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Accompanying the document

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 2024

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INTRODUCTION

The present Staff Working Document (SWD) is composed of two parts. The first part presents the main legislative and policy developments in 2024 across the three competition instruments: State aid, antitrust (including cartels) and mergers. It also includes developments as regards to Single Market instruments: the Digital Markets Act (DMA) and the Foreign Subsidy Regulation (FSR). The second part focuses on specific enforcement actions in different sectors in 2024.

I. LEGISLATION AND POLICY DEVELOPMENTS

1. ANTITRUST AND CARTELS

Articles 101, 102 and 106 TFEU

According to Article 101 of the Treaty on the Functioning of the European Union (TFEU), anti-competitive agreements are prohibited as incompatible with the internal market. Article 101 TFEU prohibits agreements with an anti-competitive object or effect where companies coordinate their behaviour instead of competing independently. However, an agreement that restricts competition may be exempted from the prohibition under Article 101(3) TFEU if it ultimately fosters competition (for example by promoting technical progress or by improving distribution).

Article 102 TFEU prohibits abuse of a dominant position. It is not in itself illegal for an undertaking to be in a dominant position or to acquire such a position. Dominant undertakings, as any other undertaking in the market, are entitled to compete on the merits. However, Article 102 TFEU prohibits the abusive behaviour by dominant undertakings that, for example, directly or indirectly imposes unfair purchase or selling prices or other unfair trading conditions, or limits production, markets or technical development.

Finally, in relation to public undertakings and undertakings to which Member States grant special or exclusive rights, Article 106 TFEU prevents Member States from enacting or maintaining in force measures contrary to the Treaty rules.

The effective enforcement of the EU antitrust rules is of vital importance for a green, digital and resilient EU economy. Antitrust enforcement can indeed contribute to bringing down remaining barriers to the Single Market, removing restrictions to competitive and affordable clean technologies and the free flow of products and capitals necessary for the circular economy as well as ensuring that digital markets are contestable.

The graphs below give an overview of antitrust enforcement activity in the past ten years, including decisions rejecting complaints and letters informing complainants of the Commission's intention to reject their complaint[1].

[1] Pursuant to Article 7(1) of Regulation (EC) No 773/2004, where the Commission considers that on the basis of the information in its possession there are insufficient grounds for acting on a complaint, it is to inform the complainant of its reasons and set a time-limit within which the complainant may make known its views in writing. This letter may not be followed by a decision rejecting the complaint, if a complainant withdraws the complaint or fails to make known its views within the relevant time-limit. Figures for these letters are provided only for the past five years.

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Figure 1: Antitrust and cartel decisions 2015-2024

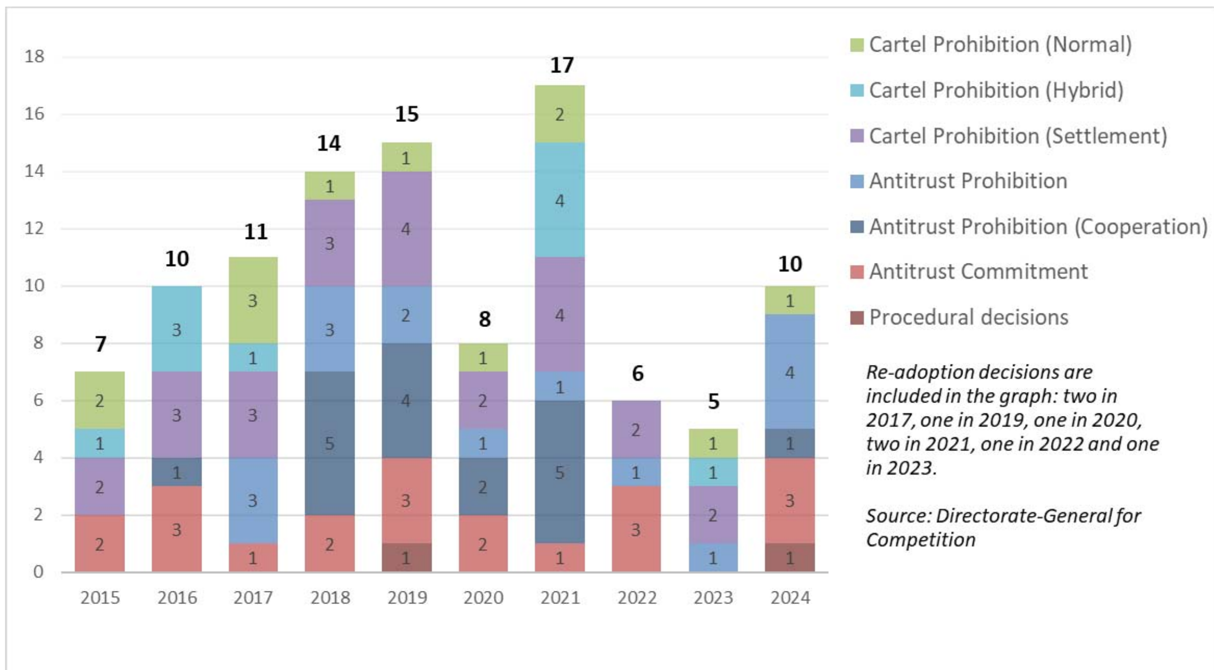


Figure 2: Rejection of complaint decisions 2015-2024

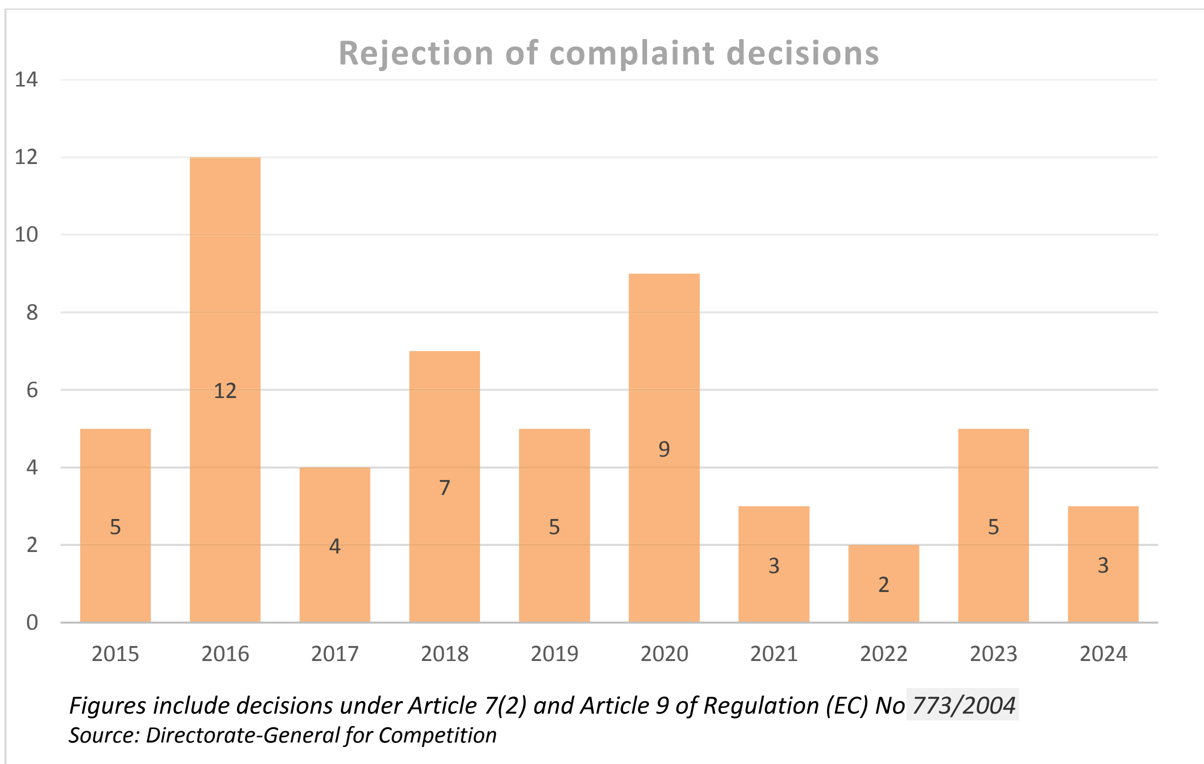
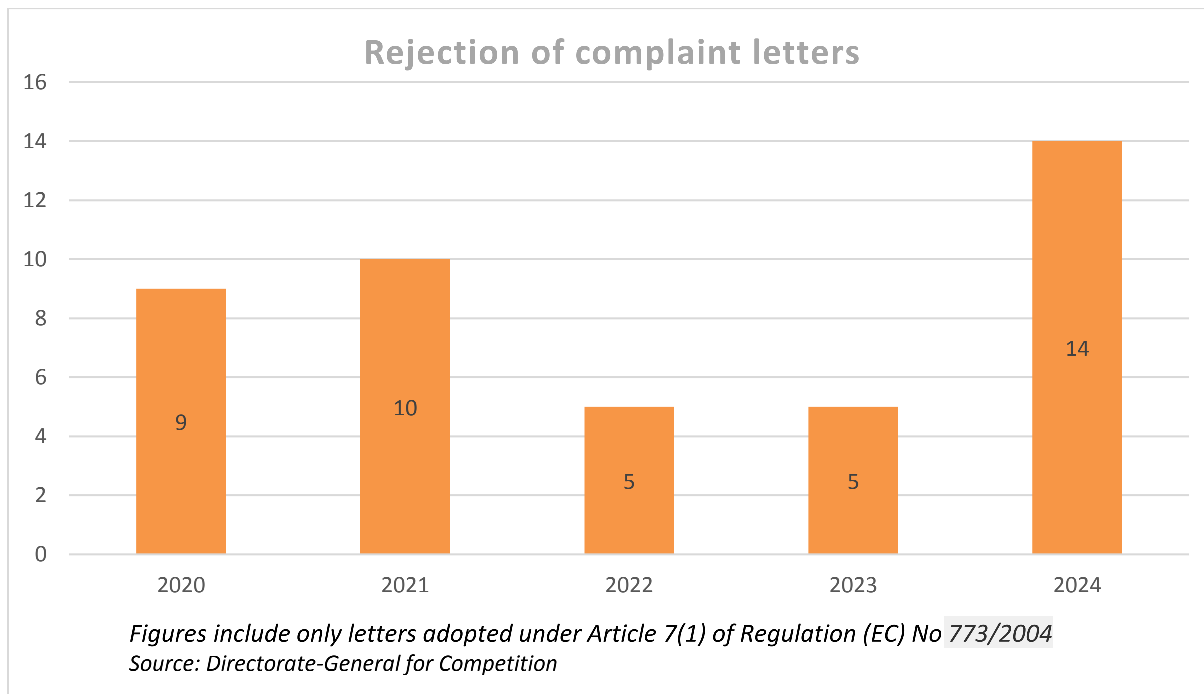


Figure 3: Rejection of complaint letters 2020-2024[2]



Alongside enforcement, in 2024, the Commission continued with its review agenda to ensure that competition rules remain fit for purpose to protect fair competition and aligned with the objectives of a green, digital and resilient EU economy.

1.1. Review of antitrust rules and guidance

1.1.1. Evaluation of Regulation 1/2003 completed

Regulation 1/2003[3] and its implementing act, Regulation 773/2004[4] establish a procedural framework aimed at ensuring the effective and uniform application of Articles 101 and 102 TFEU. On 5 September 2024, a Staff Working Document summarising the findings of the evaluation was published[5].

The evaluation, initiated in March 2022, aimed at assessing the effectiveness of the antitrust procedural framework in light of the changes to the economic landscape over the past 20 years, such as digitalisation and globalisation. As part of the process, information was collected to understand how the regulations have functioned since they entered into force in 2004. A public consultation was held in 2022, followed by a conference on the 20 years of Regulation 1/2003 in June 2023 and a stakeholder workshop in October 2023.

Throughout the evaluation, the national competition authorities of the Member States (NCAs) were closely associated. An external evaluation support study was commissioned: its final report was published together with the Staff Working Document.

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[2] The figures included in *Figure 3* include rejection of complaint letters (Article 7(1)) which have been followed by a decision rejecting the complaint (Article 7(2)) mentioned in *Figure 2*.

[3] Council Regulation (EC) No 1/2003 of 16.12.2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L, 4.1.2003, p. 1.

[4] Commission Regulation (EC) No 773/2004 of 7.4.2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, OJ L 123, 27.4.2004, p. 18.

