects within the Union**, such as the deployment of broadband and energy infrastructures.

Members reiterate their support for the Commission guidelines on State aid for environmental protection in the field of **transport**, with a view to bolstering sustainability in the European transport sector.

(3) Antitrust: the resolution recalls that cartels represent some of the most serious violations of competition law. It believes that such infringements of competition law run counter to the interests of EU citizens since they do not allow consumers to benefit from lower prices.

Members welcome the firm stance the Commission has taken on anti-competitive behaviour in recent years and the extension of the Vertical Block Exemption Regulation. They point out, however that the Commission has failed to take sufficient account of the specific circumstances relating to online sales, particularly with regard to the Digital Agenda and in view of its current efforts to complete the **internal market for e-commerce**.

The Commission is invited to consider, within the integrated regulatory framework on the **protection of intellectual property rights**, the use of competition legislation as a tool for preventing any abuse of IPRs.

Members believe that the use of ever **higher fines** as the sole antitrust instrument may be too blunt, not least in view of the job losses that may result from an inability to make payments, and call for the development of a **wider range of more sophisticated instruments** covering such issues as individual responsibility, transparency and accountability of firms, shorter procedures, the right of defence and due process, mechanisms to ensure the effective operation of leniency applications, corporate compliance programmes and the development of European standards.

The resolution favours a '**carrot-and-stick**' approach with penalties that serve as an effective deterrent, in particular for repeat offenders, while encouraging compliance.

(4) Sector developments: the Commission is invited, inter alia, to:

- monitor developments in commodity-related markets following the conclusions of the European Council of June 2008 and, where appropriate, to tackle speculation;
- go to great lengths to ensure that data on **financial markets** is disclosed in full compliance with the provisions of EU competition law and;
- supervise **SEPA** (the Single Euro Payments Area) and continue efforts to ensure effective competition on the payment cards markets, in accordance with the principles of SEPA, with a view to facilitating cross-border payments and maximising the potential of the internal market;
- monitor closely the implementation of the **third energy liberalisation package** by Member States and to assess its effectiveness in creating a functioning internal market and encourage the Commission to initiate a further inquiry into the energy sector;
- follow closely technological developments in the **digital market** and to react swiftly where necessary in order to keep digital platforms as open as possible by strictly applying competition rules;
- make sure that NRAs in the **telecommunications** sector follow its recommendation on call termination rates, in to eliminate distortion of competition;
- ask the Commission to envisage in its 2011 review of Regulation (EC) No 544/2009 the option of **totally abolishing intra-EU roaming fees**;
- report on, and speed up progress on its investigations into, the application of State aid rules to the **postal sector**;
- look in greater detail at competition in the **agro-industrial sector** in terms of transparency and consumer price evolution and to produce a study focusing in particular on the effects of the market power that major food suppliers and wholesale distributors have which allows them to influence the functioning of the food market;
- improve competition in the **pharmaceutical sector** and asks the Commission to expedite the completion of the internal market in medicines;
- monitor the **health sector** and, in particular, competition between public and private hospitals;
- secure completion of the **internal market for transport**, and fair competition in the transport field;
- avoid unfair competition within the **liberalised road transport** sector by guaranteeing that social, safety and environmental rules are properly applied, paying special attention both to the opening up of this market to cabotage and to dumping practices;
- seek the completion of the **single railway market** through the opening of national passenger transport markets.

Lastly, Parliament supports firmly the creation of an **EU patent and an EU-wide patent dispute settlement mechanism** to tackle competition distortions caused by the current provisions on patents. It urges the Member States, therefore, to speedily find a solution to the outstanding issues regarding the EU single patent system. For that reason it welcomes the objective of the first EU patents being delivered in 2014.