



Council of the  
European Union

Brussels, 10 July 2020  
(OR. en)

9543/20

RC 7

#### COVER NOTE

---

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	9 July 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

---

No. Cion doc.:	COM(2020) 302 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS <b>Report on Competition Policy 2019</b>

---

Delegations will find attached document COM(2020) 302 final.

---

Encl.: COM(2020) 302 final



Brussels, 9.7.2020  
COM(2020) 302 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE  
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE  
COMMITTEE OF THE REGIONS**

**Report on Competition Policy 2019**

{SWD(2020) 126 final}

# REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

## Report on Competition Policy 2019

### 1. Introduction

2019 marked the beginning of a new term for the European Union. Following the elections in May, which had the highest overall turnout since 1994 (50.66%)<sup>1</sup>, the European Parliament gave its green light to the new European Commission on the basis of the priorities outlined in President-elect Ursula von der Leyen's Political Guidelines<sup>2</sup>. The mission letter addressed to Margrethe Vestager, Executive Vice-President for a Europe fit for the Digital Age, emphasises the need to “*ensure our competition policy and rules are fit for the modern economy, vigorously enforced and contribute to a strong European industry, both internally and on the global stage*”<sup>3</sup>.

The foundations of EU competition law are as relevant today as they were when the Treaty of Rome was signed more than 60 years ago. European competition rules enable businesses of all sizes to have a fair chance to compete and help European consumers obtain a fair deal in the internal market. Enforcement of EU competition rules helps create open and competitive markets that make European companies more efficient, innovative and able to compete on a global scale. In 2019, the Commission's competition policy and enforcement actions continued to target anticompetitive conduct and measures in markets that matter for citizens and businesses in the EU, such as the telecommunications and digital sectors, energy and environment, manufacturing, financial services, taxation, agriculture and food and transport.

At the same time, it is important that the EU competition framework remains fit for a fast-changing world, by continuously adapting to the modern economy that is green and digital. In particular, European competition policy must tackle new challenges linked to the use of data, algorithms and fast-moving markets in an increasingly digital environment, as well as strengthen cooperation networks between Member States' authorities and the Commission to support fair competition in the single market. At the same time, evaluations are underway of the relevant State aid rules, including the environmental and energy guidelines, which will be revised also to reflect the policy objectives of the European Green Deal.

In April 2019, the Commission published the Report “Competition policy for the digital era”<sup>4</sup>, by three independent Special Advisers, designed to provide input to the Commission's ongoing reflection process about how competition policy can best serve European consumers in a digital, fast-changing world. The report analyses the main characteristics of the digital economy – extreme returns of scale of digital services, network externalities and the role of data – which have given rise to large incumbent digital players.

---

<sup>1</sup> See: <https://www.europarl.europa.eu/news/en/press-room/20191029IPR65301/final-turnout-data-for-2019-european-elections-announced>.

<sup>2</sup> Ursula von der Leyen, “*A Union that strives for more. My agenda for Europe*” Political Guidelines for the next European Commission 2019-2024, Opening Statement in the European Parliament Plenary Session, 16 July 2019: [https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf).

<sup>3</sup> Ursula von der Leyen, Mission Letter to Margrethe Vestager, Executive Vice-President for a Europe fit for the Digital Age, 1 December 2019, available at [https://ec.europa.eu/commission/commissioners/sites/comm-cwt2019/files/commissioner\\_mission\\_letters/mission-letter-margrethe-vestager\\_2019\\_en.pdf](https://ec.europa.eu/commission/commissioners/sites/comm-cwt2019/files/commissioner_mission_letters/mission-letter-margrethe-vestager_2019_en.pdf).

<sup>4</sup> See: <http://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>.

In 2019, in order to ensure that competition law remains fit for purpose, the Commission engaged in broad evaluation exercises, aimed at assessing the functioning of competition rules in order to provide a basis for decisions on the need for improving its ability to tackle many of these challenges and for improving the effectiveness of its enforcement. The review covers the antitrust regulations that will expire in the new mandate and the respective guidelines, a number of State aid rules and guidance, and the ongoing evaluation of certain merger control rules. At the end of the year, Executive Vice-President Vestager also announced the launch of the review of the Market Definition Notice.

Competition policy also plays a significant part in the EU's modern industrial policy, with the aim of rendering European companies more innovative and therefore competitive internationally. EU State aid rules support this objective where there are market failures and a need to strengthen value chains. In December 2018 and in December 2019, the Commission found that two projects jointly notified by a number of Member States in the European priority areas of microelectronics and batteries, respectively, were in line with EU State aid rules and contribute to a common European interest<sup>5</sup>. The participating Member States will provide up to EUR 5 billion in funding for these two projects combined, that together aim to unlock an additional EUR 11 billion in private investments.

EU competition policy is implemented through enforcement of Treaty based rules, underpinned by rigorous economic analysis and thorough due process. Therefore, non-discrimination, transparent and predictable enforcement, the right to be heard, as well as protection of confidentiality, are all core principles and standards, which the Commission implements in its enforcement practice and which it promotes worldwide.

The Commission works hand in hand with Member States' national competition authorities and with national courts to enforce the European competition rules. At the same time, the Commission actively cooperates with relevant international fora and with competition agencies across the world to develop a truly global level playing field. Within the World Trade Organisation, the Commission engaged in negotiations on e-commerce and telecom services, as well as on improving international rules on subsidies.

EU competition rules support the growth and development of strong European companies, whether large, small or medium enterprises. Nevertheless, at global level, European firms face a number of challenges regarding level playing field. Other tools than competition law are more suitable to address these challenges. The Commission's ongoing reflection includes to what extent the existing EU toolbox can address the distortive effects of foreign subsidies and state ownership and which (combination of) additional instruments may be needed.

This report is a non-exhaustive summary of activities undertaken by the Commission in the field of competition policy over the year 2019 (Part I). As such, this report does not cover the Commission's actions to support the EU economy in the context of the COVID-19 outbreak. Additional and more detailed information on the activities described in the report can be found in the accompanying Commission Staff Working Document (Part II) and on the website of the Competition Directorate-General<sup>6</sup>.

## **2. Further enhancing the effectiveness of EU competition policy and enforcement**

In 2019, the Commission embarked upon a comprehensive evaluation and review of its competition rules and guidelines to assess to what extent they are still fit for purpose. .

---

<sup>5</sup> See [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_18\\_6862](https://ec.europa.eu/commission/presscorner/detail/en/IP_18_6862), and [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6705](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6705).

<sup>6</sup> See: [https://ec.europa.eu/competition/index\\_en.html](https://ec.europa.eu/competition/index_en.html).

### *The Commission launches a “fitness check” of State aid rules<sup>7</sup>*

In May 2012, the Commission launched a major reform package, the State Aid Modernisation, resulting in the revision since 2013 of a large number of State aid rules. This comprehensive reform package has allowed Member States to swiftly implement State aid measures that foster investment, economic growth and job creation.

In January 2019, the Commission launched a process aimed at evaluating the rules under the State Aid Modernisation package in line with the Commission’s Better Regulation Guidelines, and consequently prolonging the validity of those State aid rules that would otherwise expire by the end of 2020. The evaluation takes the form of a “fitness check”, and will prepare for a revision of the relevant guidelines in light of the policy objectives of the European Green Deal.

#### **The “fitness check” of the State aid modernisation package, railways guidelines and short-term export credit insurance**

The aim of the “fitness check” is to analyse the relevance, effectiveness, efficiency, coherence and EU-added value of these State aid rules, while at the same time providing a basis for decisions by the Commission regarding the potential further prolongation or possibly updating of the rules.

The “fitness check” covers two Regulations and nine Guidelines, as follows:

- the General block exemption and De minimis Regulations,
- the Regional aid Guidelines,
- the Research and Development Framework,
- the IPCEI Communication,
- the Risk finance Guidelines,
- the Airport and Aviation Guidelines,
- the Environmental and Energy Guidelines, as well as
- the Rescue and Restructuring Guidelines.

Additionally, the Railways Guidelines and Short-term export credit Communication, which did not form part of the 2012 State Aid Modernisation package, are also included in the ongoing “fitness check”.

Member States and other stakeholders had the opportunity to provide their input and comments to the “fitness check” during a public consultation, via various questionnaires. The consultation ended in July 2019, with the exception of the IPCEI questionnaire, which was open until the end of October. A series of studies is also under way.

Furthermore, in February 2019, the Commission launched public consultations to evaluate and prepare the revision of the existing Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (ETS Guidelines)<sup>8</sup>. The ETS Guidelines, adopted in 2012 and based on the 2005 EU Greenhouse Gas Emission Trading Scheme, set out the conditions under which Member States can compensate some companies in certain sectors with high electricity consumption for part of the higher electricity costs arising from the EU emissions trading scheme, in the period 2013-2020. At their expiry on 31 December 2020, the 2012 ETS Guidelines will be updated to ensure that they are adapted to the EU’s new emissions trading scheme for 2021-2030<sup>9</sup>.

Finally, in June 2019, the Commission launched an evaluation of the State aid rules for health and social Services of General Economic Interest (SGEI) and the SGEI de minimis

<sup>7</sup> See: [https://europa.eu/rapid/press-release\\_IP-19-182\\_en](https://europa.eu/rapid/press-release_IP-19-182_en).

<sup>8</sup> See: [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6600267\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6600267_en).

<sup>9</sup> Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814, OJ L 76, 19.3.2018, pp. 3–27.

Regulation<sup>10</sup>, which expire in December 2020. As part of this evaluation, a public and a targeted consultation were carried out between July and December 2019, which will be duly considered in the evaluation exercise.

#### *The Commission examines new market trends in the area of vertical supply and horizontal cooperation agreements*

In 2019, the Commission started the evaluation<sup>11</sup> of the rules exempting certain horizontal agreements<sup>12</sup> from the EU's general competition rules. The EU competition rules on horizontal agreements include two Block Exemption Regulations for horizontal co-operation agreements that exempt, respectively, certain research and development, as well as specialisation agreements from Article 101 TFEU. The accompanying Guidelines on horizontal cooperation agreements (Horizontal Guidelines) provide further guidance to help companies in their efforts to engage in competition law compliant cooperation agreements, giving also detailed recommendations on topics such as the competitive assessment of information exchanges, joint purchasing, joint commercialisation and standardisation. The two Horizontal Block Exemption Regulations (HBERs) will expire on 31 December 2022. While the Horizontal Guidelines do not have an expiry date, they will be evaluated together with the HBERs.

The Commission made considerable progress in its evaluation<sup>13</sup> of the Vertical Block Exemption Regulation (VBER)<sup>14</sup> and of the accompanying Guidelines on Vertical Restraints. The Commission launched the evaluation in October 2018, in view of the VBER's expiry on 31 May 2022. In February 2019, the Commission launched a three-month public stakeholder consultation, followed by a study in August 2019 on market trends on distribution models and strategies. Furthermore, in November 2019, the Commission held an evaluation workshop with the active participation of stakeholders, discussing more in depth on areas of particular interest for the evaluation of the VBER, with a focus on how the rules benefit consumers.