[5] See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13431-EU-antitrust-procedural-rules-evaluation_en

The Staff Working Document concludes that the Regulations have overall performed well and attained their objectives of effective and uniform application of Articles 101 and 102 TFEU, both through the changes they brought to the Commission's enforcement powers and by empowering NCAs to enforce EU competition rules. The evaluation also identified certain areas for reflection, to ensure that competition enforcement keeps up with digitalisation and to ensure coherent and swift antitrust enforcement. The reflection on the evaluation results and possible follow-up actions is ongoing.

1.1.2. Work on Guidelines on Article 102 TFEU continued

Exclusionary abuses harm both businesses and consumers. They lead to higher prices, less innovation and poorer quality of goods and services.

In 2024, the Commission continued working on the Guidelines on exclusionary abuses of dominance. The purpose of the initiative is to systematise the case-law on Article 102 TFEU in order to ensure legal certainty and predictability, and to provide operational guidance to companies. The initiative is also meant to promote a workable effects-based approach, which is grounded firmly in economic thinking and at the same time conducive to a robust and effective enforcement of Article 102 TFEU.

A draft of the Guidelines was published on 1 August 2024 and stakeholders were invited to submit their comments until 31 October 2024[6]. Throughout the initiative, NCAs were closely associated through the European Competition Network (ECN) which endorsed the draft Guidelines by means of a joint statement on 2 September 2024[7].

The Commission will take into account the outcome of the public consultation and the judgments delivered by the EU Courts after the publication of the draft in the preparation of the final text of the Guidelines.

1.1.3. Evaluation of Motor Vehicle Block Exemption Regulation launched

The Motor Vehicle Block Exemption Regulation (MVBER)[8] specifies the conditions under which motor vehicle spare parts distribution and repair and maintenance service agreements are exempted from the application of Article 101(1) TFEU. The Supplementary Guidelines provide detailed guidance on the interpretation of the MVBER[9]. In April 2023, the Commission prolonged the MVBER for five years until 31 May 2028[10].

In 2024, the evaluation of the MVBER was launched, with a call for evidence published on 27 May 2024 and an evaluation support study commissioned with the JRC (Joint Research Center)[11].

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[6] See: https://competition-policy.ec.europa.eu/public-consultations/2024-article-102-guidelines_en
[7] See: https://competition-policy.ec.europa.eu/antitrust-and-cartels/european-competition-network_en
[8] Commission Regulation (EU) No 461/2010 of 27.5.2010 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 as amended by Commission Regulation (EU) 2023/822 of 17 April 2023 on amending Regulation (EU) No 461/2010 as regards its period of application, OJ L 102I, 17.4.2023, p. 1.
[9] Commission Notice on supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles, OJ C 138, 28.5.2010, p. 16 as amended by Communication from the Commission Amendments to the Commission Notice – Supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles 2023/C 133 I/01, OJ C 133I , 17.4.2023, p. 1.
[10] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2248
[11] See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14126-Motor-Vehicle-Block-Exemption-Regulation-evaluation_en

1.1.4. *Evaluation of rules on technology transfer agreements completed*

In 2024, the evaluation of the antitrust rules on technology transfer agreements (the Technology Transfer Block Exemption Regulation (TTBER)[12] which exempts certain technology transfer agreements from the prohibition of Article 101(1) TFEU, and the accompanying Guidelines (TTGL)) was finalised[13].

As part of the evaluation process, various fact-finding exercises were carried out to gather evidence on the functioning of the TTBER and the TTGL including a call for evidence, a questionnaire addressed to NCAs, a public consultation and a workshop. An external evaluation support study was also commissioned.

On 22 November 2024, a Staff Working Document[14] setting out the findings of evaluation on the functioning of the TTBER and the TTGL was published. The evaluation showed that the TTBER and the TTGL have been largely successful in ensuring the effective, efficient and uniform application of EU competition rules to technology transfer agreements. At the same time, the evaluation also showed that the two instruments could be improved in certain areas to increase legal certainty and reflect recent market developments. The Commission will review the Technology Transfer framework to ensure that companies have clear, simple and up-to-date rules for procompetitive technology licensing agreements, thereby facilitating technology dissemination, incentivising initial R&D, and promoting innovation.

1.2. Significant judgments by EU Courts in antitrust enforcement

In 2024, the EU Courts adopted significant rulings regarding the enforcement of antitrust rules.

1.2.1. *Anticompetitive agreements under Article 101 TFEU*

On 18 January 2024, the Court of Justice delivered its judgment in *Lietuvos notarų rūmai*[15], in response to a preliminary reference from the Supreme Administrative Court of Lithuania concerning the application of Article 101 TFEU to rules adopted by the Chamber of Notaries of Lithuania. The Court of Justice first confirmed that notaries, in so far as they are engaged in a liberal profession involving the provision of services for remuneration, are in principle engaged in an economic activity and can be regarded as undertakings. Then, the Court held that a decision by an association of notaries aiming to establish a mechanism for calculating the amount of notaries' fees, which requires notaries, with respect to certain activities, to apply the highest price in the range provided by the relevant Minister, constitutes a restriction of competition by object. Finally, in relation to fines, the Court found that Article 101 TFEU precludes an NCA from imposing, in respect of an infringement committed by an association of undertakings, individual fines on undertakings members of the governing body of that association where those undertakings are not joint perpetrators of the infringement. However, the Court noted that NCAs can, in order to impose a dissuasive penalty, rely on the mechanisms set by Article 23 of Regulation 1/2003 for calculating fines for associations of undertakings[16].

[12] Commission Regulation (EU) No 316/2014 of 21 March 2014 on the application of Article 101(3) TFEU to categories of technology transfer agreements, OJ L 93, 28.3.2014, p. 17.

[13] Communication from the Commission — Guidelines on the application of Article 101 TFEU to technology transfer agreements, OJ C 89, 28.3.2014, p. 3.

[14] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_6003

[15] Judgment of the Court of Justice of 18.1.2024 in Case C-128/21, *Lietuvos notarų rūmai*, ECLI:EU:C:2024:49.

[16] Pursuant to Article 23(2) of Regulation 1/2003 (see ft 3), where an infringement of an association of undertakings relates to the activities of its members, the 10% turnover limit should be calculated taking into account the sum of the total turnover achieved by each member active on the market affected by the infringement of the association.

On 29 July 2024, the Court of Justice delivered its judgment in *Banco BPN/BIC Português*[17], in response to a preliminary reference from the Portuguese Competition, Regulation and Supervision Court, concerning unlawful exchanges of information. The Court found that a stand-alone exchange of information between competitors may constitute a restriction of competition, including by object. In the judgment, the Court first recalled that each economic operator must determine independently the policy which it intends to adopt on the market. Then, it noted that – for an exchange of information to be by its very nature harmful to competition – it must enable operators participating in the exchange to remove uncertainty as to the future conduct of other market operators. To that end, it is sufficient that the information exchanged is confidential, meaning not already known to any economic operator active on the market concerned, and strategic, namely that it may reveal the strategy that some of the participants to the exchange intend to implement. In this regard, the Court also noted that information related to current or past events may be regarded as strategic if the participant to the exchange receiving the information may infer from it with sufficient precision the future conduct of other participants.

On 19 September 2024, the Court of Justice delivered its judgment in *Booking.com (Deutschland)*[18], in response to a preliminary reference from the District Court of Amsterdam concerning *inter alia* the possible qualification of price parity clauses as ancillary restraints. The Court held that neither wide[19] nor narrow[20] price parity clauses imposed on hotels by online hotel booking platforms can be classified as ancillary restraints, as they are neither (i) objectively necessary for the main operation of providing online hotel reservation services nor (ii) proportionate to its objective. In support of its finding, the Court noted that Booking.com's services had not been compromised by the prohibition of its price parity clauses in several Member States. It also held that the fact that the absence of price parity clauses might negatively impact the profitability of the platform or that the clauses combat possible free riding or are indispensable to achieve efficiencies is not sufficient to enable them to be classified as ancillary restraints.

1.2.2. Abuses of dominance under Article 102 TFEU

On 10 September 2024, the Court of Justice dismissed Google's appeal in *Google Shopping*[21], and upheld the 2017 Commission's decision[22]. The Commission had found that Google had given preference, on its general search results pages, to the results of its own comparison-shopping service over those of competing comparison-shopping services. Google promoted results from its own comparison-shopping service in a primary position in 'boxes' with accompanying image and text information. By contrast, the search results for competing comparison-shopping services appeared as simple generic results displayed as blue links. Google engaged in this behaviour in 13 countries in the European Economic Area (EEA). The Commission concluded that Google had abused its dominant position and imposed a fine of EUR 2.4 billion. Google and its parent company Alphabet challenged the Commission's decision before the General Court. In a judgment of November 2021, the General Court largely dismissed the appeal and

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[17] Judgment of the Court of Justice of 29.07.2024 in Case C- 298/22, *Banco BPN* v *BIC Português and Others*, ECLI:EU:C:2024:638.

[18] Judgment of the Court of Justice of 19.9.2024 in Case C-264/23, *Booking.com and Booking.com (Deutschland)*, ECLI:EU:C:2024:764.

[19] Clauses prohibiting hotels from offering rooms through both their own sales channels and sales channels operated by third parties at prices lower than those offered on online hotel reservation platforms.

[20] Clauses prohibiting hotels from offering rooms through their own sales channels at prices lower than those offered on online hotel reservation platforms.

[21] Judgment of the Court of Justice of 10.9.2024 in Case C-48/22, *Google and Alphabet v Commission (Google Shopping)*, ECLI:EU:C:2024:726.

[22] Case AT.39740, *Google Search (Shopping)*.

upheld the fine. In its judgment upholding the Commission's decision, the Court of Justice recalled that EU law does not sanction the existence of a dominant position per se, but only the abuse of such a position. The Court of Justice stated that, in principle, a dominant firm which treats its own products or services more favourably than it treats those of its competitors cannot be in itself regarded as an abuse of its dominant market position. However, the Court of Justice found that in the light of the characteristics of the market and the specific circumstances of the case, Google's conduct was discriminatory and did not constitute competition on the merits. The Court of Justice also upheld the fine imposed by the Commission.

On 18 September 2024, the General Court rendered its judgment in *Google AdSense*[23] and annuled the Commission's decision of 20 March 2019 in its entirety[24]. The case concerned three types of contractual clauses included in a large number of contracts between Google and publishers. The first clause required publishers to source search ads exclusively from Google AdSense. The second required publishers to give particular prominence to search ads supplied by Google AdSense in results pages. The third clause required publishers to seek Google's approval before making changes to the display of competing search ads. The General Court's main reasoning for annulling the Commission's decision was the finding that the Commission failed to consider all the relevant factors when determining the duration of the contracts containing the relevant clauses. In particular the Commission failed to take proper account of the impact of renewals and extensions of contracts, as well as of early termination rights. The General Court considered that the Commission failed to verify whether these factors in fact granted Google's competitors sufficient opportunities to compete.

Also on 18 September 2024, the General Court largely upheld the Commission's decision in *Qualcomm (predation)*[25]. In 2019, the Commission had imposed on Qualcomm – a company active in the production of chipsets - a fine of approximately EUR 242 million for abusing its dominant position to drive its competitor Icera out of the market. In its judgment, the General Court confirmed that the Commission did not breach Qualcomm's rights of defence, and that the duration of the investigation was not excessive given the case's complexity. The General Court also endorsed the Commission's market definition and clarified that the Commission is not required to perform a SSNIP[26] test when defining the relevant market for the purposes of applying Article 102 TFEU. As regards Qualcomm's abusive conduct, the General Court noted that, according to established case-law, prices below average total costs (ATC) but above average variable costs (AVC) are abusive if they are part of a plan to eliminate a competitor. The Court confirmed that the Commission could use Qualcomm's long-run average incremental costs (LRAIC) as a benchmark to establish the existence of predatory pricing, considering the evidence of Qualcomm's intent to exclude Icera. Furthermore, it ruled that the Commission does not need to conduct a separate 'as-efficient competitor' test in predatory pricing cases, as this is included in assessing whether prices were set below the relevant cost benchmark. Finally, the Court found that, in calculating the fine, the

[23] Judgment of the General court of 18.9.2024 in Case T-334/19, *Google and Alphabet* v *Commission (Google AdSense),* ECLI:EU:T:2024:634.
[24] Case AT.40411, *Google AdSense.*
[25] Judgment of the General Court of 18.9.2024 in Case T-671/19, *Qualcomm* v *Commission (Qualcomm – predation)*, ECLI:EU:T:2024:626
[26] SSNIP stands for 'small but significant non-transitory increase in price'.

Commission deviated slightly from its Fining Guidelines[27] without justification. On that basis, the Court reduced the fine imposed on Qualcomm to approximately EUR 238.73 million.

In *Intel*, on 24 October 2024 the Court of Justice dismissed the Commission's appeal[28] against the General Court's judgment that partially annulled its 2009 decision[29] finding that Intel abused its dominant position. The General Court had annulled the Commission's findings concerning Intel's conditional rebates in the market for x86 CPUs, but confirmed that Intel's naked restrictions amounted to an abuse of dominant position under EU competition rules. The General Court had also annulled the fine imposed on Intel in its entirety after concluding that it could not establish the amount of the fine relating only to the naked restrictions[30]. In its ruling, the Court of Justice recalled that it is not the purpose of Article 102 TFEU to prevent an undertaking from acquiring, on its own merits, a dominant position on one or more markets or to ensure that competitors less efficient than the dominant undertaking should remain on the market. As regards, in particular, a practice consisting in the grant of loyalty rebates, the Court noted that when the dominant undertaking submits, during the administrative procedure, evidence that the practice was not capable of producing the alleged exclusionary effects, the Commission is required to analyse not only factors such as the extent of the dominant position, the share of market covered by the contested rebates and the conditions and arrangements for granting the rebates in question, their duration and their amount, but also the possible existence of a strategy aiming to exclude from the market competitors that are at least as efficient as the dominant undertaking. In this context, the Court of Justice found that General Court did not err in its analysis of the errors it found in the 'as-efficient-competitor test' and therefore did not err in partially annulling the Commission decision. With regard to complex economic assessments, the Court noted that the Commission argued that the General Court infringed the discretion afforded by the case-law in reviewing such complex economic analyses, as in the case of the rebates granted to HP (particularly concerning their duration). Referring to AG Medina's opinion[31], the Court noted that the Commission may 'extrapolate' data to infer certain elements of the analysis, provided that such inferences are based on a concrete and explicit logical pattern. The Court however found that the Commission's decision lacked a clear explanation as to why the data used for extrapolation were representative of the entire infringement period.

1.2.3. Rules on the organisation of sports

On 4 October 2024, the Court of Justice delivered its judgment in *FIFA/BZ*[32], following a preliminary reference from the Court of Appeal of Mons (Belgium) concerning FIFA's regulations on the status and transfers of players (RSTP). The RSTP maintain that (i) a football player who terminates its employment contract during the contract period is required to pay a compensation to that club, if FIFA subsequently decides that the player did so without 'just cause'; (ii) if a football club initiates proceedings alleging that a player terminated a contract without just cause, that player is prevented from being registered in a club of a different Member State; and (iii) any new club employing such a player, *inter alia*, may be held liable to pay the possible compensation to the former club. The Court explained that these rules ensure,

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[27] Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003, OJ C 210, 1.9.2006, p. 2-5.
[28] Judgment of the Court of Justice of 24.10.2024 in Case C-240/22 P, *Commission* v *Intel Corporation*, ECLI:EU:C:2024:915.
[29] Case AT.37990, *Intel*.
[30] Judgment of the General Court of 26.1.2022 in Case T-286/09 *RENV*, *Intel Corporation Inc.* v *European Commission*, ECLI:EU:T:2022:19. Following the judgment of the General Court, the Commission adopted on 22 September 2023 a decision re-imposing on Intel a fine only for the naked restrictions. The 2023 Commission's decision has been challenged before the General Court (Case T-1129/23, *Intel* v *Commission*, currently pending).
[31] Opinion of AG Medina of 18.01.2024 in Case C-240/22 P, *Commission* v *Intel Corporation*, ECLI:EU:C: 2024:65.
[32] Judgment of the Court of Justice of 4.10.2024 in Case C-650/22, *FIFA*, ECLI:EU:C:2024:824.

in practice, that each club is certain that it will be able to keep its own players for as long as the employment contract has not reached its term or until it decides to part with them. This causes a drastic restriction of cross-border competition in the form of the unilateral recruitment of players who are already employed, and therefore of access by clubs to the players. The Court then noted that, while it may be legitimate for FIFA to seek to ensure to a certain extent the stability of player rosters in a given season, the classic mechanisms of contract law are sufficient to ensure both the ongoing presence of players in their clubs and the normal application between clubs of market rules. The Court therefore concluded that these rules must be considered as a restriction of competition by object.

1.2.4. Antitrust procedure

On 11 June 2024, the Court of Justice delivered its judgment in *Deutsche Telekom*[33]. The Court dismissed the Commission's appeal and confirmed the General Court's judgment which annulled the Commission's decision rejecting Deutsche Telekom's request for payment of default interest on the excess fine amount provisionally paid to the Commission by the company[34]. The Court noted that the Commission is required to repay the amount of the fine unduly collected together with interest for the period from the date of the provisional payment to the date of its repayment. This interest aims at compensating at a standard rate for the loss of enjoyment of the monies owed and should be paid by the Commission even if the interest actually yielded by the annulled part of the fine is negative. As regards which interest rate to apply, the Court held that the General Court, in the exercise of its discretion, had correctly applied the interest rate of the European Central Bank for its main refinancing operations (ECB REFI rate) plus 3.5 percentage points by analogy to the rate set by Article 83(2)(b) of Delegated Regulation No 1268/2012[35]. The Court also highlighted that, should the Commission consider that the existing regulatory provisions do not adequately take into account a situation such as the one in the present case, it would be for the Commission or the EU legislature to make the necessary adjustments in the interests of legal certainty and predictability[36]. Article 108(4) of the new Financial Regulation[37] sets the interest rate applicable to situations where a fine provisionally paid has been annulled or reduced by the EU Courts at the ECB REFI rate plus 1.5 percentage points.

On 2 October 2024, the General Court delivered its judgment in *Pharol*[38]. The Court dismissed Pharol's action and confirmed in its entirety the re-adoption by the Commission in 2022 of a 2013 decision finding that a market sharing agreement between Pharol (at the time named Portugal Telecom) and Telefonica infringed Article 101(1) TFEU[39]. The Court first noted that the assessment made in the re-adopted

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[33] Judgment of the Court of Justice of 11.6.2024 in Case C-221/22 P, *Commission* v *Deutsche Telekom*, ECLI:EU:C:2024:488.
[34] In 2014, the Commission adopted a decisionimposing on Deutsche Telekom a fine of EUR 31.07 million for an abuse of dominant position on the Slovak market for broadband telecommunications services (Case AT.39523 – *Slovak Telekom*). Deutsche Telekom challenged that decision while provisionally paying the fine. In 2018, the General Court upheld Deutsche Telekom's action in part and, in the exercise of its unlimited jurisdiction, reduced the fine by approximately EUR 12 million. The Commission then repaid that amount to Deutsche Telekom. However, Deutsche Telekom asked the Commission to pay default interest on the amount unduly collected for the period starting from the date of provisional payment until the date of repayment.
[35] Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, OJ L 362, 31.12.2012, p. 1–111.
[36] See Case C-221/22 P, *Deutsche Telekom*, paragraph 89.
[37] Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast), OJ L, 2024/2509, 26.9.2024.
[38] Judgment of the General Court of 02.10.24 in Case T-181/22, *Pharol* v *Commission*, ECLI:EU:T:2024:668.
[39] Case AT.39.839 – *Telefónica/Portugal Telecom*.

decision of a non-compete clause between the parties did not breach the principle of *res judicata*, given that the judgment that annulled the first decision did not address the issue. The Court noted that the principle of *res judicata* is only applicable to the points of fact and law actually or necessarily settled by the judicial decision in question. Second, the Court confirmed that the Commission did not breach Pharol's rights of defence in presenting its assessment on the non-compete clause in a Letter of Facts (LoF) rather than a Supplementary Statement of Objections. The General Court noted that a LoF is sufficient when the Commission wants to corroborate the objection included in the Statement of Objections (SO) with new factual elements. Finally, the General Court confirmed that the Commission was right to use, for the calculation of the fines, the same test on potential competition that it used to find an infringement.

The judgments of the Court of Justice in *Orlen/Gazprom*[40] and *Servier*[41] are described below in the relevant sectoral sections of II. Sectoral Overview.

1.3. Significant judgments by EU Courts in cartel enforcement

In 2024, the EU Courts dealt with a number of actions for annulment and appeals concerning cartel decisions. All judgments rendered in 2024 confirmed the legality of the cases under appeal and decided by the Courts. The judgments provide further support and clarifications on various aspects of the Commission's enforcement practice and fining policy. Several judgments concerned decisions adopted under the so-called *hybrid settlement procedure*, where the Commission had imposed a fine under the normal prohibition procedure against the appealing parties, after having adopted decisions under the cartel settlement procedure against other parties to the same cartel.

On 1 February 2024, the Court of Justice dismissed *Scania*'s appeal[42] relating to the 2017 Commission's decision (*Trucks cartel*). The Court confirmed the ruling of the General Court which found that a series of conducts could be pursued as an EEA-wide single and continuous infringement and that the Commission could, on that basis, impose a fine on Scania that was not time-barred. The Court also confirmed the legality of the hybrid settlement procedure in this case and dismissed Scania's claim that the General Court had erred in law by failing to acknowledge that the Commission had infringed Article (41)1 of the Charter of Fundamental Rights of the European Union[43] by continuing its investigation against Scania (with the same case-team) after the Commission had adopted a settlement decision against the other cartelists.

In *Crédit Agricole* and *Crédit Suisse (SSA Bonds cartel)*[44], the General Court ruled on 6 November 2024 on the actions for annulment of Crédit Agricole and Crédit Suisse. It largely upheld the 2021 Commission's decision, and reduced the duration of Crédit Agricole's infringement by one day. The General Court therefore annulled the fine imposed by the Commission but imposed a fine of the exact same amount. The judgment clarified a number of elements that are relevant for the legal assessment of

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[40] Judgment of the Court of Justice of 26.9.2024 in Case C-255/22 P, *Orlen* v *Commission*, ECLI:EU:C:2024:790. See below II. Sectoral overview, section 1.4 Effective competition in energy markets.

[41] Judgment of the Court of Justice of 27.6.2024 in Case C-176/19 P, *Commission* v *Servier and Others*, ECLI:EU:C:2024:549, and other judgments relating to the same Commission's decision. See below II. Sectoral overview, section 7.2. Contribution of EU competition policy to tackling the challenges.

[42] Judgment of the Court of Justice of 1.2.2024 in case C-251/22 P, *Scania AB, Scania CV AB, Scania Deutschland GmbH* v *Commission*, ECLI:EU:C:2024:103.

[43] Pursuant to Article 41(1) of the Charter of Fundamental Rights of the European Union (OJ C 202, 7.6.2016), every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

[44] Judgment of the General Court of 6.11.2024 in Cases T-386/21 and T-406/21, *Crédit Agricole and Others* v *Commission*, ECLI:EU:T:2024:776.

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most cartel cases, including the notions of restriction by object and of single and continuous infringement. The Court found that the Commission needs to show a 'sufficient degree' of harmfulness to competition but that it is not necessary that the same type of conduct has already been found to constitute an infringement in order for it to be regarded as a restriction by object. Moreover, the Court held that the Commission could find a single and continuous infringement, even though there was a drastic change in the pattern and mechanism of the overall plan during the infringement period. The Court also found that gaps between individual anticompetitive contacts in this case did not interrupt the continuity of the infringement. As regards the fine, the Court confirmed that the Commission could use the best available figures as a proxy for the value of sales. In such a case, it is not sufficient for the parties to simply show shortcomings in the Commission's data; they would need to demonstrate that there are in fact better data than those used by the Commission.

In *HSBC (Euro Interest Rate Derivatives cartel)*[45], the General Court dismissed on 27 November 2024 the action for annulment by HSBC and confirmed the 2021 Commission's decision re-imposing a fine. In 2019, the General Court had upheld the Commission's decision on substance but partially annulled the prohibition decision (hybrid settlement decision adopted in 2016), since the Commission had failed to properly explain part of the methodology used to set the fine (an adjustment factor used to reduce the proxy value of sales)[46]. In 2021, the Commission re-adopted that part of the prohibition decision and re-imposed a fine. In the meantime, the Court of Justice also endorsed the Commission's decision on substance, following an appeal by HSBC against the 2019 judgment[47].

In *Canned Vegetable*[48], the General Court dismissed on 4 September 2024 the action for annulment by Conserve Italia (an agricultural cooperative) against the 2021 Commission's decision. The appeal concerned the turnover used to calculate the maximum fine that the Commission can impose in situations involving the activities of an association of undertakings. The Court confirmed that the Commission was right to base the 10% fining cap on Conserve Italia's own consolidated turnover pursuant to the second indent of Article 23(2) of Regulation 1/2003, and not on the sum of the turnover of its (indirect) members, since the infringement related to an economic activity carried out by Conserve Italia, and not by its members.