In February 2019, the Commission published the evaluation roadmap<sup>15</sup> of the Motor Vehicle Block Exemption Regulation (MVBER)<sup>16</sup>. The roadmap triggered a four-week online consultation of stakeholders. In addition, a study was commissioned to allow for a better understanding of how market conditions have evolved in the motor vehicle sector over the past decade. The MVBER expires in May 2023.

The purpose of these evaluations is to allow the Commission to decide whether to let the rules lapse, prolong their duration, or revise them.

#### *Upgrading the EU leniency programme*

---

<sup>10</sup> See: [https://ec.europa.eu/competition/state\\_aid/modernisation/evaluation\\_sgei\\_en.html](https://ec.europa.eu/competition/state_aid/modernisation/evaluation_sgei_en.html).

<sup>11</sup> See: [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2019-4715393/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2019-4715393/public-consultation_en).

<sup>12</sup> Commission Regulation No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the functioning of the European Union to categories of research and development agreements, OJ L 335, 18.12.2010, p. 36; Commission Regulation No 1218/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty to categories of specialisation agreements, OJ L 335, 18.12.2010, p. 43.

<sup>13</sup> See: [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-5068981\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-5068981_en).

<sup>14</sup> Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices, OJ L 102, 23.4.2010, p. 1.

<sup>15</sup> See: [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6188380\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6188380_en).

<sup>16</sup> Commission Regulation 461/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector, OJ L 129, 28.5.2010, p. 52.



In order to improve further the effectiveness of its procedures, the Commission launched in March 2019 its “eLeniency” online tool.<sup>17</sup> Under the EU leniency programme, companies or their lawyers can already submit their leniency statements to the Commission either by email to a functional mailbox or through the oral procedure. The eLeniency tool offers a third option to submit leniency statements online, as part of leniency applications (to receive immunity or a reduction of fines), as part of cartel settlement procedures, or as part of cooperation in non-cartel cases. It therefore reduces the costs and the burden for companies and their legal representatives involved in such proceedings, with the same guarantees applying in terms of confidentiality and legal protection. Since its launch, the Commission has received a high number of statements and documents through eLeniency.

### *The fight against cartels continues*

Access to adequately priced input products is essential in an era of global competition. Cartels often concern intermediate products, which can be vital inputs for industry, and they can thus affect both the competitiveness of European industry and the consumers. Competition enforcement in 2019 continued to target such cartels.

In March 2019, the Commission fined *Autoliv* and *TRW*<sup>18</sup>, producers of car safety equipment, EUR 368 million for breaching EU antitrust rules by taking part in two cartels for the supply of car seatbelts, airbags and steering wheels to European car producers Volkswagen Group and BMW Group, respectively. A third participant to the collusion, Takata, was not fined as it received full immunity for revealing the two cartels to the Commission, in line with the EU leniency procedure. All companies acknowledged their involvement in the cartels and agreed to settle the case. This cartel decision is part of a series of major investigations into collusions in the automotive parts sector. The Commission has already fined suppliers of automotive bearings, wire harnesses in cars, flexible foam used (inter alia) in car seats, parking heaters in cars and trucks, alternators and starters, air conditioning and engine cooling systems, lighting systems, occupant safety systems, and spark plugs and braking systems<sup>19</sup>. The 2019 decision brings the total amount of Commission fines for cartels in this sector to EUR 2.15 billion.

### *Enforcing procedural obligations in merger control*

EU merger control contributes to ensuring that all companies operating in European markets are able to compete on fair and equal terms, with proposed transactions that may distort competition being subject to close scrutiny by the Commission. In 2019, the Commission continued to make significant efforts to enforce procedural obligations under the EU Merger Regulation.<sup>20</sup>

In April 2019, the Commission imposed a fine of EUR 52 million on *General Electric (GE)*<sup>21</sup> for providing incorrect information during the review of its acquisition of LM Wind. According to the EU Merger Regulation, the Commission can impose fines of up to 1% of the aggregated turnover of companies, which intentionally or negligently provide incorrect or

---

<sup>17</sup> See: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_1594](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_1594).

<sup>18</sup> Case 40481 *Occupants Safety Systems II*, Commission decision of 5 March 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40481](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40481).

<sup>19</sup> Cases: AT.39748 *Automotive Wire Harnesses* (2013), AT.39922 *Automotive bearings* (2014), AT.39801 *Polyurethane Foam* (2014), AT.40055 *Parking Heaters* (2015), AT.40028 *Alternators and Starters* (2016), AT.39960 *Thermal Systems* (2017), AT.40013 *Lighting Systems* (2017), AT.39881 *Occupant Safety Systems* (2017), and AT.40113 *Spark plugs* (2018).

<sup>20</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, pp. 1-22.

<sup>21</sup> Case M.8436 *General Electric Company / LM Wind Power Holding*, Commission decision of 8 April 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8436](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8436).

misleading information to the Commission. This fining decision had no impact on the Commission's approval of the transaction under EU merger rules, which was based on rectified information from the second notification.

Furthermore, in June 2019, the Commission fined *Canon*<sup>22</sup>, the Japan-based imaging and optical products manufacturer, EUR 28 million for partially implementing its acquisition of Toshiba Medical Systems Corporation before notification and approval by the Commission (so-called “gun jumping”). EU merger rules require merging companies to notify planned mergers with an EU dimension for review by the Commission prior to their implementation and to not implement them until notified to and cleared by the Commission.

### 3. Tackling new challenges in the digital, telecoms and media sphere

Through its policy initiative “A Europe fit for the digital age”<sup>23</sup>, the Commission President defined the digital area as one of her top priorities for the current Commission mandate. Competition policy plays an essential and integral part in achieving a well-functioning Single Market for digital services.

In April 2019, the Commission published the report “Competition policy for the digital era”<sup>24</sup> delivered by the three independent Special Advisers<sup>25</sup> on the future challenges of digitisation for competition policy.

#### **The Report on “Competition policy for the digital era”**

In their report, the three Special Advisers: (i) identify what they see as the main specific features of digital markets; (ii) provide their views on the goals of EU competition law in the digital era; and (iii) discuss the application of competition rules to digital platforms and data, as well as the role of merger control in preserving competition and innovation.

The three Special Advisers considered that the basic framework of competition law is sound and sufficiently flexible to protect competition in the digital era. They also advised that the specific characteristics of platforms, digital ecosystems, and the data economy should be better taken into account by competition enforcers and regulators in order to prevent certain anticompetitive conduct from occurring or from remaining unpunished. Moreover, the Special Advisers are of the opinion that digital markets require additional emphasis on theories of harm and identification of anti-competitive strategies. Concerning access to data, according to the authors, sector-specific regulation could provide solutions that are more effective. The report equally contains specific analysis and suggestions on merger control issues, both from a jurisdictional and a substantive perspective.

Together with the call for public contributions from 7 July to 30 September 2018, and the conference “Shaping competition policy in the era of digitisation”, which took place in Brussels on 17 January 2019, the report is designed to provide input to the Commission's ongoing reflection process about how competition policy can best serve European consumers in a fast-changing world.

On 9 December 2019, Executive Vice-President Vestager announced the planned review of the Commission Notice on the definition of relevant market for the purposes of Community competition law (“Market Definition Notice”)<sup>26</sup>, which provides guidance as to how the Commission applies the concept of relevant product and geographic market in its ongoing enforcement of EU competition law. The main reason for launching this review is to ensure that the Notice reflects how the Commission’s practice in defining markets has evolved over

<sup>22</sup> Case M.8179 *Canon /Toshiba Medical Systems Corporation*, Commission decision of 27 June 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8179](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8179).

<sup>23</sup> See: [https://ec.europa.eu/info/priorities/europe-fit-digital-age\\_en](https://ec.europa.eu/info/priorities/europe-fit-digital-age_en).

<sup>24</sup> See: <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>.

<sup>25</sup> The three Special Advisers are Heike Schweitzer, a German law professor; Jacques Crémer, a French professor of economics; and Yves-Alexandre de Montjoye, a Belgian assistant professor of data science.



the past twenty years and that it is fit for a world that is changing fast and becoming increasingly digital. The objective of the review is to give guidance that is accurate and up-to-date, and that sets out a clear and consistent approach to both antitrust and merger cases across different industries, in a way that is easily accessible.

*Antitrust enforcement: enhanced scrutiny in digital markets*

The digital era has seen the rise of online platforms, some of which have risen to become major technology providers. Decisions by platforms enjoying market power can influence many other markets, whose businesses rely on these platforms to connect with their customers. For example, platforms can act as hosts and market regulators by setting the rules in a way that keep markets open for competition and, if used in an abusive manner, their dual role can be problematic and harm competition. To ensure that markets in Europe serve people and to create higher degrees of transparency and fairness, new EU rules on transparency for business users on platforms<sup>27</sup> were adopted in July 2019. Further to competition enforcement, such complementary regulatory tools will equally serve consumers and create higher degrees of transparency and fairness.

On 20 March 2019, the Commission fined *Google*<sup>28</sup> EUR 1.49 billion for abusing its market dominance, in breach of EU antitrust rules.

**The “Google AdSense” case: protecting competition in online search advertising**

The Commission fined Google EUR 1 494 459 000 for abusing its market dominance by imposing a number of restrictive clauses in contracts with third-party websites. This misconduct lasted over 10 years and denied Google's rivals from placing their search adverts on these websites.

Google was by far the strongest player in online search advertising intermediation in the European Economic Area, with a market share above 70% from 2006 to 2016. Through “AdSense” for Search, Google functions as an intermediary between advertisers and owners of publisher websites.

The Commission’s investigation found that:

- Starting with 2006, Google included exclusivity clauses in its contracts, thus prohibiting publishers from placing any search adverts from competitors on their search results pages.
- As of March 2009, Google gradually began replacing the exclusivity clauses with so-called “Premium Placement” clauses. As a result, Google's competitors were prevented from placing their search adverts in the most clicked on parts of the websites' search results pages.
- As of March 2009, Google also included clauses requiring publishers to seek written approval from Google before making changes to the way in which any rival adverts were displayed. This allowed Google to control how attractive competing search adverts could be.

Google ceased the illegal practices a few months after the Commission issued a Statement of Objections concerning this case, in July 2016. .

Google's practices amount to an abuse of Google's dominant position in the online search advertising intermediation market by preventing competition on the merits. Google’s behaviour equally denied European consumers the benefits of effective competition in the online search advertising market.

<sup>26</sup> Commission Notice on the definition of relevant market for the purposes of Community competition law, OJ C 372, 9.12.1997, pp. 5–13.

<sup>27</sup> Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (Text with EEA relevance), OJ L 186, 11.7.2019, pp. 57–79.

<sup>28</sup> Case AT.40411 *Google Search (AdSense)*, Commission decision of 20 March 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40411](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40411).

Market dominance is, as such, not illegal under EU antitrust rules, however dominant companies have a special responsibility not to abuse their powerful market position by restricting competition, either in the market where they are dominant or in separate markets.