Furthermore, in *Crown/Silgan (Metal Packaging cartel),* the General Court dealt with the actions for annulment by the two settling parties Crown and Silgan against the settlement decision adopted by the Commission in 2022[49]. Crown and Silgan questioned the Commission's competence to deal with the case, since the investigation had been started by the German national competition authority and re-allocated to the Commission more than two months thereafter, that is the period indicated in the Commission Notice on cooperation within the network of competition authorities[50]. In the judgments of 2 October 2024, the General Court fully upheld the Commission's decision, after concluding that the Commission Notice on cooperation within the network of competition authorities does not give rise to

[45] Judgment of the General Court of 27.11.2024 in Case T-561/21, *HSBC Holdings and Others* v *Commission*, ECLI:EU:T:2024:869.

[46] Judgment of the General Court of 24.9.2019 in Case T-105/17, *HSBC Holdings plc and Others* v *Commission*, ECLI:EU:T:2019:675.

[47] Judgment of the Court of Justice of 12.1.2023 in Case C-883/19 P, *HSBC Holdings plc, HSBC Bank plc, HSBC Continental Europe, formerly HSBC France* v *European Commission*, ECLI:EU:C:2023:11.

[48] Judgment of the General Court of 4.9.2024 in Case T-59/22, *Conserve Italia and Conserves France* v *European Commission*, ECLI:EU:T:2024:574.

[49] Judgments of the General Court of 2.10.2024 in Case T-587/22, *Crown Holdings and Crown Cork & Seal Deutschland* v *European Commission* ECLI:EU:T:2024:661, and in Case T-589/22 *Silgan Holdings and Others* v *European Commission*, ECLI:EU:T:2024:662.

[50] Commission Notice on cooperation within the network of competition authorities, OJ C 101, 27.4.2004, p. 43-53.

any legitimate expectations that a re-allocation of a case would take place within a two month period. In this case, the Commission had also introduced a counterclaim and requested the Court to increase the fine by 10%. The Commission argued that the actions frustrated the efficiencies gained in the settlement procedure which had been rewarded with the 10% settlement reduction. The General Court confirmed that the Commission can request the Court to exercise its unlimited jurisdiction and increase the fine in subsequent litigation, irrespective of whether the applicants have requested a fine reduction. The General Court however dismissed the counterclaim due to case-specific circumstances, finding that the Commission had not sufficiently justified its claim.

1.4. The fight against cartels remains a top priority

Cartels cause an immense damage to the EU economy and harm businesses and consumers. The detection and sanction of cartels therefore remains a core mission for the Commission. Cartel enforcement is even more important at a time when companies are adjusting to new market realities, since the temptation to collude risks to increase.

In 2024, the Commission advanced a diversified portfolio of cartel cases, covering different sectors and conducts. It also launched new investigations, either following leniency applications or based on leads obtained from its own *ex officio* activities, resulting in the adoption of one decision, two statements of objections and new dawn raids[51]. The Commission also sanctioned, in a separate fining decision, an obstruction during a dawn raid. This illustrates the clear determination to act against efforts that seek to undermine the Commission's investigative powers.

In 2024, the Commission continued to foster its *ex officio* strategy to detect new cartel cases outside the leniency regime. The strategy includes several tools to encourage the reporting of suspicious behaviours (including whistleblower tools and outreach activities) and to detect leads through market monitoring and close cooperation with other non-competition authorities. These activities benefit from the support of the dedicated forensic/intelligence Unit 'Data Analysis and Technology' (Chief Technology Officer (CTO) team). This investment has led to a growing number of investigations being initiated on the basis of the Commission's *ex officio* work.

In parallel, the Commission continued to receive a significant number of leniency applications covering a wide range of collusion scenarios. Stakeholders made increasingly use of practical arrangements put in place in 2022 to increase the attractiveness of the leniency programme, such as the possibility to contact designated Leniency Officers for informal advice and guidance and to discuss potential leniency applications on a 'no-name' basis. The Commission's *eLeniency tool*[52] continued to be the primary means for applicants to submit their statements. It ensures that leniency submissions can be filed and made accessible in a secure online environment 24 hours a day/7 days a week, and facilitates efficient and safe two-way interactions between the Commissiona and the parties. Following its reinforcement in 2023, the tool is now also used to access documents that would, due to disclosure concerns, only be available at the Commission's premises. This has resulted in significant savings for both the parties and the Commission.

On 24 June 2024, the Commission imposed a EUR 15.9 million fine on *International Flavors & Fragrances Inc.* and *International Flavors & Fragrances IFF France SAS* (together IFF) for obstructing

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[51] See unannounced inspections in the tyres sector: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_561 and https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3365; and in the data center construction sector: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_5926.

[52] See: https://competition-policy.ec.europa.eu/antitrust-and-cartels/leniency/eleniency_en

a Commission's inspection in 2023[53]. The Commission detected, with the support of the CTO forensic team, that a senior IFF employee intentionally deleted, during the inspection, WhatsApp messages exchanged with a competitor. IFF cooperated actively with the Commission both during the inspection (to retrieve the deleted data) and during the investigation. The fine was imposed in a cooperation procedure where IFF acknowledged its liability and accepted the fine. The infringement committed by IFF is of a very serious nature, particularly given that the senior employee intentionally deleted the WhatsApp messages after having been informed of the Commission's inspection. On this basis, the Commission concluded that an overall fine amounting to 0.3% of IFF's total turnover would be both proportionate and deterrent. At the same time, the Commission decided to reward IFF for its proactive cooperation during and after the inspection and the fine was therefore reduced by 50%. This is the first time that the Commission sanctions the deletion of messages exchanged via a consumer communications app on a mobile phone.

On 24 October 2024, the Commission fined *České dráhy* (ČD) and *Österreichische Bundesbahnen* (ÖBB), the Czech and Austrian rail incumbents, a total of EUR 48.7 million for colluding to prevent a new entrant, *RegioJet*, from accessing used wagons, thereby restricting competition on the rail passenger transport market in infringement of Article 101 TFEU[54]. The Commission found that between 2012 and 2016, ÖBB and ČD collusively rigged sales procedures for ÖBB's used railway wagons for long-distance passenger transport. For RegioJet, these wagons were an important input for competing on the rail transport markets in Czechia and on the Prague–Vienna route.

Furthermore, in January 2024, the Commission informed *six Norwegian salmon producers* of its preliminary view that they infringed EU antitrust rules by colluding to distort competition in the market for spot sales of Norwegian farmed Atlantic salmon in the EU[55]. The Commission has concerns that, between 2011 and 2019, the six salmon producers exchanged commercially sensitive information relating to sales prices, available volumes, sales volumes, production volumes and production capacities, as well as other price-setting factors.

In June 2024, the Commission also informed *Alchem International Pvt. Ltd*. and its subsidiary *Alchem International (H.K.) Limited* (together Alchem) of its preliminary view that they infringed EU antitrust rules by participating in a long-lasting cartel concerning a pharmaceutical ingredient (N-Butylbromide Scopolamine/ Hyoscine - SNBB) necessary to produce abdominal antispasmodic drugs[56]. The Commission has concerns that Alchem may have entered into price fixing arrangements, allocation of quotas and exchange of sensitive information with competitors. In October 2023, the Commission already adopted a settlement decision in the same cartel in relation to other cartel participants.

The Commission stays committed to investigating possible anticompetitive conducts affecting the green and digital transitions. In 2024, the Commission continued its investigation into a possible collusion between *car manufacturers in relation to the collection, treatment and recovery of end-of-life passenger vehicles*, launched through unannounced inspections in several Member States in March 2022[57]. The

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[53] Case AT.40882, *IFF*.
[54] Case AT.40401, *Second-hand Rolling Stock*.
[55] Case AT.40606, *Farmed Atlantic Salmon*.
[56] Case AT.40636, *SNBB*.
[57] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1765

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Commission also continued its investigation into the *synthetic turf industry* in several Member States, following unannounced inspections in 2023[58].

1.5. Cooperation within the European Competition Network and with national Courts

1.5.1. Cooperation with the national competition authorities within the European Competition Network

The Commission and NCAs coordinate their EU antitrust enforcement activities and they cooperate through the ECN[59]. The objective of the network is to ensure that Articles 101 and 102 TFEU are applied in an effective and consistent manner against companies that engage in business practices restricting competition and that are liable to affect trade between EU Member States.

The two key mechanisms to safeguard the effective and consistent application of Articles 101 and 102 TFEU are the NCAs' obligations (i) to inform the Commission about a new investigation at the stage of the first formal investigative measure, and (ii) to notify to the Commission their envisaged national decisions applying those provisions. In 2024, the Commission and the NCAs launched 191 new investigations. In the same year, the NCAs notified 66 envisaged decisions to the Commission.

In addition to those cooperation mechanisms, the ECN members regularly meet to inform each other of new investigations, and to discuss and exchange views on ongoing investigations, case-law developments and various competition policy issues. In 2024, 37 ECN meetings took place. For example, the working group for digital investigations and AI promotes exchanges between data scientists on projects of common interest within the ECN.

1.5.2. ECN+ Directive

The ECN+ Directive[60] aims to ensure that NCAs have effective enforcement tools and the necessary resources to detect and sanction companies infringing EU antitrust rules. It also aims to ensure that the NCAs can take their decisions in full independence.

Member States had to transpose the ECN+ Directive into national law by 4 February 2021. By the end of 2023, 26 Member States had notified the full transposition of the Directive. Between July 2022 and October 2024, the Commission carried out compliance assessments of the national transposition measures. In November 2024, the Commission adopted a report on the transposition of the ECN+ Directive[61]. The report provides an overview of how the main provisions of the ECN+ Directive have been transposed, highlighting the main improvements it brought to the national enforcement systems and the main issues identified regarding its transposition.

The ECN+ Directive also provides national competition authorities with the power to impose interim measures. Interim measures ensure that competition is preserved while an antitrust investigation is ongoing. In a statement attached to the Directive, the Commission committed to 'undertake an analysis of whether there are means to simplify the adoption of interim measures within the European Competition Network'. The Commission issued its report in September 2024[62]. It finds that national competition

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[58] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3133

[59] The functioning of the ECN is governed by the Notice on Cooperation within the ECN, the Joint Statement of the Council and the Commission on the Functioning of the Network of Competition Authorities as well as the ECN+ Directive.

[60] Directive (EU) 2019/1 of the European Parliament and of the Council of 11.12.2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, OJ L 11, 14.1.2019, p. 3.

[61] See: https://competition-policy.ec.europa.eu/antitrust-and-cartels/european-competition-network/ecn-directive_en

[62] Report on the legal framework for and the use of interim measures by national competition authorities: https://competition-policy.ec.europa.eu/antitrust-and-cartels/european-competition-network/ecn-directive_en

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authorities that make more use of interim measures often have lighter procedural rules, sometimes coupled with less stringent legal requirements to impose those measures.

1.5.3. Cooperation with national courts

In addition to its cooperation with the NCAs within the ECN, the Commission also cooperates with national courts. The Commission supports national courts in enforcing the EU competition rules in an effective and consistent manner by providing case-related information or opinions on matters of substance, or by intervening as *amicus curiae* in proceedings pending before national courts. As part of the evaluation of Regulation 1/2003, the Commission services assessed the current framework of cooperation with national courts[63]. The evaluation has shown that while the mechanisms for cooperation between national courts and the Commission may not have been widely used, they nevertheless provide a useful framework that has contributed to the consistent application of EU competition law across the EU. In 2024, the Comission intervened by way of *amicus curiae* before national courts and replied to requests by national courts for information or opinion concerning the application of EU competition rules under Article 15(1) of Regulation 1/2003[64].

1.5.4. Private enforcement

The Damages Directive[65] aims to make it easier for anyone harmed by an infringement of EU antitrust rules to avail of the right to compensation before the national courts. Since its adoption in 2014, the number of damages actions before national courts has increased significantly and actions for damages have become much more widespread in the EU.

Considering the increasing number of damages actions in the EU, DG Competition launched in summer 2024 a study on the development of antitrust damages actions in the EU conducted by an external consortium. The objective of the study is to take stock of the quantitative and qualitative development of private antitrust damages actions across various EU jurisdictions, including their interplay with public competitionl law enforcement.

2. MERGER CONTROL

The purpose of **EU merger control** is to ensure that market structures remain competitive while enabling smooth restructuring of the industry. This applies not only to EU-based companies, but also to any company active on the EU markets. Industry restructuring is an important way of fostering efficient allocation of production assets. However, there are also situations where industry consolidation can give rise to harmful effects on competition, taking into account the merging companies' degree of market power and other market features. EU merger control ensures that changes in the market structure which lead to harmful effects on competition do not occur.

EU merger control ensures that companies active in EU markets can compete on fair and equal terms. Proposed transactions which may distort competition are subject to close scrutiny by the Commission under the EU Merger Regulation (EUMR)[66]. If necessary to protect competition, the Commission can

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[63] See ft 5.

[64] See: https://competition-policy.ec.europa.eu/antitrust-and-cartels/national-courts/amicus-curiae-observations_en, and https://competition-policy.ec.europa.eu/antitrust-and-cartels/national-courts/requests-information-or-opinion_en

[65] Directive 2014/104/EU of the European Parliament and of the Council of 26.11.2014 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, p. 1.

[66] Council Regulation (EC) No 139/2004 of 20.1.2004 on the control of concentrations between undertakings, OJ L 24, 29.1.2004, p. 1.

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give merging companies the possibility to dispel competition concerns by offering commitments. If sufficient commitments cannot be found or agreed upon, the Commission may prohibit the transaction. In its assessment, the Commission considers the efficiencies brought about by mergers. Efficiencies may have positive effects on costs and innovation, for example, if they are verifiable, merger-specific and likely to be passed on to consumers.

2.1. Recent enforcement trends

The Commission's enforcement activity remained at a high level with a total number of 398 merger decisions adopted in 2024 (401 notifications). Moreover, in 2024 the Commission received 31 reasoned submissions by notifying parties in pre-notification, requesting a referral of a case from the Commission to a NCA or *vice versa*. The Commission accepted to examine two transactions following a referral pursuant to Article 22 EUMR[67] and did not refer any transaction pursuant to Article 9 EUMR to be examined by NCAs.

The vast majority of mergers notified in 2024 did not raise competition concerns and were speedily reviewed. The simplified procedure was applied in 88% of all notified transactions under the EUMR. Nevertheless, in 2024, the Commission's merger enforcement was intensive due to the large number of notified transactions as well as the complexity of a significant number of cases. The Commission intervened in ten cases. Out of those, two notified transactions were abandoned by the parties and withdrawn in Phase II during the in-depth investigation.[68] A significant number of non-simplified transactions concerned already concentrated industries. Reviewing such transactions required the Commission to carefully assess their potential impact on competition, employing sophisticated quantitative techniques and comprehensive qualitative investigative tools.

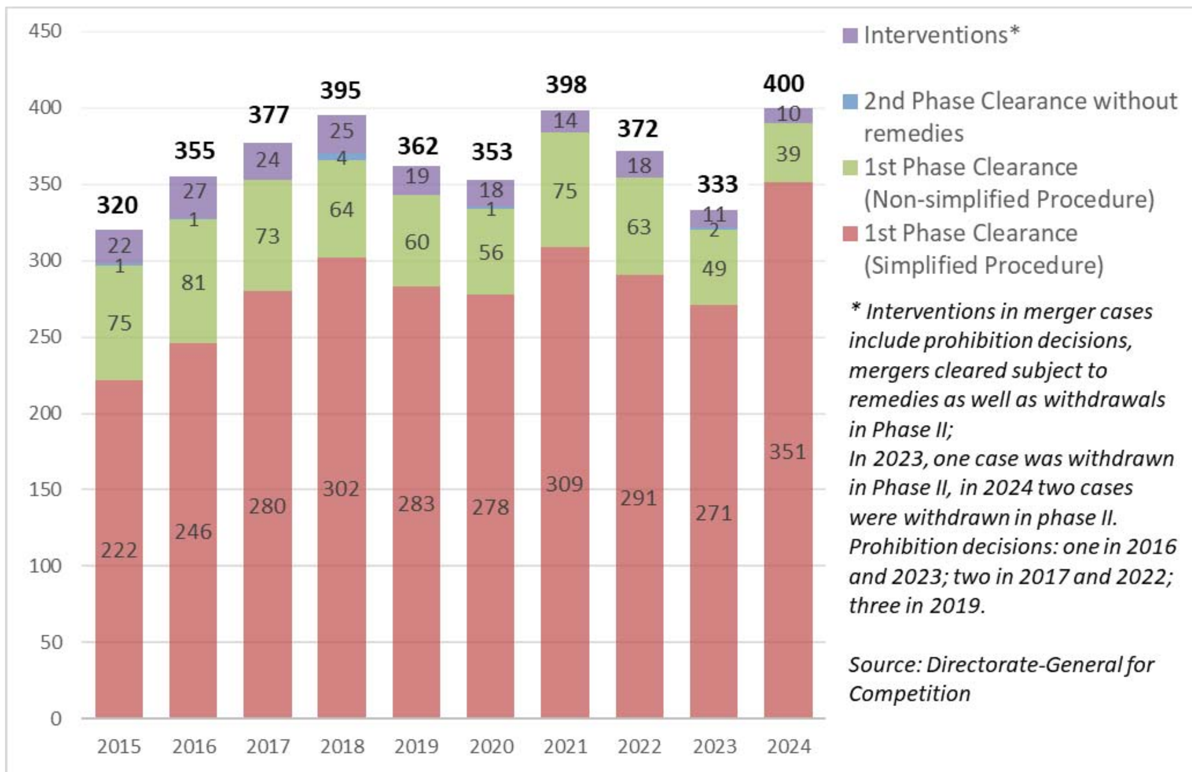
In 2024, the Commission opened in-depth investigations (Phase II) in three cases, concerning the passenger air transport markets and the market for licensing of broadcasting rights for motorsports events.

The Commission's merger enforcement activities increased in comparison to the most recent years. In 2024, the Commission adopted 398 merger decisions in various sectors of which 351 were approved following a simplified procedure. Among the ten proposed acquisitions in which the Commission intervened, eight were approved subject to conditions. The Commission did not prohibit any transaction in 2024.

Figure 4: Merger outcome 2015-2024

[67] See Section 2.2. below for developments on Article 22 EUMR in 2024.

[68] Cases M.10920, *Amazon/iRobot* and M.11109, *IAG/Air Europa*. See the respective statements by EVP Vestager https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_24_521 and https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_24_4142



Most remedies accepted by the Commission in 2024 consisted of divestitures of tangible or intangible assets. This confirms the Commission's general preference for structural remedies in merger cases as they are best suited to address competition concerns arising from a concentration in a durable manner.

In addition to remedies offered in Phase II investigations, in five instances the Commission also cleared transactions subject to remedies where the notifying parties offered comprehensive remedy packages already in Phase I, including in some complex transactions such as the acquisition of *Viterra* by *Bunge*[69]. In this case, the Commission's clearance was conditional upon the divestment of Viterra's origination, processing and refining assets and personnel in Hungary and Poland.

2.2. Review of merger control rules and guidance

2.2.1. Revised Market Definition Notice adopted

On 8 February 2024, the Commission adopted the revised Market Definition Notice[70] (Notice). The revised Notice, replacing the 1997 Notice[71], brings the Commission's guidance in line with new market realities, as well as with developments in the Commission's decisional practice and EU case-law. The revised Notice recognises the importance of non-price parameters for market definition, including the level of innovation, quality, and sustainability.

The Notice also outlines the Commission's approach to market definition in digital markets, for instance with respect to multi-sided markets and 'digital ecosystems' (for example, products built around a mobile operating system including hardware, an application store and software applications), and innovation-intensive industries, where companies compete on innovation, including through the development of new products. Moreover, the Notice entails expanded guidance on geographic market definition with

[69] Case M.11204, *Bunge/Viterra*, see below II, Sectoral overview, section 6.2. Contribution of EU competition policy to tackling the challenges (Merger enforcement in the agri-food sector).

[70] Communication from the Commission - Commission Notice on the definition of the relevant market for the purposes of Union competition law (C(2023) 6789, OJ C 22.2.2024, p.1.

[71] Commission Notice on the definition of relevant market for the purposes of Community competition law (97/C 372/03).

explanations on when it is appropriate to define markets as global, EEA-wide, and local as well as on how to take into account imports when defining the relevant geographic market.

2.2.2. *Commission withdraws its guidance on Article 22 merger referrals for certain cases*

On 2 December 2024, the Commission withdrew its 2021 guidance on Article 22 EUMR, which encouraged Member States to refer certain types of cases for review by the Commission, even if they did not meet the turnover thresholds for EU merger control. This withdrawal followed the Court of Justice's ruling in *Illumina*[72], which found that Member States cannot refer transactions they are not competent to review under their national merger rules[73], thereby invalidating the Commission's revised approach towards referrals under Article 22 EUMR. Moreover, the Commission also removed the accompanying Q&As from its Competition website.

2.3. Significant judgments by EU Courts in merger control

In *ThyssenKrupp*, the General Court upheld on 12 February 2024 the Commission's decision to prohibit the joint venture between *ThyssenKrupp* and *Tata Steel*.[74] The 2019 Commission's decision was based on the concerns that the joint venture would significantly impede effective competition in the European steel market, particularly for automotive and packaging steel products. The Court confirmed that the Commission's assessment of the likely anti-competitive effects was correct, emphasising that the companies had failed to provide sufficient remedies to address these concerns. This judgment is notable for its support of the Commission's approach to horizontal mergers in highly concentrated markets, especially in industries critical to the EU economy, such as steel production.

In *Illumina*, the Court of Justice delivered its judgment on 3 September 2024 and annulled the Commission's decisions to accept jurisdiction over Illumina*'s* acquisition of Grail under Article 22 EUMR[75]. The case focused on the Commission's revised policy on Article 22 EUMR, consisting in encouraging Member States that are not competent to review a given transaction under their national laws, to refer to the Commission a transaction not meeting the jurisdictional thresholds of the EUMR but likely to affect trade and competition within the EU. In this case, the Commission accepted a referral request from France, joined by Belgium, Greece, Iceland, the Netherlands and Norway, to review the proposed acquisition of GRAIL by Illumina. Illumina challenged the Commission's decision to accept jurisdiction over the case. The Court ruled that the Commission's interpretation of Article 22 EUMR exceeded the intended scope of the EUMR depriving the Commission of jurisdiction over the merger. The judgment invalidates the revised approach to Article 22 developed by the Commission since 2021 to capture so-called 'killer acquisitions' that do not meet established EU or national thresholds[76].

In *Vodafone/Liberty Global*, the General Court upheld on 13 November 2024 the 2019 Commission's decision to approve Vodafone's EUR 19 billion acquisition of Liberty Global's cable networks in

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[72] Judgment of the Court of Justice of 3.9.2024 in Case C- 611/22 P, *Illumina* v *Commission*, ECLI:EU:C:2024:677.
[73] Except where they do not have a merger control regime (e.g., Luxembourg).
[74] Judgment of the Court of Justice of 4.10.2024 in Case C- 581/22 P, *Thyssenkrupp AG* v *Commission*, ECLI:EU:C:2024:821.
[75] See Case C- 611/22 P, *Illumina* v *Commission*.
[76] Following the judgement, multiple Commission's decisions addressed to Illumina were withdrawn in light of the principle of good administration, namely the decision of 22.7.2021 opening a phase II investigation into the proposed acquisition of GRAIL by Illumina (M.10188), the decision of 6.9.2022 prohibiting the acquisition of GRAIL by Illumina (M.10188), (iii) two decisions concerning interim measures of 29.10.2021 (M.10493) and of 28.10.2022 (M.10938), (iv) the decision of 12.10.2023 ordering restorative measures requiring Illumina to unwind its acquisition of GRAIL (M.10939), and (v) the decision of 12.7.2023 fining Illumina and GRAIL for implementing their merger before approval by the Commission (M.10483).

Germany and Eastern Europe[77]. The judgment dismissed the appeals by Deutsche Telekom, Tele Columbus, and NetCologne, which had argued that the Commission failed to adequately assess the deal's impact on competition in the retail market, in particular in the markets for the retail supply of TV signal transmission services in Germany. The Court confirmed that Vodafone and Liberty Global were neither actual competitors (directly or indirectly) nor potential competitors in that market, a key factor in the Commission's approval.

3. STATE AID CONTROL

State aid control is an integral part of EU competition policy and a necessary safeguard to preserve effective competition and free trade in the Single Market.

The Treaty establishes the principle that State aid which distorts or threatens to distort competition is prohibited in so far as it affects trade between Member States (Article 107(1) TFEU). However, certain types of State aid may be considered compatible with the internal market (for example, under Article 107(3) TFEU).

The objectives of the Commission's control of State aid are to ensure that aid is growth-enhancing, efficient and effective, and better targeted in times of budgetary constraints and that aid does not unduly restrict competition. In addition to this, the Commission acts to prevent and recover State aid, which is incompatible with the Single Market.