The Commission decision requires Google to, at a minimum, stop its illegal conduct, to the extent it has not already done so, and to refrain from any measure that has the same or equivalent object or effect. Google is also liable to face civil actions for damages<sup>29</sup> that can be brought before the courts of the Member States by any person or business affected by its anti-competitive behaviour.

Earlier, in June 2017, the Commission had fined Google EUR 2.42 billion for abusing its dominance as a search engine by giving an illegal advantage to its own comparison Shopping<sup>30</sup> service; and in July 2018, the Commission had fined Google EUR 4.34 billion for illegal practices regarding Android<sup>31</sup> mobile devices to strengthen the dominance of Google's search engine. Including the March 2019 case, the European Commission has imposed on Google antitrust fines totalling EUR 8.25 billion.

On 17 July 2019, the Commission opened a formal antitrust investigation to assess whether Amazon's<sup>32</sup> use of sensitive data from independent retailers who sell on its marketplace is in breach of EU competition rules. When providing a marketplace for independent sellers, Amazon continuously collects data about the activity on its platform. Based on the Commission's preliminary fact-finding, Amazon appears to use competitively sensitive information about marketplace sellers, their products and transactions on the marketplace. The Commission is investigating the standard agreements between Amazon and marketplace sellers, which allow Amazon's retail business to analyse and use third party seller data, aggregated from data available to Amazon marketplace.

<sup>29</sup> Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union, OJ L 349, 5.12.2014, pp. 1–19.

<sup>30</sup> Case AT.39740 *Google search (Shopping)*, Commission decision of 27 June 2017, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_39740](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39740).

<sup>31</sup> Case AT.40099 *Google Android*, Commission decision of 18 July 2018, available at: [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40099](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40099).

<sup>32</sup> Case AT.40462 *Amazon Marketplace*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40462](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40462).

## *EU antitrust rules protecting price competition and better choice for consumers in the area of e-commerce*

The rapidly growing online commerce market was worth over EUR 600 billion in Europe in 2019, with more than half of Europeans shopping online. E-commerce creates significant possibilities for consumers, who can access a wider choice of goods and services and be able to compare prices across Europe, as well as for businesses, who can trade throughout the Single Market of more than 500 million people using a single website as their shop window.

The Commission's e-commerce sector inquiry results, published on 10 May 2017<sup>33</sup> as part of the Commission's Digital Single Market strategy, showed increased use of contractual restrictions to better control product distribution. Effective competition enforcement in this area is therefore very important.

On 7 March 2019, the Commission made commitments offered by *Disney, NBCUniversal, Sony Pictures, Warner Bros.* and *Sky*<sup>34</sup> legally binding under EU antitrust rules. These commitments address the Commission's concerns regarding certain clauses in these studios' film licensing contracts for pay-TV with Sky UK regarding geo-blocking.

On 5 April 2019, the Commission addressed a Statement of Objections concerning potentially illegal bilateral agreements to *Valve*, owner of the world's largest PC video game distribution platform called Steam, and five PC video game publishers, *Bandai Namco, Capcom, Focus Home, Koch Media* and *ZeniMax*<sup>35</sup>. The Commission expressed concerns that Valve and the five PC video game publishers agreed, in breach of EU antitrust rules, to use geo-blocked activation keys to prevent cross-border sales. In addition, the Commission expressed concerns that four of the game publishers may have infringed EU competition rules by including contractual export restrictions in their agreements with a number of distributors other than Valve.

## *Antitrust enforcement in the telecommunications sector*

On 18 July 2019, the Commission fined *Qualcomm*<sup>36</sup> EUR 242 million for abusing its market dominance, through predatory pricing, in the worldwide market for chipsets complying with the Universal Mobile Telecommunications System (UTMS), the third generation standard (3G), in breach of EU antitrust rules. The decision established that between mid-2009 and mid-2011, Qualcomm supplied certain quantities of three of its UMTS chipsets to two of its key customers, Huawei and ZTE, below cost, with the aim of forcing its competitor Icera out of the market. Icera was a UK-based start-up and Qualcomm's main competitor at the time in the leading edge segment of the UMTS chipset market. The fine represents 1.27% of Qualcomm's turnover in 2018 and it equally aims to deter market players from engaging in such anti-competitive practices in the future.

On 7 August 2019, the Commission adopted a Statement of Objections against the two largest operators in Czechia, *O2/CETIN* and *T-Mobile*<sup>37</sup> in respect of a network sharing agreement between these parties. The Commission preliminarily considered that this specific network

---

<sup>33</sup> See: [https://ec.europa.eu/competition/antitrust/sector\\_inquiry\\_final\\_report\\_en.pdf](https://ec.europa.eu/competition/antitrust/sector_inquiry_final_report_en.pdf), and see: [https://ec.europa.eu/competition/antitrust/sector\\_inquiries\\_e\\_commerce.html](https://ec.europa.eu/competition/antitrust/sector_inquiries_e_commerce.html).

<sup>34</sup> Case AT.40023 Cross-border access to pay-TV, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40023](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40023).

<sup>35</sup> Cases AT.40413 *Focus Home*, AT.40414 *Koch Media*, AT.40420 *ZeniMax*, AT.40422 *Bandai Namco* and AT.40424 *Capcom*. See also: [https://europa.eu/rapid/press-release\\_IP-19-2010\\_en.htm](https://europa.eu/rapid/press-release_IP-19-2010_en.htm).

<sup>36</sup> Case AT.39711 *Qualcomm (predation)*, Commission decision of 18 July 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_39711](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39711).

<sup>37</sup> Case AT.40305 *Network sharing - Czech Republic*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40305](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40305).

sharing arrangement is anti-competitive because it is likely to remove the incentives of the two mobile operators to improve their networks and services for the benefit of consumers. The Commission's preliminary analysis was in line with the principles applied by the Body of European Regulators for Electronic Communications (BEREC) in its common position on mobile infrastructure sharing of 13 June 2019.<sup>38</sup>

On 16 October 2019, the Commission ordered *Broadcom*<sup>39</sup>, the world's leading supplier of chipsets used for TV set-top boxes and modems, to stop applying certain provisions contained in agreements with six of its main customers. The Commission's assessment concluded that Broadcom abused at first sight its dominant position in the markets of systems-on-chip for (i) TV set-top boxes, (ii) fibre modems, and (iii) xDSL modems by entering into agreements with manufacturers of TV set-top boxes and modems that contain exclusivity-inducing provisions. Furthermore, it concluded that serious and irreparable damage to competition would have likely materialised in the absence of interim measures. The Commission concluded that an urgent intervention was required to prevent competitors from being marginalised or forced to exit the market. The interim measures apply for the earlier of three years, or the date of adoption of a final decision on the substance of Broadcom's conduct, or the closure of the Commission investigation of that conduct. The substantive investigation on the case is still ongoing. Interim measures is one of the tools made available to the Commission by Regulation 1/2003 but has not been used in the last 18 years prior to this case.

By means of an interim measures decision, the Commission can order a company to cease and desist from a conduct while an investigation is pending. Interim measures can be imposed for the duration of an investigation to avoid that the alleged anti-competitive behaviour causes the market serious and irreparable damage, which could not be remedied through the adoption of the final measure in a Commission investigation. Interim measures are generally considered as exceptional measures, because of the burden imposed on a company not yet found in breach of existing rules. In most cases, a prohibition decision with a cease and desist order or remedies is sufficient to restore the competitive conditions.

#### *Merger review in the telecommunications and media sectors*

In the telecommunications sector, the Commission cleared on 15 July 2019 the acquisition of *DNA* by *Telenor*.<sup>40</sup> DNA provides mobile and fixed communications services, broadband internet services and TV distribution services in Finland, while Telenor is active in mobile and fixed telecommunications services and TV distribution services in the Nordic region. There were very limited overlaps between the companies' activities and a number of strong players remain after the merger. Furthermore, the Commission approved on 18 July 2019, after an in-depth investigation, the acquisition by *Vodafone* of *Liberty Global's cable business* in Czechia, Germany, Hungary and Romania.<sup>41</sup> The approval is conditional on full compliance with a commitments package offered by Vodafone.

In the media sector, on 12 November 2019, the Commission authorised *Telia's* acquisition of

---

<sup>38</sup> See:

[https://berec.europa.eu/eng/document\\_register/subject\\_matter/berec/regulatory\\_best\\_practices/common\\_approaches\\_positions/8605-berec-common-position-on-infrastructure-sharing](https://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/common_approaches_positions/8605-berec-common-position-on-infrastructure-sharing).

<sup>39</sup> Case AT.40608 *Broadcom*, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40608](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40608).

<sup>40</sup> Case M.9370 *Telenor / DNA*, Commission decision of 15 July 2019. See:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9370](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9370).

<sup>41</sup> Case M.8864 *Vodafone / Certain Liberty Global Assets*, Commission decision of 18 July 2019. See:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8864](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8864).



*Bonnier Broadcasting*<sup>42</sup>. Following an in-depth investigation, the Commission had concerns that the transaction would have significantly reduced competition in Finland and Sweden. The approval is conditional on full compliance with commitments offered by Telia.

#### *State aid enforcement in broadband networks*

Digital infrastructure is a key digitisation driver, therefore it is essential that the appropriate broadband infrastructure can meet new needs for very high digital speeds, capacities, and quality. The Commission's "Gigabit Communication"<sup>43</sup> of 2016 identifies very high capacity networks as one of its strategic priorities. Public funding is equally required to ensure that rural, remote and other underserved areas can benefit from the new technologies, so that no areas or citizens are left behind. At the same time, private investment should not be crowded out and distortions of competition need to be limited to a minimum.

In 2019, the Commission approved various broadband schemes under EU State aid rules. These concerned, in Greece, a EUR 50 million voucher scheme for faster broadband services<sup>44</sup>; in Ireland, EUR 2.6 billion public support for the Irish National Broadband Plan<sup>45</sup>; in Spain, a EUR 400 million scheme for very high speed broadband networks<sup>46</sup>; and in Germany, the approval in Bavaria of a scheme for very high capacity broadband networks, following an earlier gigabit pilot project involving six Bavarian municipalities and approved by the Commission in December 2018<sup>47</sup>.

#### **4. Competition policy in support of the EU's low-carbon energy and environment objectives**

In December 2019, the Commission adopted the "European Green Deal" Communication, outlining policy initiatives to reach net-zero greenhouse gas emissions by 2050 and to tackle environment-related challenges<sup>48</sup>. Competition policy, just like all other Commission policies, will contribute to achieving these ambitious objectives. Indeed, during 2019 the Commission launched the "fitness check" covering Environmental and Energy Guidelines and continued the evaluation of its Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (ETS Guidelines)<sup>49</sup> in preparation of their revision to ensure that they are adapted to EU's new emissions trading scheme for 2021-2030<sup>50</sup>. The ongoing "fitness check" of the State aid modernisation package will prepare for a

---

<sup>42</sup> Case M.9064 – *Telia Company / Bonnier Broadcasting Holding*, Commission decision of 12 November 2019. See: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9064](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9064).