In the area of State-aid control, a number of policy initiatives brought the EU economy further on its route towards competitiveness and resilience. For example: amended rules for regional aid allowed more effective support for investment in strategic and critical technologies; the revision of three *de minimis* regulations raised the exemption ceilings and reduced the regulatory burden for companies, in particular SMEs; moreover, as market disturbances were still affecting the agricultural, fishery and aquaculture sectors, the Commission amended the Temporary Crisis and Transition Framework, to allow limited amounts of aid for these sectors for six additional months, until 31 December 2024.

2024 also saw a number of Commission decisions approving aid measures in key policy areas, such as investments in the transition towards a net-zero economy, or in digital infrastructure, technologies and services as key drivers of economic growth.

Figure 5: State aid decisions 2015-2024

[77] Judgment of the Court of Justice of 13.11.2024 in Cases T-58/20, *NetCologne* v *Commission* (ECLI:EU:T:2024:813), T-64/20, *Deutsche Telekom* v *Commission* (ECLI:EU:T:2024:815) and T-69/20, Tele Columbus v Commission, (ECLI:EU:T:2024:814).

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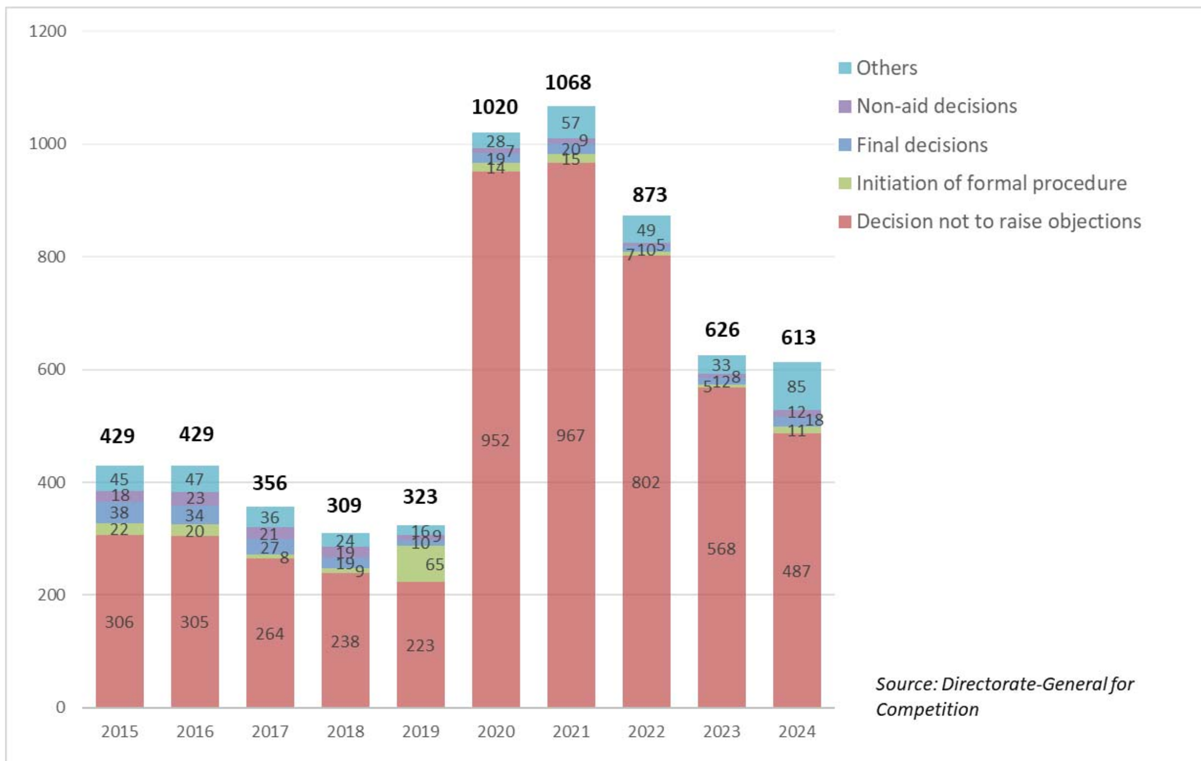

3.1. State aid for horizontal objectives

As in previous years, Member States continued to award a substantial part of aid under block-exempted measures.

The Block Exemption Regulations (General Block Exemption Regulation (GBER)[78], Agriculture Block Exemption Regulation (ABER)[79], and Fisheries Block Exemption Regulation (FIBER)[80]) allow Member States to implement a wide range of public support measures without prior notification to the Commission, reducing the administrative burden for public authorities and speeding up delivery of public support.

While the ABER and FIBER are sector-specific block-exemption regulations, the implemented measures under the GBER can be in areas such as research and development, environmental protection, broadband connectivity, regional development, employment or support to small and medium-sized enterprises (SMEs). As illustrated by the graphs below, the greater part of horizontal aid falls under the GBER.

Figure 6: State aid expenditure 2013-2023, in EUR billion, in constant prices

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[78] Commission Regulation (EU) 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187/1, 26.6.2014, p.1. Last amended on 23 June 2023, with Commission Regulation (EU) 2023/1315 of 23 June 2023, OJ L 167, 30.6.2023, p. 1. Consolidated text of the amended Regulation for documentation purposes available under EUR-Lex - 02014R0651-20230701 - EN - EUR-Lex (europa.eu)

[79] Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European (OJ L 327, 21.12.2022, p. 1).

[80] Commission Regulation (EU) 2022/2473 of 14 December 2022 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 82).

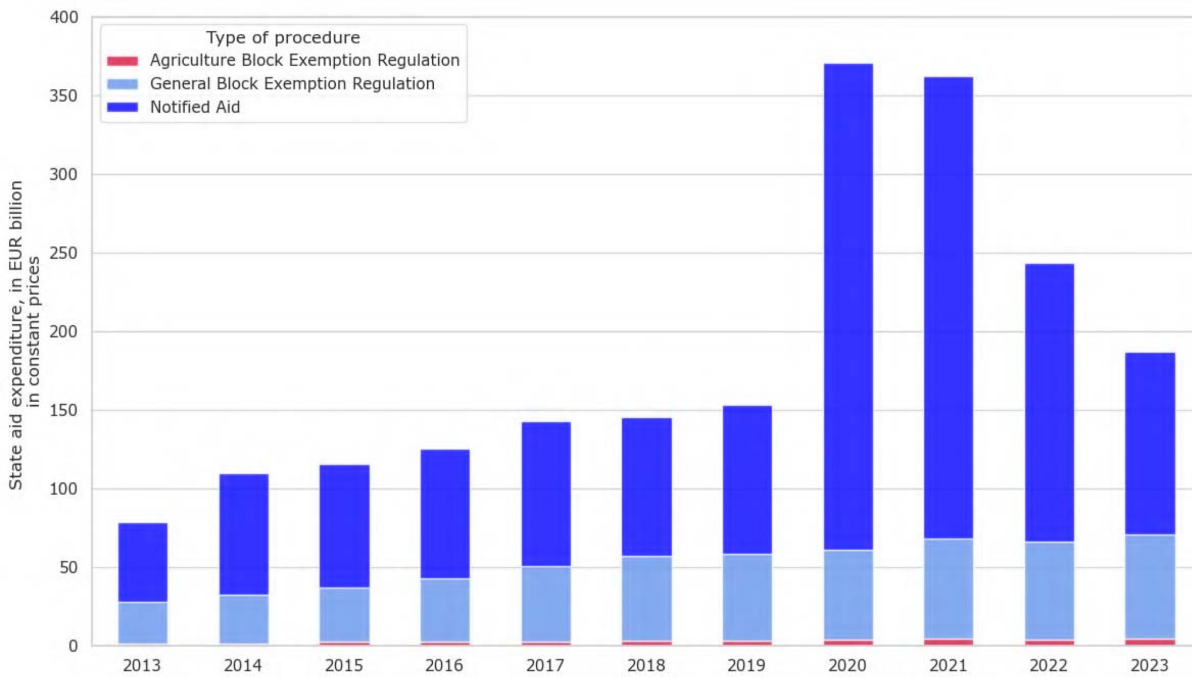
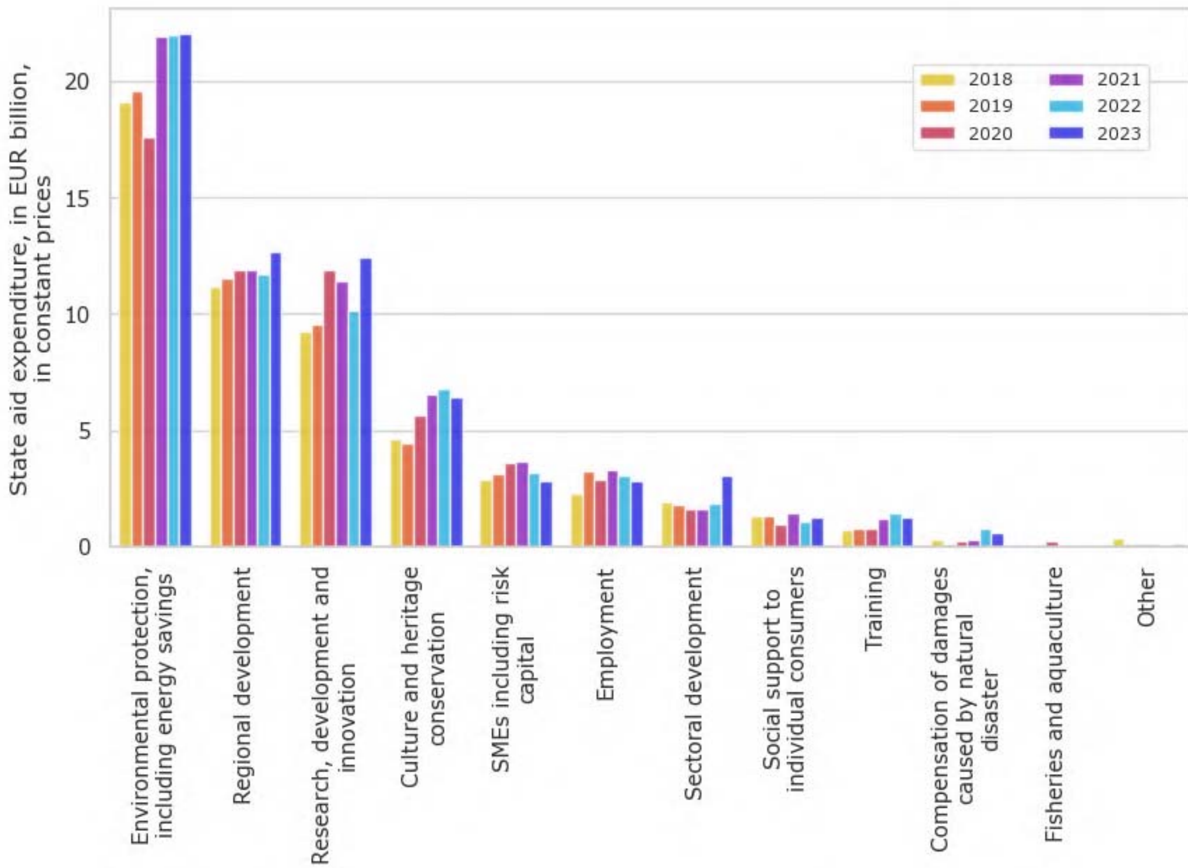


Figure 7: GBER State aid expenditure by objective in the EU 2018-2023, in EUR billion, in constant prices



3.1.1. Evaluation of aid schemes

The *ex post* evaluation of aid schemes was introduced by the 2012 State Aid Modernisation (SAM)[81]. The aim is to gather the necessary evidence to better identify the impact - positive and negative - of the aid and to provide input for future policy-making by the Member States and the Commission. Since 1 July 2014, *ex post* evaluation is required for large block-exempted aid schemes in certain aid categories under the GBER[82], as well as for a selection of notified schemes the Commission has approved under State aid guidelines[83]. Under ABER and FIBER, evaluation is required since 1 January 2023 also for certain aid categories[84]. For an aid scheme subject to the evaluation obligation, Member States must first notify an evaluation plan and later an evaluation report in line with the evaluation plan approved by the Commission.

By the end of 2024, the Commission had in total approved 146 evaluation plans, covering a total of 19 Member States[85] and the United Kingdom.

Most of the approved plans concerned either large regional aid projects or Research, Development and Innovation (RDI), aid schemes under the GBER or notified energy and broadband schemes. In total, these schemes account for over EUR 80 billion in annual State aid budget. By end of 2024, the Commission services have reviewed a total of 53 interim and 50 final evaluation reports and considered them to be of average to good quality, in particular the final reports[86].