<sup>43</sup> See: <https://ec.europa.eu/digital-single-market/en/news/communication-connectivity-competitive-digital-single-market-towards-european-gigabit-society>.

<sup>44</sup> Case SA.49935 *Superfast Broadband (SFBB) Project – Greece*, Commission decision of 7 January 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_49935](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_49935).

<sup>45</sup> Case SA.54472 *National Broadband Plan – IE*, Commission decision of 15 November 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_54472](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_54472).

<sup>46</sup> Case SA.53925 *Broadband Scheme for NGA White and Grey Areas – Spain*, Commission decision of 10 December 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_53925](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_53925).

<sup>47</sup> Case SA.54668 *Bavarian gigabit scheme – DE*, Commission decision of 29 November 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_54668](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_54668).

<sup>48</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *The European Green Deal*, COM/2019/640 final. See: [https://ec.europa.eu/info/publications/communication-european-green-deal\\_en](https://ec.europa.eu/info/publications/communication-european-green-deal_en).

<sup>49</sup> See: [https://ec.europa.eu/info/law/better-regulation/initiatives/ares2018-6600267\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares2018-6600267_en).

<sup>50</sup> Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814, OJ L 76, 19.3.2018, pp. 3–27.

revision of the relevant guidelines in light of the policy objectives of the European Green Deal by 2021.

#### *State aid underpinning EU's "zero pollution" ambition and resource efficiency*

In 2019, the Commission approved EUR 195 million of additional public support until the end of 2022 for electric buses and charging infrastructure in Germany<sup>51</sup>. In addition, the Commission approved EUR 430 million in public support to retrofit diesel vehicles used in municipalities where the limits for NOX emissions were exceeded in 2017<sup>52</sup>. Both types of measures are in line with EU's environmental goals, as well as with the European Strategy for low-emission mobility, and its support for the move towards zero-emission vehicles in cities and for creating a market for such vehicles.

The Commission also approved a Czech scheme<sup>53</sup> providing aid to installations generating electricity from waste heat and from mining gases. The scheme contributes to resource efficiency by reducing the consumption of primary energy sources used for electricity production.

On 25 November 2019, the Commission approved EUR 93.8 million to support the construction and operation of a high-efficient cogeneration plant in Bulgaria<sup>54</sup>. The plant will produce heat and electricity using fuel derived from unrecyclable municipal waste.

On 28 January 2019, the Commission approved EUR 36 million investment aid to chemical company *LG Chem*<sup>55</sup> for a new electric vehicle batteries plant in Poland. The new plant is expected to supply batteries for more than 80 000 electric vehicles per year and create more than 700 direct jobs, contributing to the Dolnoślaskie region's development whilst preserving competition. This project could not have been carried out without public funding.

#### *State aid in support of renewable energy*

The objective of State aid control is to maximise environmental, social and economic benefits from limited public funds, by minimising costs for the State, industry and consumers, by ensuring public money does not crowd out private spending, as well as by contributing to a level playing field in the Single Market. In 2019, the Commission continued to approve State aid schemes allowing Member States to meet their energy-efficiency targets and contribute to the reduction of carbon dioxide emissions in line with the EU's environmental objectives.

On 14 June 2019, the Commission approved EUR 5.4 billion support for the production of electricity from renewable sources in Italy<sup>56</sup>, to help it reach its renewable energy targets. The

---

<sup>51</sup> Budget increase and prolongation of scheme SA.48190 Germany - *Support scheme for the acquisition of electric buses for urban public transport*, Commission decision of 26 February 2018, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_48190](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_48190).

<sup>52</sup> SA.53054 *Scheme for retrofitting heavy municipal vehicles*, SA.53055 *Scheme for retrofitting heavy commercial vehicles* and SA.53056 *Scheme for retrofitting light commercial and municipal vehicles*. Germany notified an amendment to those schemes, which the Commission approved on 25 October 2019 under SA.55230, SA.55231 and SA.55232 respectively. The amendment introduced, inter alia, a more flexible concept of eligible municipalities.

<sup>53</sup> Case SA.35179 Czech Republic – *Promotion of electricity from secondary sources*, Commission decision of 26 September 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_35179](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_35179)

<sup>54</sup> Case SA.54042 *Sofia waste-to-energy project/ cogeneration unit with recovery of energy from RDF- Bulgaria*, Commission decision of 25 November 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_54042](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_54042).

<sup>55</sup> Case SA.47662 *LIP – Aid to LG Chem Wrocław Energy Sp. z o.o.*, Commission decision of 28 January 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_47662](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_47662).

<sup>56</sup> Case SA.53347 Italy - *Support to electricity from renewable sources 2019-2021*, Commission decision of 14 June 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_53347](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_53347).



scheme will support electricity production from renewable sources, such as onshore wind, solar photovoltaic, hydroelectric and sewage gases and will be applicable until 2021.

On 26 July 2019, the Commission approved support for six offshore wind farms in France<sup>57</sup>. The construction is to start this year and they should be operational as of 2022. The support measures will help France boost its share of electricity produced from renewable energy sources to meet its climate targets, in line with EU's environmental objectives<sup>58</sup>.

*Regulation and competition policy work hand in hand to ensure security of energy supply for European citizens and businesses*

Capacity mechanisms are measures taken by Member States to ensure that electricity supply can match demand in the medium and long term. They are designed to fill expected capacity gaps and ensure security of supply. It is important that the design of capacity mechanisms avoid distortions of competition, as they may otherwise lead to higher electricity prices for consumers, give undue advantages to certain energy operators or hinder electricity flows across EU borders.

At the same time, capacity mechanisms cannot substitute electricity market reforms at national and European levels. The new electricity market Regulation<sup>59</sup> requires Member States planning to introduce capacity mechanisms to present a market reform plan to address regulatory and other failures that undermine investment incentives in the electricity sector. The Regulation will also prevent high-emission generation capacity from participating in capacity mechanisms.

In 2019, the Commission issued two decisions related to capacity mechanisms in Italy<sup>60</sup> and Great Britain (following an in-depth investigation)<sup>61</sup>, which already take into account the provisions of the electricity market regulation on capacity mechanisms.

*Investigating potential cartels that hinder the use of innovative technologies*

The Commission's Guidelines on horizontal co-operation agreements explain, among other things, the forms of cooperation between companies aimed at improving product quality and innovation, which do not raise concerns under EU competition law. It is illegal for companies to agree to stifle competition on quality and innovation. On 5 April 2019, the Commission sent a Statement of Objections to *BMW, Daimler* and the *Volkswagen Group* (Volkswagen, Audi, Porsche)<sup>62</sup>, informing them of its preliminary view that they have breached EU antitrust rules from 2006 to 2014 by colluding to restrict competition on the development of technology to clean the emissions of petrol and diesel passenger cars. The Commission's preliminary view is that the car manufacturers' behaviour aimed at restricting competition on innovation for two emission-cleaning systems, and may have denied consumers the

---

<sup>57</sup> Case SA.45274 *France - Offshore wind park of Courseulles*, Commission decision of 26 July 2019, SA.45275 *France - Offshore wind park of Fécamp*, Commission decision of 26 July 2019, SA.45276 *France - offshore wind park of Saint-Nazaire*, Commission decision of 26 July 2019, SA.47246 *France - Offshore wind park in Islands of Yeu et Noirmoutier*, Commission decision of 26 July 2019, SA.47247 *France - Offshore wind park of Dieppe*, Commission decision of 26 July 2019, and SA.48007, *France - Offshore wind park of Saint-Brieuc* Commission decision of 26 July 2019. See: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_4749](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_4749).

<sup>58</sup> See: <https://ec.europa.eu/info/strategy/priorities-2019-2024>.

<sup>59</sup> Regulation (EU) 2019/943 of the European Parliament and the Council of 5 June 2019 on the internal market for electricity, OJ L 158, 14.06.2019, p.54.

<sup>60</sup> Case SA.53821 *Modification of the Italian capacity mechanism*, Commission decision of 14 June 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_53821](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_53821).

<sup>61</sup> SA.35980 *GB capacity mechanism*, Commission decision of 24 October 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_35980](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_35980).

<sup>62</sup> Case AT.40178 *Car emissions*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40178](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40178).

opportunity to buy less polluting cars, despite the technology being available to the manufacturers.

## 5. Protecting competition in the manufacturing sector

Competition enforcement in the manufacturing sector ensures that firms can compete on fair and equal terms in the Single Market. In addition, State aid enforcement steers public funding towards research, training and energy efficiency. Only innovative companies with sustainable business plans can deliver smart goods and services at competitive prices for EU consumers and businesses. Improving EU businesses' efficiency and long-term competitiveness in the Single Market makes these companies fit for competing in the global market place.

### *Merger decisions and investigations in basic industries with high barriers to entry*

EU merger control contributes to ensure that companies active in the Single Market can compete on fair and equal terms. Notified transactions that may significantly distort competition are subject to close scrutiny by the Commission. In its assessment, the Commission takes into account efficiencies brought about by mergers, which may positively impact costs, innovation and other aspects, provided that such efficiencies are verifiable, merger-specific and likely to be passed on to consumers. In case there are competition concerns, merging companies have the possibility to dismiss such concerns by offering commitments. If no adequate and sufficient commitments are found or agreed upon, the Commission prohibits the transaction. Over the past ten years, the Commission has approved more than 3000 mergers, out of which over 90% were cleared unconditionally. In comparison, over the same period, the Commission only blocked ten mergers, of which three in 2019.

Basic manufacturing and consumer goods industries continued to account for a substantial share of the Commission's competition enforcement in 2019.

On 6 February 2019, the Commission prohibited Siemens' proposed acquisition of Alstom<sup>63</sup> under the EU Merger Regulation. Siemens and Alstom, both champions in the rail industry, had not offered remedies sufficient to address the Commission's concerns on a lasting basis.

### **The Siemens/Alstom merger: protecting rail operators and passengers**

Trains and the signalling equipment that guide them are essential for transport in Europe. Siemens (Germany) and Alstom (France) are both global leaders in rail transportation, and the proposed transaction would have combined the two largest suppliers of rolling stock (trains) and signalling solutions in the European Economic Area (EEA) not only in terms of size of the combined operations, but also in terms of their geographic footprint. Both companies also have leading positions globally.