By assessing the evaluation reports, both interim and final ones, the Commission seeks to: (i) give appropriate feedback to Member States, (ii) make sure that results are used for better policy-making, and (iii) provide evidence to assist Member States when reflecting on future legal developments.

3.1.2. New general de minimis Regulation enters into force

The new general *de minimis* Regulation entered into force on 1 January 2024 and will apply until 31 December 2030[87]. It exempts small aid amounts from EU State aid control because they are deemed to have no effect on trade between Member States and not to distort or threaten to distort competition. The

[81] See: https://competition-policy.ec.europa.eu/state-aid/legislation/modernisation_en

[82] Schemes with an average annual State aid budget above EUR 150 million in the fields of regional aid, aid for SMEs and access to finance, aid for research and development and innovation, energy and environmental aid and aid for broadband infrastructures.

[83] Evaluation can apply to notified aid schemes with large budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen, and with a total duration that exceeds three three years, starting from 1 January 2022.

[84] Aid schemes for certain aid categories under ABER and FIBER are subject to an *ex post* evaluation if they have a State aid budget or accounted expenditures over EUR 150 million in any given year or EUR 750 million over their total duration, that is the combined duration of the scheme and any predecessor scheme covering a similar objective and geographical area, starting from 1 January 2023. *Ex post* evaluations is required for aid schemes the total duration of which exceeds three years, starting from 1 January 2023.

[85] Austria, Belgium, Croatia, Czechia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Portugal, Romania, Slovakia, Spain, and Sweden.

[86] All the submitted evaluation reports are reviewed by the JRC within the framework of the Administrative Arrangement established between DG Competition and the JRC on the: 'Support to the quality assessment of evaluation reports in the area of State Aid, 2018-2020'. The JRC has continued to support DG Competition under the new Administrative Arrangements for the 'Support to the quality assessment of evaluation plans and reports in the area of State Aid, 2021-2023 (EVALSA II)' and for the 'Support to the quality assessment of evaluation plans and reports in the area of State Aid, 2024-2026 (EVALSA III)'.

[87] Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L 2023, 15.12.2023.

new regulation replaces the previous *de minimis* regulation which expired on 31 December 2023[88]. Pursuant to the new regulation, the *de minimis* ceiling is EUR 300 000 over three years (previously EUR 200 000). The new regulation introduces an obligation for all Member States to provide as from 2026 complete information on *de minimis* aid granted in a central register at national or EU level and to check that any new grant of aid does not exceed the *de minimis* ceiling. This new requirement increases transparency and will help to reduce the burden of the reporting obligations for companies. The raising of the ceiling and the central register for *de minimis* aid in this new Regulation significantly simplify the applicable rules. The raised ceilings allow Member States to deliver more support faster and simpler and the central registers reduce reporting obligations for stakeholders.

3.1.3. New SGEI de minimis Regulation enters into force

Also on 1 January 2024, the new regulation on *de minimis* aid granted to undertakings providing services of general economic interest (SGEI) entered into force (SGEI *de minimis* Regulation)[89]. It will apply until 31 December 2030. The new regulation replaces the previous SGEI *de minimis* Regulation[90] which expired on 31 December 2023. The ceiling for compensation that is exempt from EU State aid rules has been raised from EUR 500 000 to EUR 750 000 per company over three years. Just as under the new general *de minimis* Regulation, an obligation for Member States to register *de minimis* aid in a central register set at national or EU level as of 1 January 2026 was introduced: this new requirement also increases transparency and will help to reduce the burden of the reporting obligations for companies. As it is the case with the new general *de minimis* Regulation, the raising of the ceiling and the central register for *de minimis* aid in this new Regulation significantly simplify the applicable rules. The raised ceilings allow Member States to deliver more support faster and simpler and the central registers reduce reporting obligations for stakeholders.

3.1.4. EU environmental and State aid law – access to justice in relation to State aid decisions (Aarhus convention)

The EU and its Member States are parties to the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention). The EU has implemented the Convention as regards EU institutions and bodies through the the 'Aarhus Regulation'[91]. State aid decisions where the Commission acts as an administrative review body under provisions of the TFEU are exempted from the scope of the Aarhus Regulation.

The Aarhus Convention Compliance Committee (ACCC) is the main body for the review of compliance with the Convention. It found that by failing to provide access to administrative or judicial procedures

[88] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L 352, 24.12.2013, p. 1.

[89] Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest, OJ L 2023, 15.12.2023.

[90] Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest, OJ L 114, 26.4.2012, p. 8.

[91] Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, OJ L 264, 25.9.2006, p. 13, as amended by Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021, OJ L 356, 8.10.2021, p. 1.

for members of the public to challenge decisions on State aid measures taken by the Commission under Article 108(2) TFEU that contravene EU law relating to the environment, the EU fails to comply with Articles 9(3) and 9(4) of the Aarhus Convention (ACCC findings)[92].

The Commission is committed to following up on the ACCC findings. On 17 May 2023, it adopted a Communication that (i) sets out the Commission's assessment of the implications of the ACCC's findings, and (ii) reports on the public consultation that the Commission organised to explore options for addressing the ACCC's findings while upholding the EU Treaties and related case-law on State aid control[93]. In the Communication, the Commission concluded that an adjustment to the existing legal framework or equivalent measures were required to ensure compliance with the ACCC findings, and that the design of such adjustment should preserve the efficiency of State aid control and complement in the most efficient manner the possibilities for review at national level.

On 30 May 2024, the Commission published a Call for Evidence to inform the public and stakeholders about the ACCC's findings and the Commission's aim to address such findings within the EU legal landscape, in line with the special characteristics of State aid. The public was given the opportunity to provide feedback until 27 June 2024[94]. In addition, the Commission ran a targeted consultation between 1 July and 13 September 2024, to gather feedback from the business community and public authorities dealing with State aid and environmental matters, on the impact of the proposed new procedure[95]. The Commission is analysing the feedback received and will use it to inform its decision on the new measures to be taken.

3.1.5. Aid for research, development, and innovation

Research, development, and innovation (RDI) are key drivers of economic growth and are necessary to achieve a variety of policy objectives, including those of the European Green Deal and of the Digital Strategy. State support for such risky investments can be necessary to address market failures that may result in a level of RDI activities which is too low from the point of view of society.

The vast majority of all RDI State aid measures are implemented under the GBER, without requiring prior notification to the Commission. Prior authorisation under the Framework for State aid for Research, Development and Innovation (RDI Framework)[96] remains however necessary for large aid amounts, for example an aid measure of EUR 300 million for R&D on small modular nuclear reactors (for details, see II. Sectoral overview, section 1.2.2 below).

3.1.6. Important Project of Common European Interest (IPCEI)

In 2024, the Commission approved two new IPCEIs further supporting the hydrogen value chain, in particular one *IPCEI covering hydrogen infrastructure* and *one covering hydrogen technologies for mobility* (for details, see II. Sectoral overview, section.1.2.1 below), as well as the first *IPCEI in the health sector* (for details, see II. Sectoral overview, section II.7.2 below).

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[92] Case ACCC/C/2015/128 European Union, see: https://unece.org/env/pp/cc/accc.c.2015.128_european-union#

[93] Communication on the findings adopted by the Aarhus Convention Compliance Committee in case ACCC/C/2015/128 as regards state aid: Analysing the implications of the findings and assessing the options available, COM(2023) 307 final of 17.5.2023.

[94] See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14276-EU-environmental-and-State-aid-law-access-to-justice-in-relation-to-State-aid-decisions-regulation-_en

[95] See: https://competition-policy.ec.europa.eu/state-aid/publications/targeted-consultation_en

[96] Communication from the Commission: Framework for State aid for research and development and innovation, OJ C 7388, 19.10.2022, p. 1.

The Commission also worked in close cooperation with Member States in a partnership, the *Joint European Forum for IPCEIs* (JEF-IPCEI)[97], to improve and speed-up the design and assessment process and facilitate the emergence of new IPCEIs. In 2024, the JEF-IPCEI continued working to increase the effectiveness and speed of the design, assessment and implementation of IPCEIs, and to identify areas of strategic EU interest for potential future IPCEIs. It worked in particular on recommendations on the roles of indirect and associated partners in the IPCEI ecosystem, on national best practices on the national assessment framework for participating in an IPCEI and on the national calls for expression of interest. Additionally, the JEF-IPCEI worked on identifying new technologies or important infrastructure suitable for possible IPCEIs. These areas include:

- Digital technologies: advanced Artificial Intelligence (AI) technologies, advanced semiconductor technologies, next generation edge computing infrastructure technologies;
- Advanced materials for clean technologies (energy, mobility, and electronics);
- Nuclear technologies.

To facilitate and streamline the submission of information by Member States, the Commission also published in 2024 a standardised funding gap template[98].

3.1.7. Aid to support EU semiconductor ecosystem

Since outlining the principles of support for capacity building in the semiconductor industry in the Chips Act Communication[99], the Commission approved five cases, authorising more than EUR 11.4 billion in public support in total. Three of these measures supporting new semiconductor manufacturing facilities, two in Italy and one in Germany, were approved in 2024, with a total budget of EUR 8.3 billion (for details see II. Sectoral overview, section 5.2.3 below).

3.1.8. Regional aid

The Guidelines on regional State aid[100] adopted in April 2021, entered into force on 1 January 2022. A regional aid map for each Member State was adopted in 2021 or 2022.

On 3 June 2024, the Commission published a Communication supplementing the Guidelines on Regional State Aid with regard to the Strategic Technologies for Europe Platform (STEP)[101]. As from 1 March 2024, for investments covered by Regulation (EU) 2024/795[102], aid intensities can be increased by up to 10 percentage points in the areas identified as eligible for regional aid under Article 107(3)(a) TFEU and up to 5 percentage points in the areas identified as eligible for regional aid under Article 107(3)(c) TFEU. Accordingly, in 2024, the Commission approved, for almost every Member State, an amendment to its regional aid map, to reflect those higher aid intensities. Only a few Member States did not notify such an amendment.

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[97] See: https://competition-policy.ec.europa.eu/state-aid/ipcei/joint-european-forum-ipcei_en

[98] See: https://competition-policy.ec.europa.eu/state-aid/ipcei/practical-information_en#templates

[99] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Chips Act for Europe, COM(2022) 45 final.

[100] Communication from the Commission, Guidelines on regional State aid (OJ C 153, 29.4.2021, p. 1).

[101] Communication from the Commission (C/2024/3516) supplementing the Guidelines on regional State aid with regard to the Strategic Technologies for Europe Platform (STEP), OJ C, C/2024/3516, 3.6.2024, ELI.

[102] Regulation (EU) 2024/795 of the European Parliament and of the Council of 29 February 2024 establishing the Strategic Technologies for Europe Platform (STEP), and amending Directive 2003/87/EC and Regulations (EU) 2021/1058, (EU) 2021/1056, (EU) 2021/1057, (EU) No 1303/2013, (EU) No 223/2014, (EU) 2021/1060, (EU) 2021/523, (EU) 2021/695, (EU) 2021/697 and (EU) 2021/241, OJ L, 2024/795, 29.2.2024.

In parallel, the Commission adopted in 2024 several decisions concerning regional investment aid. The Commission approved regional investment aid in diverse industries such as chemicals, the manufacturing of electric vehicles, tyres or car components, or pharmaceuticals (for details see II. Sectoral overview, section 5.2.3, below).

3.1.9. Aid to risk finance

In January 2024, DG Competition issued practical guidance for Member States to assess whether or not public measures to facilitate certain companies' access to finance, constitute State aid[103]. Risk finance is important for the financing of the economy, in particular for start-ups, SMEs and middle-capitalisation firms (mid-caps).

Member States can design risk finance measures that do not entail aid within the meaning of EU State aid rules. The guidance aims at providing non-binding practical guidance for Member States on when and how the market economy operator principle (MEOP)[104] can apply to risk finance measures. In particular, it (i) describes how to assess the existence of aid at the level of investors, target companies, and financial intermediaries or managers; (ii) clarifies which investors can be considered private investors for the purpose of the MEOP; and (iii) sets out how the MEOP can be met in different circumstances, such as where public authorities co-invest alongside private investors.

3.1.10. Infrastructure support measures

In 2024, the Commission closed its investigation into *the Danish and Swedish public financing of the Øresund fixed rail-road link*[105]. It concluded that the State guarantee model granted by Denmark and Sweden for the construction of the Øresund fixed rail-road link does not constitute new aid and found that part of the Danish tax support constitutes incompatible aid that is to be recovered.