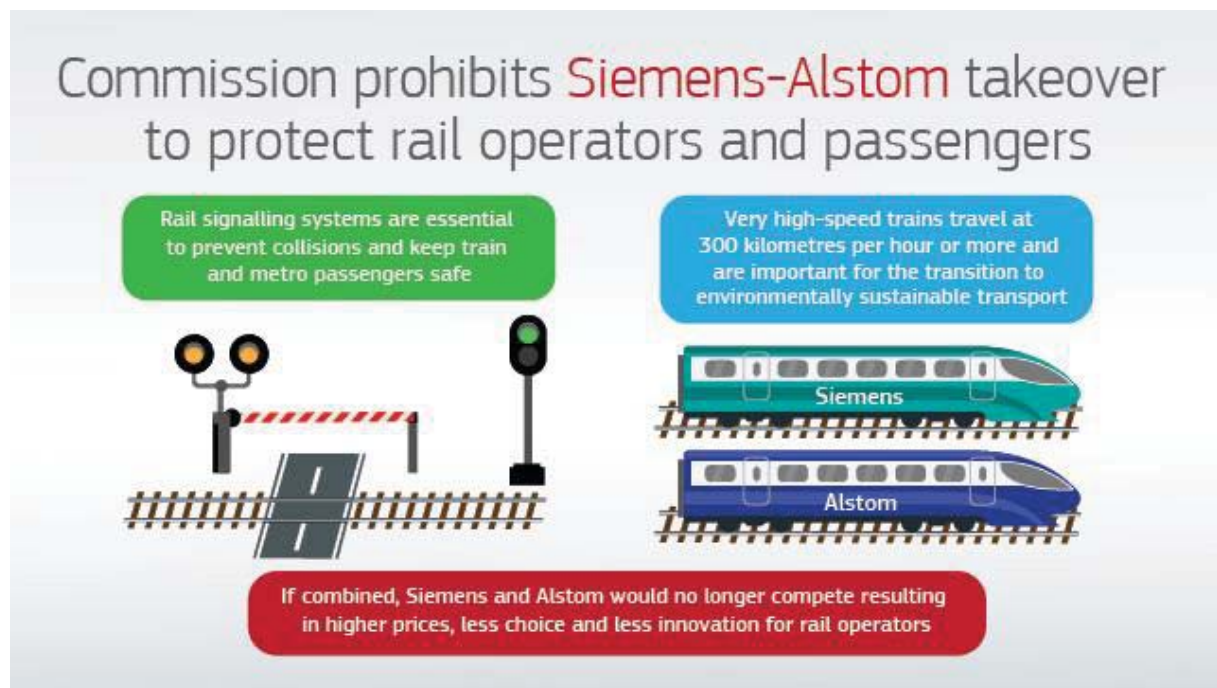
In its in-depth assessment, the Commission considered that, without sufficient remedies, the merger would have harmed competition in several markets for railway signalling systems and in the market for very high-speed trains. It would have created the undisputed market leader in several railway signalling markets and a dominant player in very high-speed trains in the EEA. In all relevant markets in which competition concerns were identified, the competitive pressure from remaining competitors would not have been sufficient to ensure effective competition. As part of its investigation, the Commission also carefully considered the competitive landscape in the rest of the world, and considered that the entry of new competitors, including potential Chinese suppliers, into the EEA in the very high-speed rolling stock market or the signalling solutions markets for which competition concerns were identified, were unlikely to occur in the near future.

Siemens and Alstom offered remedies that were insufficient to solve the Commission's competition concerns. Market participants consulted by the Commission to indicate their views on the proposed

---

<sup>63</sup> Case M.8677 *Siemens / Alstom*, Commission decision of 6 February 2019, available at: [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8677](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8677).

remedies provided negative feedback, confirming the Commission's assessment.



In the absence of adequate remedies that addressed its competition concerns for the very-high speed rolling stock market and the railway signalling markets, the Commission concluded that the merger would have led to higher prices, reduced choice for suppliers and fewer innovative products, to the detriment of train operators, rail infrastructure managers and ultimately the millions of Europeans who use rail transportation every day for work or leisure. It therefore prohibited the proposed transaction.

On 6 February 2019, the Commission also prohibited, under the EU Merger Regulation, *Wieland's* proposed acquisition of *Aurubis Rolled Products* and Aurubis' stake in *Schwermetall*.<sup>64</sup> The Commission's concerns included reduced competition and increased prices for rolled copper products used by European manufacturers. A large number of European industrial customers also expressed concerns regarding both access to pre-rolled strip from *Schwermetall*, and price increases for rolled products. *Wieland* and *Aurubis* were two of the three biggest producers of rolled copper products in Europe. If their merger had gone through, *Wieland* would have become the dominant player in the market for rolled copper products, with a market share in Europe of over 50%, and with only one other competitor, with a market share above 10%. As *Wieland* was not willing to address effectively the expressed concerns, the Commission prohibited the proposed transaction.

In the plastics industry, on 18 January 2019, the Commission, following an in-depth investigation, approved the acquisition of *Solvay's* polyamide (nylon) business by *BASF*<sup>65</sup>, subject to the divestment of most of *Solvay's* relevant assets in the EEA. The Commission identified the risk that the transaction as notified would likely have given rise to higher prices and/or less input available throughout the nylon 6.6 value chain, as well as higher prices to end customers. Nylon 6.6 products include specialty plastics used in the automotive, electronic or construction industries. They are often used as substitutes for heavier metal parts

<sup>64</sup> Case M.8900 *Wieland / Aurubis Rolled Products / Schwermetall*, Commission decision of 6 February 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8900](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8900).

<sup>65</sup> Case M.8674 *BASF / Solvay's EP and P&I Business*, Commission decision of 18 January 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8674](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8674).

and to generate energy savings. On 25 November 2019, the Commission approved the purchase of the divested business by *Domo Chemicals*.<sup>66</sup>

On 11 June 2019, the Commission prohibited, under the EU Merger Regulation, the proposed joint venture between *Tata Steel* and *ThyssenKrupp*<sup>67</sup>, which would have combined the flat carbon steel and electrical steel activities of ThyssenKrupp and Tata Steel in the EEA. ThyssenKrupp, the second largest producer of flat carbon steel in the EEA, and Tata Steel, the third largest, are also significant producers of metallic coated and laminated steel for packaging applications and of galvanised flat carbon steel for the automotive industry. The Commission's concerns looked at reduced competition (less choice for steel customers) and increased prices for different types of steel. The parties did not offer adequate remedies to address these concerns. The Commission also sought the views of market participants about the proposed remedies, and their feedback was negative. As a result, the Commission prohibited the proposed transaction.

On 1 October 2019, following an in-depth investigation, the Commission approved the acquisition of aluminium player *Aleris* by rival *Novelis*<sup>68</sup> subject to conditions. The Commission had concerns that the transaction would have resulted in higher prices for European customers of aluminium automotive body sheets, which are used in the manufacturing of cars also with the aim to reduce fuel consumption and emissions. To address the Commission's concerns, the companies offered to divest Aleris' entire aluminium automotive body sheet business in Europe, including its production plant in Belgium. The divestiture includes R&D assets as well as funding for an investment to improve further its capabilities. As the proposed divestiture would remove the entire overlap created by the transaction in aluminium automotive body sheets in Europe, the Commission concluded that the transaction, as modified by the commitments, would no longer raise competition concerns. The approval is conditional on full compliance with the commitments.

The Commission also opened in-depth investigations into various proposed mergers in the manufacturing sector. The opening of in-depth investigations does not prejudice their outcomes. On 4 October 2019, the Commission opened an in-depth investigation to assess the proposed creation of two joint ventures by aircraft manufacturers *Boeing* and *Embraer*<sup>69</sup>, under the EU Merger Regulation. The Commission's concerns were that the transaction may result in higher prices and less choice as regards commercial aircraft.

Furthermore, on 30 October 2019, the Commission opened an in-depth investigation to determine whether the proposed acquisition of *Chantiers de l'Atlantique* by *Fincantieri*<sup>70</sup> is likely to significantly reduce effective competition. Both shipbuilding companies are global leaders in an already concentrated and capacity constrained market.

Moreover, on 17 December 2019, the Commission opened an in-depth investigation to assess the proposed acquisition of *Daewoo Shipbuilding & Marine Engineering CO., Ltd (DSME)* by

---

<sup>66</sup> Case M.9553 *Domo Investment Group / Solvay Performance Polyamides Business in the EEA*, Commission decision of 25 November 2019, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9553](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9553).

<sup>67</sup> Case M.8713. *Tata Steel / Thyssenkrupp / JV*, Commission decision of 11 June 2019, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_8713](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_8713).

<sup>68</sup> Case M.9076 *Novelis/Aleris*, Commission decision of 1 October 2019, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9076](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9076).

<sup>69</sup> Case M.9097 *Boeing / Embraer*, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9097](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9097). On 25 April 2020, Boeing terminated the agreement to establish Joint Ventures with Embraer.

<sup>70</sup> Case M.9162 *Fincantieri / Chantiers De L'Atlantique*, available at :

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9162](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9162).



another shipbuilding group, *Hyundai Heavy Industries Holdings (HHIH)*<sup>71</sup>, under the EU Merger Regulation. The Commission is concerned that the merger may reduce competition in various global cargo shipbuilding markets. Cargo shipbuilding is an important industry for the EU. European shipping companies are major customers of DSME and HHIH and represent 30% of worldwide demand for cargo ships.

#### *EU State aid rules contribute to boosting innovation*

In June 2014, the Commission adopted a Communication on Important Projects of Common European Interest (IPCEI), setting out criteria under which Member States can support transnational projects of strategic significance for the EU<sup>72</sup>. The Communication clarifies the compatibility rules so that it facilitates cooperation between Member States on projects that make a clear contribution to economic growth, sustainability, jobs and the EU's competitiveness. The framework also requires commitments to ensure extensive dissemination of new knowledge throughout the EU as well as a detailed competition assessment to minimise any undue distortions. The IPCEI framework complements other State aid rules such as the General Block Exemption Regulation (GBER)<sup>73</sup> and the Research, Development and Innovation Framework<sup>74</sup>, which also enable support to innovative projects whilst ensuring that potential competition distortions are limited.

In December 2018, the Commission found that an integrated project jointly notified by France, Germany, Italy and the UK for research and innovation in microelectronics, a key enabling technology, is in line with EU State aid rules and contributes to a common European interest<sup>75</sup>. The four Member States are to provide up to EUR 1.75 billion in funding for this project that aims to unlock an additional EUR 6 billion in private investment.

In December 2019, a second project, concerning batteries, followed this first IPCEI project. Battery production is of strategic interest for the European economy and society because of its potential in terms of clean mobility, energy, sustainability and competitiveness.

#### **Important Projects of Common European Interest: supporting all battery value chain segments**

In December 2019, the Commission approved a second Important Project of Common European interest jointly notified by Belgium, Finland, France, Germany, Italy, Poland and Sweden to support research and innovation in the common European priority area of batteries<sup>76</sup>. The seven Member States will provide in the coming years up to approximately EUR 3.2 billion in funding, which is expected to unlock an additional EUR 5 billion in private investments.

The completion of the overall project is planned for 2031 (with differing timelines for each sub-project). The project will involve 17 direct participants, mostly industrial actors, including small and medium-sized enterprises (SMEs).

<sup>71</sup> Case M.9343 *Hyundai Heavy Industries Holdings / Daewoo Shipbuilding & Marine Engineering*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=2\\_M\\_9343](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9343).

<sup>72</sup> In line with Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU).

<sup>73</sup> See: [http://ec.europa.eu/competition/state\\_aid/legislation/block.html](http://ec.europa.eu/competition/state_aid/legislation/block.html).

<sup>74</sup> Communication from the Commission — Framework for State aid for research and development and innovation, OJ C 198, 27.6.2014, pp. 1–29.

<sup>75</sup> Cases SA.46705 (France), SA.46578 (Germany), SA.46595 (Italy) and SA.46590 (United Kingdom). See also: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_18\\_6862](https://ec.europa.eu/commission/presscorner/detail/en/IP_18_6862).

<sup>76</sup> Cases SA.54793 (Belgium), SA.54801 (Germany), SA.54794 (France), SA.54806 (Italy), SA.54808 (Poland), SA.54796 (Sweden) and SA.54809 (Finland). See also: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6705](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6705).

Commission approves €3.2 billion support by seven Member States for project of common European interest for **battery value chain**

Raw and advanced materials	Cells and modules	Battery systems	Repurposing, recycling and refining
BASF	ACC	BMW	BASF
Eneris	BMW	Endurance	Endurance
Keliber	Endurance	Enel X	Elemental
Nanocyl	Eneris	Eneris	Eneris
Solvay	FAAM	Kaitek	FAAM
Terrafame	SEEL	SEEL	Fortum
Umicore	VARTA		SEEL
			Umicore

The project is part of the “European Battery Alliance” between the Commission, interested Member States and the industrial actors that adopted a Strategic Action Plan for Batteries in May 2018.

## 6. Ensuring a level playing field in the area of taxation

Safeguarding a level playing field for companies so that they compete on merit, also when it comes to taxation, increases confidence in the Single Market. Member States cannot give tax benefits to multinational groups that are not available to other companies (often local businesses), since that would severely distort competition. Moreover, it would deprive the public purse and EU taxpayers of much needed funds to fight climate change, to build infrastructure and to invest in innovation.

On 24 September 2019, the General Court delivered its first judgments on the Commission’s decisions finding that tax rulings granted to *Starbucks*<sup>77</sup> and *Fiat*<sup>78</sup> had constituted State aid. In *Fiat*, the General Court upheld the Commission’s decision of 21 October 2015<sup>79</sup>, agreeing that the Commission had applied its State aid rules correctly to assess if there was an illegal advantage and was not seeking to harmonise tax rules across the bloc. The General Court also agreed with the Commission’s finding that the Luxembourg tax ruling was selective, thus not available to all companies. In *Starbucks*, the General Court annulled the Commission’s decision of 21 October 2015<sup>80</sup> concluding that the Commission was unable to demonstrate the existence of an advantage in favour of the company. In both cases, the General Court endorsed the Commission’s approach in using State aid rules in tax cases.

*The Commission continues its fight against selective tax advantages*

<sup>77</sup> Joined Cases T-760/15 and T-636/16, *Kingdom of the Netherlands and Others v European Commission*, judgment of 24 September 2019, ECLI:EU:T:2019:669.

<sup>78</sup> Joined Cases T-755/15 and T-759/15, *Grand Duchy of Luxembourg and Fiat Chrysler Finance Europe v European Commission*, judgment of 24 September 2019, ECLI:EU:T:2019:670.

<sup>79</sup> Case SA.38375 *State aid which Luxembourg granted to Fiat*, Commission decision of 21 October 2015, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_38375](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38375).

<sup>80</sup> Case SA.38374 *State aid implemented by the Netherlands to Starbucks*, Commission decision of 21 October 2015, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_38374](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38374).



In 2019, the Commission continued to look at aggressive tax planning measures under EU State aid rules and to assess if they result in illegal State aid.

On 2 April 2019, the Commission concluded that the United Kingdom gave illegal tax advantages to certain multinational companies by granting them an exemption from a set of anti-avoidance rules known as *Controlled Foreign Company* (CFC)<sup>81</sup> rules.

On 10 January 2019, the Commission opened an in-depth investigation to examine whether tax rulings granted by the Netherlands to *Nike*<sup>82</sup> may have given the company an unfair advantage over its competitors, in breach of EU State aid rules. The Commission's formal investigation concerns the tax treatment in the Netherlands of two Nike group companies. From 2006 to 2015, the Dutch tax authorities issued tax rulings, which endorsed a method to calculate the royalties. As a result, these group companies were only taxed on a limited operating margin based on sales. The Commission is concerned that the royalty payments endorsed by the rulings may not reflect economic reality. They appear to be higher than what independent companies negotiating on market terms would have agreed between themselves in accordance with the arm's length principle.

On 16 September 2019, following the General Court's judgment annulling the *Belgian Excess Profit*<sup>83</sup> decision on grounds that the tax rulings needed to be assessed individually under EU State aid rules, the Commission opened separate in-depth investigations into 39 "excess profit" tax rulings granted by Belgium to multinational companies.<sup>84</sup> At the same time, the Commission appealed the judgment of the General Court to the European Court of Justice to seek further clarity on the existence of an aid scheme. The proceedings are ongoing.

## 7. Making the financial sector more resilient in a Banking Union context

The general stabilisation of the European financial sector, since the financial crisis, and ongoing implementation of the Banking Union regulatory framework continued to reduce the number of State aid cases in the financial sector.

On 5 December 2019, the Commission adopted a decision concluding that the recapitalisation of German bank *Norddeutsche Landesbank – Girozentrale (NordLB)*<sup>85</sup> was market conform. The measures involved a direct investment of EUR 2.8 billion and investments to carry out the necessary structural changes, as well as downsizing, to ensure that NordLB continues to operate profitably on the market. The Commission found that the State received a remuneration in line with what a private operator would also accept in similar circumstances. Thus, the measures were carried out on market terms, and with no State aid within the meaning of EU rules. The European Central Bank, as responsible supervisor, gave its approval to the plan on 29 November 2019. In a similar approach, on 29 October 2019, the Commission had found Romania's plans to inject EUR 200 million of capital in fully state-owned *CEC Bank*<sup>86</sup> to be carried out on market terms and therefore involving no State aid in

---

<sup>81</sup> Case SA.44896 *State aid scheme UK CFC Group Financing Exemption*, Commission decision of 2 April 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_44896](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_44896).

<sup>82</sup> Case SA.51284 *Netherlands – Alleged aid to Nike*, Commission decision of 10 January 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_51284](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_51284).

<sup>83</sup> Case SA.37667 *Excess Profit exemption in Belgium*, Commission decision of 11 January 2016, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_37667](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_37667).

<sup>84</sup> See: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_5578](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_5578).

<sup>85</sup> Case SA.49094 *Market-conform measures for strengthening capital and restructuring of Norddeutsche Landesbank*, Commission decision of 5 December 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_49094](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_49094).

<sup>86</sup> Case SA.53869 *Market-conform recapitalisation of CEC Bank*, Commission decision of 29 October 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_53869](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_53869).

favour of the bank within the meaning of EU rules.

Nevertheless, despite the improving resilience of EU's banking sector, some parts still face legacy issues, such as the level of non-performing loans (NPL), which is still high in some Member States. In 2019, the Commission approved the *Hellenic Asset Protection Scheme* (also known as 'Hercules')<sup>87</sup> as free of State aid, targeted to address non-performing loans in Greece. This scheme is an example of how Member States can help banks clean up their balance sheets without granting aid or distorting competition.

*Continuing to ensure fair competition in financial services markets for the benefit of both consumers and businesses*

The digital transformation is affecting financial services as much as other industries in Europe. Digital technologies offer businesses new possibilities to serve customers better, and with services that cost less. To fully unlock the potential of digitisation, financial technology companies will need a real chance to compete, and regulatory frameworks will need to make sure that a level playing field can be achieved among all financial service providers.

In 2019, enforcement of competition rules throughout the financial sector remained key to ensuring fair competition and protecting financial stability alike. On 22 January 2019, the Commission fined the card scheme *Mastercard*<sup>88</sup> EUR 570 million for obstructing merchants' access to cross-border card payment services, in breach of EU antitrust rules.

#### **Mastercard II: promoting healthy competition in the payments sector**

Mastercard is the second largest card scheme in the European Economic Area (EEA) in terms of number of consumer cards and value of transactions. Card payments play a key role in the Single Market, with European consumers and businesses making more than half of their non-cash payments through cards. When a consumer uses a debit or credit card in a shop or online, the retailer's bank pays a fee called an "interchange fee" to the cardholder's bank. The bank of the retailer passes this fee on to the retailer who includes it, like any other cost, in the final prices for all consumers.

The Commission's investigation found that Mastercard's cross-border rules obliged retailers' banks to apply the interchange fees of the country where the retailer was located. These rules made retailers pay more in bank services to receive card payments than if they had been free to shop around for lower-priced services. The cross-border rules equally led to higher prices for retailers and consumers, limited cross-border competition and an artificial segmentation of the Single Market.

---

<sup>87</sup> Case SA.53519 *Hellenic Asset Protection Scheme ('Hercules') – Greece*, Commission decision of 10 October 2019, available at: [https://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_53519](https://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_53519).

<sup>88</sup> Case AT.40049 *MasterCard II*, Commission decision of 22 January 2019, available at: [https://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=1\\_40049](https://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=1_40049).

## Mastercard prevented shops from getting lower fees available in other European countries



The Commission concluded that Mastercard's cross-border rules until 9 December 2015 were in breach of EU antitrust rules, as they limited the possibility for merchants to benefit from better conditions offered by banks established elsewhere in the Single Market. On this basis, the Commission decided to impose a fine on Mastercard of EUR 570 million.

On 9 December 2015, the Interchange Fee Regulation (IFR)<sup>89</sup> had introduced caps for interchange fees, which before had varied considerably from one country to another in the EEA. The Commission is currently assessing the implementation of the 2015 IFR and has commissioned a study<sup>90</sup> in this respect. The Commission concluded separate antitrust investigations into Mastercard's, Visa Inc.'s, and Visa International's multilateral interchange fees (MIFs) applied to transactions in the EEA made with consumer debit and credit cards issued outside the EEA (inter-regional MIFs). The IFR did not cap these MIFs, which represented a significant burden to European merchants and increased retail prices for all consumers. In 2014, following Visa Europe's commitments, the proceedings concerning it were closed<sup>91</sup>. In 2019, Mastercard, Visa Inc. and Visa International, each separately, offered commitments that would reduce the inter-regional MIFs by an average of 40%, in line with or below binding caps. On 29 April 2019, the Commission adopted two decisions making these commitments legally binding under EU antitrust rules<sup>92</sup>.

Furthermore, on 16 May 2019, the Commission, in two settlement decisions, fined five banks for taking part in two cartels in the *Spot Foreign Exchange market (FOREX)*<sup>93</sup> for 11 major currencies. The first decision (the so-called "Forex – Three-Way Banana Split" cartel)

<sup>89</sup> Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (Text with EEA relevance), OJ L 123, 19.5.2015, pp. 1–15.

<sup>90</sup> See: <https://ec.europa.eu/competition/publications/reports/kd0120161enn.pdf>.

<sup>91</sup> Case AT.39398 *VISA MIF*, Commission decision of 26 February 2014. See:

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39398/39398\\_9728\\_3.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39398/39398_9728_3.pdf).

<sup>92</sup> Cases AT 39398 *Visa MIF* and AT 40049 *Mastercard II*, Commission decisions of 29 April 2019.

See: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40049](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40049) and

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_39398](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39398).

<sup>93</sup> Case AT.40135 *FOREX*, Commission decision of 16 May 2019, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40135](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40135).

imposed a total fine of EUR 811 million on Barclays, the Royal Bank of Scotland (RBS), Citigroup and JPMorgan. The infringement started on 18 December 2007 and ended on 31 January 2013. The second decision (so-called “Forex-Essex Express” cartel) imposed a total fine of just under EUR 258 million on Barclays, RBS and MUFG Bank (formerly Bank of Tokyo-Mitsubishi). The infringement started on 14 December 2009 and ended on 31 July 2012. Union Bank of Switzerland (UBS) was an addressee of both decisions, but was not fined as it revealed the existence of the cartels to the Commission.

In 2019, the Commission continued to closely monitor the credit sector, and published a report<sup>94</sup> on EU loan syndication, including how such syndicates are formed and operate, and their impact on competition in credit markets. Syndicated loans are important instruments in financing major infrastructure and innovation projects.

In the insurance sector, the Commission opened a formal antitrust investigation into *Insurance Ireland*<sup>95</sup> in May 2019, to assess whether companies wishing to offer their services on the Irish motor insurance market were unfairly prevented from accessing a data pool managed by Insurance Ireland for its member companies. If proven, the practices under investigation may breach EU competition rules, and could lead to reduced choice and less competitive prices for Irish drivers regarding motor insurance policies. The opening of the formal investigation follows inspections carried out in July 2017 in the Irish motor insurance market.

## 8. Ensuring fair competition in the food, consumer and health sectors

The Single Market opened the possibilities for retailers and consumers to shop around Europe for a larger variety of products and cheaper prices. When companies restrict traders from selling merchandise cross-border and online within the EU Single Market, this leads to less choice and higher prices for consumers. European competition rules enshrined in the Treaty on the Functioning of the EU<sup>96</sup> prohibit agreements between companies that prevent, restrict or distort competition inside the EU's Single Market.

### *Antitrust enforcement in cross-border consumer products*

In 2019, the Commission closely scrutinised several cases of licensees being prevented from selling licensed products in a different country, in breach of EU antitrust rules.

On 13 May 2019, the Commission fined *Anheuser-Busch InBev NV/SA (AB InBev)*<sup>97</sup> EUR 200.4 Million for restricting sales of beer across neighbouring EU Member States, in breach of EU antitrust rules.

### *Continuing the fight against cross-border anticompetitive practices in the Single Market*

AB InBev is the world's biggest beer brewer. Its most popular beer brand in Belgium is Jupiler, which represents approximately 40% of the total Belgian beer market in terms of sales volume. AB InBev also sells Jupiler beer in other EU Member States, including the Netherlands and France.

In its investigation opened in June 2016, the Commission found that in the Netherlands, AB InBev sells Jupiler to retailers and wholesalers at lower prices than in Belgium due to increased competition. The Commission equally concluded that AB InBev is dominant on the Belgian beer market and that AB InBev abused its dominant market position in Belgium by restricting the possibility for supermarkets and wholesalers to buy Jupiler beer at lower prices in the Netherlands and to import it

<sup>94</sup> See: <https://ec.europa.eu/competition/publications/reports/kd0419330enn.pdf>.

<sup>95</sup> Case AT.40511 *Insurance Ireland: Insurance claims database and conditions of access*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40511](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40511).

<sup>96</sup> See: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E101:EN:HTML>.

<sup>97</sup> Case AT40134 *AB InBev Beer Trade Restrictions*, Commission decision of 13 May 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40134](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40134).



into Belgium. Therefore, cross-border sales in the Single Market were restricted, and consumers in Belgium had to pay more for the Jupiler beer.

The infringement of EU competition rules lasted from 9 February 2009 until 31 October 2016 and the fine imposed by the Commission on AB InBev amounts to EUR 200 409 000. The Commission decision equally made the remedy ensuring that AB InBev provides mandatory food information in both French and Dutch on the packaging of its products, legally binding for the next five years. The Commission decided to reduce AB InBev's fine by 15% in light of AB InBev's acknowledgment of the infringement and of its implementation of remedies aimed towards favouring the cross-border trade of its products.



Market dominance is, as such, not illegal under EU antitrust rules. However, dominant companies have a special responsibility not to abuse their market power by restricting competition, either in the market where they are dominant or in separate markets.

On 25 March 2019, the Commission fined *Nike*<sup>98</sup> EUR 12.5 million for banning traders from selling licensed merchandise, merchandising products of some of Europe's best-known football clubs and federations, to other countries within the EEA. In its investigation, the Commission found that Nike's non-exclusive licensing and distribution agreements breached EU competition rules, among other things, because of clauses explicitly prohibiting active and passive, online and offline, sales to EEA countries not specifically allocated to the licensees. Nike also enforced certain measures to indirectly implement those sales restrictions, for instance by threatening licensees with ending their contract and by carrying out audits to ensure compliance with the restrictions. Similarly, on 9 July 2019, *Sanrio*<sup>99</sup> was fined EUR 6.2 million for restricting traders from selling licensed merchandise to other countries within the EEA. This restriction concerned products featuring characters owned by Sanrio such as Hello Kitty. Notably, Sanrio limited the languages that licensees could use on the merchandising products. Sanrio's illegal practices lasted approximately 11 years. Sanrio and Nike each obtained a 40% reduction of their fines because in addition to acknowledging their respective infringements, they also cooperated to a large extent with the Commission, beyond

<sup>98</sup> Case AT.40436 - *Licensed Merchandise – Nike*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40436](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40436).

<sup>99</sup> Case AT.40432 - *Licensed Merchandise – Sanrio*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40432](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40432).

their legal obligation to do so. The Commission equally conducted a third investigation, concerning the licensing practices of *Universal Studios*<sup>100</sup>, owner of among others the rights for the *Minions* and *Jurassic World* film series.

On 27 September 2019, the Commission fined *Coroos* and *Groupe CECAB*<sup>101</sup> a total of EUR 31.6 million for breaching EU antitrust rules. *Bonduelle* was not fined as it revealed the existence of the cartel to the Commission. *Bonduelle*, *Coroos* and *Groupe CECAB* participated for more than 13 years in a cartel for the supply of certain types of canned vegetables to retailers and/or food service companies in the EEA. The companies set prices, agreed on market shares and volume quotas, allocated customers and markets, coordinated their replies to tenders, and exchanged commercially sensitive information. The infringement covered the entire EEA and lasted from 19 January 2000 to 11 June 2013 for *Bonduelle*, and to 1 October 2013 for *Coroos* and *Groupe CECAB*. The three companies admitted their involvement in the cartel and agreed to settle the case.

Furthermore, in November 2019, the Commission opened a formal antitrust investigation to assess whether two of the largest French groups of retailers, *Casino Guichard-Perrachon* (known as ‘Casino’) and *Les Mousquetaires* (known as ‘Intermarché’)<sup>102</sup>, had coordinated their conduct in the market, in breach of EU competition rules. The investigation is part of the Commission's efforts to ensure that modern grocery retail delivers benefits to consumers.

#### *Competition policy contributing to affordable and innovative pharmaceuticals*

On 28 January 2019, the Commission published the report “Competition enforcement in the pharmaceutical sector (2009-2017) – European competition authorities working together for affordable and innovative medicines”<sup>103</sup>. The report provides a comprehensive overview and examples of how the Commission and the national competition authorities of the 28 Member States enforced the EU antitrust and merger rules in the pharmaceutical sector in the period between 2009 and 2017. The report found that EU competition enforcement helped maintain the level of innovation in the sector by intervening against practices that could have distorted the incentives to innovate.

In 2019, the Commission continued proceedings in two cases where it is investigating firms suspected of preventing or reducing consumers’ access to effective, innovative and affordable medicines. The first case concerns so-called pay-for-delay practices impeding the market entry of generic modafinil<sup>104</sup>, a sleeping disorder medicine. The Commission aims to conclude this investigation in the course of 2020. The second case concerns the Commission’s ongoing formal antitrust proceedings against *Aspen Pharma*<sup>105</sup> for a suspected abuse of its dominant market position. The Commission investigates allegations that *Aspen Pharma* may have imposed unfair and excessive prices for a range of cancer medicines in all countries in

---

<sup>100</sup> Case AT.40433 - Film merchandise, available at:

[https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40433](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40433). A decision fining NBC Universal EUR 14.3 million for contractual restrictions in non-exclusive licensing agreements regarding the sale of merchandise products featuring NBC Universal’s films was adopted on 30 January 2020.

<sup>101</sup> Case AT.40127 *Coroos and Groupe CECAB*, Commission decision of 13 May 2019, available at: see: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_5911](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_5911).

<sup>102</sup> Case AT.40466 *Alliance Casino & Intermarché*, Commission decision of 13 May 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_40466](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40466).

<sup>103</sup> See: <http://ec.europa.eu/competition/sectors/pharmaceuticals/report2019/index.html>, and [https://europa.eu/rapid/press-release\\_IP-19-741\\_en](https://europa.eu/rapid/press-release_IP-19-741_en).

<sup>104</sup> Case AT.39686 *Cephalon*, see: IP/17/2063 of 17 July 2017: [http://europa.eu/rapid/press-release\\_IP-17-2063\\_en.htm](http://europa.eu/rapid/press-release_IP-17-2063_en.htm).

<sup>105</sup> Case AT.40394 *Aspen*. See: IP/17/1323 of 15 May 2017: [http://europa.eu/rapid/press-release\\_IP-17-1323\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1323_en.htm) and [http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/40394/40394\\_235\\_3.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/40394/40394_235_3.pdf).



the EEA except Italy.<sup>106</sup> The Commission aims to conclude this case in 2020.

## 9. Transport and postal services

The competitiveness of both transport and postal services sectors is important for a well-functioning Single Market, with beneficial spill-over effects for other sectors in a European economy integrated into the global markets. Within these sectors competition is particularly essential for the benefit of consumers, growth and jobs.

### *State aid in the transport sector contributing to prevent distortions of competition*

On 2 August 2019, the Commission found that the marketing agreements concluded between the local *Association for the Promotion of Touristic and Economic Flows (APFTE)* and *Ryanair*<sup>107</sup>, at the airport of Montpellier, are illegal under EU State aid rules. Between 2010 and 2017, APFTE concluded various marketing agreements with Ryanair and its subsidiary Airport Marketing Services (AMS), under which the airline and its subsidiary received payments in exchange for promoting Montpellier and the surrounding area as a touristic destination on Ryanair's website. These payments gave Ryanair a selective advantage over its competitors. France must now recover the illegal State aid of EUR 8.5 million from Ryanair. The Commission is currently investigating further agreements between public authorities and airlines in regional airports Girona and Reus<sup>108</sup> in Spain.

On 28 February 2019, the Commission opened an in-depth investigation to assess whether Danish and Swedish public support for the *Øresund*<sup>109</sup> fixed rail-road link was in line with EU State aid rules. Moreover, in June 2019, the Commission opened an in-depth investigation to determine whether the public financing model of the Fehmarn Belt<sup>110</sup> fixed rail-road link, between Denmark and Germany, was in line with EU State aid rules. Both in-depth investigations follow the General Court's annulment of previous Commission decisions approving the respective supports.

On 16 December 2019, the Commission approved, under EU State aid rules, five schemes to support maritime transport in Cyprus, Denmark, Estonia, Poland and Sweden<sup>111</sup>. The schemes encourage ship registration in Europe and contribute to the global competitiveness of the sector without unduly distorting competition.

### *State aid to postal services: maintaining a level-playing field*

State aid control in the postal sector ensures that where a postal service provider, typically an incumbent, is entrusted with a costly public service obligation, any compensation paid to the provider does not distort competition between postal incumbents and new entrants.

On 22 July 2019, the Commission approved a EUR 171.74 million public service

---

<sup>106</sup> The Italian competition authority adopted an infringement decision against Aspen on 29 September 2016.

<sup>107</sup> Case SA.47867 *Aid to Ryanair Montpellier airport*, Commission decision of 2 August 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_sa\\_47867](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_sa_47867).

<sup>108</sup> Case SA.33909 *Girona and Reus Airports - Aid to Ryanair*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_33909](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_33909).

<sup>109</sup> Cases SA.52162 and SA.52617 *State aid in favour of the Øresund Bridge Consortium*. See: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_1468](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_1468).

<sup>110</sup> Case SA.39078 *Financing of the Fehmarn Belt Fixed Link project*, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_39078](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39078).

<sup>111</sup> Cases SA.51809 (Cyprus), SA.52069 (Denmark), SA.53469 (Estonia), SA.46380 (Poland), SA.46740 (Sweden). See: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_19\\_6780](https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6780).

compensation granted by Italy to *Poste Italiane*<sup>112</sup> for distributing, at reduced tariffs, newspapers and publications of book publishers and non-profit organisations for the period 2017-2019.

Furthermore, on 14 June 2019, the Commission opened an in-depth investigation to assess whether capital injections granted by Denmark and Sweden to *PostNord* and by PostNord to *Post Danmark* are in line with EU State aid rules.<sup>113</sup> Post Danmark is the national postal operator in Denmark and a wholly-owned subsidiary of PostNord, which is owned by the Danish (40%) and Swedish (60%) states.

## 10. Joining forces in fostering a European and global competition culture

As world markets continue to integrate and more and more companies rely on global value chains, competition agencies need to increase their collaboration and agree on common standards and procedures more than ever before. Effectively enforcing competition rules depends to a growing extent on co-operation with other enforcement authorities.

The Commission continued to be at the forefront of international cooperation in the competition field, both on the multilateral and bilateral levels. In 2019, the Commission continued its active engagement in competition-related international fora such as the OECD Competition Committee, the International Competition Network (ICN), the World Bank, and the United Nations Conference on Trade and Development (UNCTAD). The Commission remains committed to fostering a far-reaching competition culture, as well as to promoting a global level playing field where companies can compete on their merits. In 2019, the Commission continued its endeavours to improve international rules for subsidies. Reforming the subsidy rules is one of the EU's main priorities for the modernisation of WTO trade rules. It also contributed to a common understanding reached with the competition authorities of the G7 countries regarding the challenges raised by the digital economy for competition analysis.

At bilateral level, the Commission aims at including provisions on competition and State aid control when negotiating Free Trade Agreements (FTAs). In 2019, the Commission continued FTA negotiations with Australia, Azerbaijan, Chile, Indonesia, New Zealand, Tunisia and Uzbekistan, and concluded the negotiations with Kyrgyzstan and Mercosur.

In 2019, the Commission also continued the cooperation in competition policy and in cases with China and reconfirmed the Terms of Reference of the EU-China Competition Policy Dialogue<sup>114</sup> and the Memorandum of Understanding on a dialogue in the area of the State aid control regime and the Fair Competition Review System<sup>115</sup>. The Commission's negotiations on a Comprehensive Investment Agreement with China are still ongoing.

Furthermore, the Commission continued its technical cooperation on competition policy and enforcement with the European Union's main trading partners with which the Commission has signed Memoranda of Understanding. Regarding neighbouring countries, in 2019 the Commission was involved in monitoring the implementation of the EU competition acquis in countries such as Ukraine.

---

<sup>112</sup> Case SA.48492 Compensation to Poste Italiane for reduced tariffs for publishers and not-for profit organizations 2017-2019, Commission decision of 22 July 2019, available at: [https://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_48492](https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_48492).

<sup>113</sup> Cases SA.49668 and SA.53403 *Alleged State aid to Post Danmark*. See: [https://europa.eu/rapid/press-release\\_IP-19-3008\\_en](https://europa.eu/rapid/press-release_IP-19-3008_en).

<sup>114</sup> See: [https://ec.europa.eu/competition/international/bilateral/agreement\\_tor\\_china\\_2019.pdf](https://ec.europa.eu/competition/international/bilateral/agreement_tor_china_2019.pdf).

<sup>115</sup> See: [https://ec.europa.eu/competition/international/bilateral/mou\\_china\\_2019.pdf](https://ec.europa.eu/competition/international/bilateral/mou_china_2019.pdf).

Finally, the Commission continued to monitor EU accession candidate countries' compliance with their competition policy commitments under the Stabilisation and Association agreements.

#### *Cooperation with national competition authorities within the European Competition Network*

Since 2004, the Commission and the national competition authorities in all EU Member States cooperate through the European Competition Network (ECN)<sup>116</sup>. The objective of the ECN is to build an effective legal framework to enforce European competition law against companies who engage in cross-border business practices which restrict competition.

In 2019, the Commission continued to ensure the coherent application of Articles 101 and 102 through the ECN. Two of the key supporting cooperation mechanisms in Regulation 1/2003<sup>117</sup> are the obligation on national competition authorities to inform the Commission about a new investigation at the stage of the first formal investigative measure and to consult the Commission on envisaged decisions. In 2019, 138 new investigations were launched within the network and 95 envisaged decisions were submitted, compared to 165 new investigations and 75 envisaged decisions in 2018. These figures include Commission investigations and decisions, respectively.

On top of these cooperation mechanisms set out in Regulation 1/2003, other ECN cooperation work streams equally ensure a coherent enforcement of the EU competition rules. The network meets regularly to discuss cases at early stages, policy issues, as well as matters of strategic importance. In 2019, 28 meetings across horizontal working groups and sector-specific sub-groups were organised, where competition authorities' officials exchanged views.

#### *Upholding a regular and constructive inter-institutional dialogue*

The European Parliament (EP), the Council and the two consultative committees, with their specific roles vis-à-vis European citizens and stakeholders, are key partners in the dialogue on competition policy.

In response to the Parliament's report on the Annual Competition Report 2017 (rapporteur M. Reimon), the Commission highlighted the tax rulings cases, the conference on competition in the digital age, environmental concerns, support for European industries, and competition as one of the guiding principles of the Internal Market.

The Commission's response to EP's Resolution on competition policy, adopted on 31 January 2019, was set out in its written response sent on 3 July<sup>118</sup>. The Commission welcomed, in particular, the EP's support for a strong and effective competition policy, including its support for the strengthening of the capacity of National Competition Authorities to ensure more effective enforcement of EU competition law through the so-called ECN+ Directive, and to ensure sufficient resources and adequate tools for the Commission to target its investigations and bring them to the end speedily, also in connection with the negotiations on the Single Market Programme within the framework of the next Multiannual Financial Framework. In 2019, Commissioner Vestager made several appearances in Parliament. In February, Commissioner Vestager appeared before EP's Special Committee on Taxation, and also attended an in camera session of the Banking Union working group of the EP's Economic and Monetary Affairs committee, to talk about the Banca Carige and Nord LB State aid cases, together with Vice-President Dombrovskis.

---

<sup>116</sup> Commission Notice on cooperation within the Network of Competition Authorities, OJ C 101, 27.04.2004, pp. 43-53 and OJ C 374, 13.10.2016, p. 10.

<sup>117</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 4.1.2003, pp. 1–25.

<sup>118</sup> See: <https://oeil.secure.europarl.europa.eu/oeil/spdoc.do?i=32005&j=0&l=en>.

In March, Commissioner Vestager participated in the Structural Dialogue with the EP's Economic and Monetary Affairs committee where she noted the EP's support for the work of the Commission in the area of competition policy, as a key tool to deliver an open Single Market for the benefit of citizens.

In addition to bilateral meetings between the Commissioner and individual Members of the European Parliament (MEPs), the Commission services of DG Competition delivered technical presentations to MEPs and their staff.

In December, as part of the Annual Competition Report 2018 cycle, the Acting Director-General of DG Competition participated in the discussions in the EP's Economic and Monetary Affairs committee following the presentation of the draft report by rapporteur Yon-Courtin. The Commission equally engaged with the two consultative committees throughout the year.

On 16 May 2019, Commissioner Vestager was invited to the European Economic and Social Committee's (EESC's) 543<sup>rd</sup> plenary session, for an exchange of views with its members on the challenges of competition policy for the new Commission and the new EP, in particular in the context of the digital economy and sustainable development. Commissioner Vestager referred to the challenges for the new institutional cycle, such as new technologies and innovations, dynamic of economic growth, effective taxation, the green economy as well as a forward-looking climate change policy.

Under the Romanian Presidency of the Council, in the first half of 2019, Commissioner Vestager was invited to a lunch debate on industrial policy with the Committee of Permanent Representatives (Coreper) on 13 March. On the same day, the Presidency chaired a full-day Competition Working Party, which was an opportunity for DG Competition to give technical briefings to Member States' competition attachés on a wide range of competition policy issues. The meeting discussed subjects ranging from digital challenges and industrial policy through competition in the agricultural and pharmaceutical sectors, the "fitness check" and the revision of the General Block Exemption Regulation, and recent developments on cooperation agreements with the Canadian and Japanese competition authorities.

This was followed on 6 May by an update on several of these topics, with a focus on the achievements in the State aid area in the form of important projects of common European interest; the Special Advisers' Final Report on Competition Policy for the Digital Era; and the Eurobarometer results with citizens' perceptions of competition. In February, at the Council's Special Committee for Agriculture, the Commission, represented by DG Agriculture and Rural Development and DG Competition, presented the main findings of the report on the application of the competition rules to the agricultural sector, according to Article 225 (d) of Regulation (EU) 1308/2013 (CMO Regulation). Under the Finnish Presidency of the Council, in the second half of 2019, representatives of DG Competition took part in the discussions of the High Level Group on Competitiveness and Growth on the topic "A holistic approach to EU agenda: interlinking Industrial and Single Market policies including services" and gave an update on "Data and competition policy related to platform economy".