3.2. Temporary Crisis and Transition Framework to support transition towards a net-zero economy

On 17 March 2023 the Commission adopted a Temporary Crisis and Transition Framework (TCTF)[106], amending and prolonging in part the Temporary Crisis Framework for State aid to support the economy following Russia's war of aggression againts Ukraine (TCF) adopted in 2022[107]. The TCTF also added

[103] See the guidance 'The Market Economy Operator Test for Risk Finance Measures': https://competition-policy.ec.europa.eu/state-aid/legislation/horizontal-rules/risk-finance-aid_en

[104] In the Notice on the notion of State aid as referred to in Article 107(1) TFEU,OJ C 262, 19.7.2016, p.1, the Commission clarifies that if a Member State intervenes as a private investor would do and is remunerated for the risk assumed in a way a private investor would accept under market conditions, such an intervention can be considered free of State aid. This is the so-called MEOP.

[105] Cases SA.52162 – Denmark – *State aid in favour of the Oresund bridge consortium* and SA.52617 – Sweden – *State aid in favour of the Oresund bridge consortium*.

[106] Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C 101, 17.3.2023, p. 3. This TCTF replaced the TCF adopted on 28 October 2022, which had replaced the previous TCF adopted on 23 March 2022, as amended on 20 July 2022. The TCF was withdrawn with effect from 9 March 2023.

[107] Communication from the Commission – Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C 131I, 24.3.2022, p. 1. The TCF was amended in July 2022 (Communication from the Commission – Amendment to the Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C 280, 21.7.2022, p. 1) and then replaced by a substantially updated text in October 2022 (Communication from the Commission - Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C 426, 9.11.2022, p. 1.).

possibilities to foster support measures in sectors which are key for the transition to a net-zero economy considering the Green Deal Industrial Plan.

On 20 November 2023, the Commission adopted a limited prolongation until 30 June 2024 of the TCTF sections enabling Member States to continue to grant limited amounts of aid under section 2.1 TCTF, which was also subject to a proportionate increase in the aid ceilings to cover the winter heating period, and aid to compensate for high energy prices under section 2.4 TCTF, notably in view of the remaining vulnerability of energy markets to which energy intensive industries are particularly sensitive[108]. Sections 2.5, 2.6 and 2.8 TCTF remain in force until the end of 2025 while sections 2.2, 2.3 and 2.7 were phased out on 31 December 2023.

On 2 May 2024, following a consultation of Member States, the Commission amended the TCTF for a second time in light of the specific situation of undertakings active in the primary production of agricultural products as well as in the fishery and aquaculture sectors[109]. The Commission adopted a limited prolongation of the provisions enabling Member States to continue to grant limited amounts of aid (section 2.1 TCTF) until 31 December 2024 for undertakings in those sectors. Section 2.1 TCTF for undertakings in all other sectors phase-out as planned on 30 June 2024, and all other sections remain unchanged.

In 2024, the Commission adopted 127 decisions (of which 55 amendment decisions) under the TCTF, approving 77 national measures notified by 24 Member States. The overall budget that Member States notified to the Commission under such State aid measures amounted to around EUR 68.03 billion.

In particular, the Commission approved several investment aid schemes for the production of equipment necessary for the transition towards a net-zero economy, their key components and related critical raw materials, on the basis of section 2.8 TCTF, with a total budget of around EUR 8 billion. For example, the Commission approved State aid for EUR 902 million for the construction of an electric vehicle battery plant in Germany (for details see II. Sectoral overview, section 5.2.3 below)[110].

3.3. Application of the phased-out Temporary Framework for State aid measures to support the economy during the COVID-19 pandemic

The Temporary Framework for State aid measures to support the economy in the COVID-19 pandemic (COVID Temporary Framework)[111] enabled Member States to use State aid to tackle the difficulties undertakings were encountering as a result of the pandemic. Its provisions phased out gradually, the last ones, on investment and solvency support measures, on 31 December 2023. Therefore, no decisions approving new aid schemes were adopted under the Framework in 2024. However, the Commission adopted two decisions under the lapsed COVID Temporary Framework in cases where its previous decisions had been annulled by the EU Courts: this concerned a German aid measure in the form of a

[108] Communication from the Commission – Amendment to the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C, C/2023/1188, 21.11.2023.
[109] Communication from the Commission – Second amendment to the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C, C/2024/3113.
[110] Case SA.107936 – Germany – TCTF – *Aid to Northvolt Germany GmbH*.
[111] Communication from the Commission: Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91 I, 20.3.2020, p. 1, as amended by Commission Communications C(2020) 2215, OJ C 112I, 4.4.2020, p. 1; C(2020) 3156, OJ C 164, 13.5.2020, p. 3; C(2020) 4509, OJ C 218, 2.7.2020, p. 3; C(2020) 7127, OJ C 340I, 13.10.2020, p. 1 and C(2021) 564, OJ C 34, 1.2.2021, p. 6, C(2021) 8442, OJ C 473, 24.11.2021, p. 1 and C(2022) 7902 of 28.10. 2022.

recapitalisation of *Deutsche Lufthansa AG*, and two aid measures granted by France and the Netherlands, to the *Air France/KLM Group* (for details see II. Sectoral overview, section 8.2.1.1 below).

3.4. Recovery and Resilience Facility (RRF)

Where public funding from the RRF is subject to EU State aid rules, the Commission ensures that any competition distortions that measures included in the Recovery and Resilience Plans (RRPs) may cause are limited to the minimum necessary. In 2024, the Commission adopted decisions in at least 40 cases for which the Member States had indicated that RRF funding will be used[112]. To facilitate work for Member States, the Commission provides guidance on State aid legislation and procedures in the RRF context, and updates it regularly[113].

3.5. Significant judgments by EU Courts in State aid

In 2024, the EU Courts adopted a number of important judgments in the field of State aid, concerning in particular the notions of State resources, economic activity, selectivity, compatibility, as well as different issues related to State aid procedure and arbitration awards.

3.5.1. Notion of State resources

In *Germany* v *Commission*[114], the General Court annulled on 24 January 2024 the Commission's decision qualifying as State aid the measures adopted by Germany to support the production of electricity by combined heat and power plants. The Court clarified the notion of State resources clarifying that it refers to, alternatively, funds raised by a tax or other compulsory levy under national legislation or sums remaining constantly under public control. For funds to be considered State resources under the first of these two alternative criteria, they must derive from levies or from other mandatory surcharges imposed by the legislation of the State *and* must be allocated accordance with national legislation. The two criteria are cumulative and distinct. The existence of a tax or other levy compulsory by law concerns the source of the funds used to grant an advantage and is separate from the question of the allocation of funds in accordance with the law. Based on the above, the Court drew the following conclusions on the facts of the case. First, the obligation on electricity network managers to pay sums to operators in the supply chain without any other form of compulsory levy was not sufficient to involve the commitment of State resources. Secondly, as the surcharge that can be imposed on hydrogen producers by the network managers does not constitute State resources, the cap on such a surcharge does not constitute a renuncement of State resources.

3.5.2. Advantage and economic activity

In two judgments of 28 February 2024 in *Fehmarn Belt*[115], the General Court confirmed the Commission's decision qualifying as State aid compatible with the internal market on the basis of Article 107(3)b TFEU the measures granted by Denmark to the public undertaking Femern A/S for the construction and operation of a rail and road link between Germany and Denmark[116]. The rejection of the first action brought by Denmark clarified that the construction and operation of the Fixed Link (i.e. a rail and road tunnel under the Baltic Sea between Rødby on the island of Lolland in Denmark and Puttgarden in Germany) is an ‘economic activity’ subject to EU competition law. The second action, lodged by shipping companies, enabled the General Court to assert that aid paid in several instalments

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[112] See below II. Sectoral overview below for examples of RRF cases.

[113] See: https://competition-policy.ec.europa.eu/state-aid/legislation/rrf-guiding-templates_en

[114] Judgment of the General Court of 24.2.2024 in Case T-409/21, *Germany* v *Commission*, ECLI:EU:T:2024:34.

[115] Judgments of the General Court of 28.2.2024 in Cases T-364/20 and T-390/20, *Fehmarn Belt cases,* ECLI:EU:T:2024:126 and ECLI:EU:T:2024:125 (under appeal).

[116] Case SA.39078 – Denmark – *Financing of the Fehmarn Belt Fixed Link project*.

may constitute a single intervention if it is indissociable in terms of timing, purpose and context. The General Court also clarified that a project can be classified as being of 'common European interest' within the meaning of Article 107(3)(b) TFEU only if it forms part of a transnational programme supported by several Member States and responds to concerted action to attain a common objective, while at the same time having an incentive effect.

3.5.3. Selectivity

In *Fallimento Esperia*[117], the Court of Justice delivered a preliminary ruling on an Italian law requiring electricity importers to purchase green certificates if they did not supply the grid with a specified share of renewable energy. Esperia SpA (Esperia), an Italian electricity importer fined by the Italian regulator ARERA in 2010 for not meeting the legal requirement, challenged the law, arguing that it unfairly favoured domestic producers and could be in conflict with EU rules on State aid, customs duties and non-discrimination. The Court carried out the three-step test to assess the selectivity of the support scheme for green electricity producers. To this end, the Court took into account a wide reference system (the overall electricity production, marketing and consumption system) and considered that the support of green electricity producers could be justified by the nature and general scheme of that system (that is to say environmental objectives), subject to the measure being strictly necessary to overcome the market failure preventing the supply of green electricity on the Italian electricity market.

The judgments of the EU Courts in *Apple (Commission* v *Ireland)*[118] and *Bankföreningen and Länsförsäkringar Bank*[119] are described in II. Sectoral overview, sections 4.2.2. and 4.2.3 below.

3.5.4. Compatibility

In *Ryanair* v *Commission*[120], the Court of Justice confirmed on 6 June 2024 that the Solvency Support Fund for Strategic Enterprises (Fund) adopted in the context of the COVID-19 pandemic did not infringe the principle of non-discrimination on grounds of nationality. The EUR 10 billion Fund – approved by the Commission under the COVID Temporary Framework[121] - financed recapitalisation measures, within the meaning of section 3.11 COVID Temporary Framework, granted to eligible undertakings. In order to be eligible for aid, the applicant had to be an undertaking established in Spain and be of systemic or strategic importance for the Spanish economy. The Court of Justice confirmed entirely the judgment of the General Court[122] dismissing Ryanair's application against the Commission's decision. In particular, the Court of Justice confirmed that the eligibility criterion limiting the access to the Fund to undertakings established in Spain is in line with Article 107(3)(b) TFEU, with the general principle of non-discrimination and with the principles of free provision of services and freedom of establishment. In particular, regarding the general principle of non-discrimination laid down in Article 18 TFEU, the Court recalled that Article 18 TFEU applies independently only to situations where the TFEU lays down no specific prohibition of discrimination. Since Article 107(2) and (3) TFEU provide for derogations from the principle that State aid is incompatible with the internal market and therefore allow for differences in

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[117] Judgment of the Court of Justice (Second Chamber) of 7.3.2024 in Case C-558/22, *Fallimento Esperia and GSE*, EU:C:2024:209.

[118] Judgment of the Court of Justice of 10.9.2024 in Case C-465/20 P, *Commission* v *Ireland and Others*, ECLI:EU:C:2024:724.

[119] Judgment of the General Court (Fourth Chamber, Extended Composition) of 17.4.2024 in Case T-112/22, *Svenska Bankföreningen and Länsförsäkringar Bank v Commission*, ECLI:EU:T:2024:250.

[120] Judgment of the Court of Justice of 6.6.2024 in Case C-441/21 P, *Ryanair* v *Commission*, EU:C:2024:477.

[121] Case SA.57659 – Spain – COVID-19 – *Recapitalisation fund*.

[122] Judgment of the General Court of 19.5.2021, *Ryanair* v *Commission* in Case T-628/20, ECLI:EU:T:2021:285.

treatment between undertakings, those derogations must be regarded as ‘special provisions’ within the meaning of Article 18 TFEU. The Court of Justice therefore concluded that it is not necessary to examine the difference in treatment of the State aid in the light of the general principle of non-discrimination.

In *Condor*[123], the General Court set aside the 2021 Commission’s decision authorising restructuring aid granted by Germany to the airline Condor Flugdienst in the context of the COVID-19 pandemic[124]. This case concerned the burden sharing requirement under point 67 of the Guidelines on State aid for rescuing and restructuring firms in difficulty[125], which requires restructuring aid that enhances the beneficiary’s equity to be granted on terms that afford the State a reasonable share of future gains in value of the beneficiary. The General Court held that this requirement applied independently of the form of equity-enhancing State intervention, and considered that the Commission should have had doubts on whether the restructuring aid to Condor complied with this requirement. Those doubts should have led the Commission to open a formal investigation with respect to the aid. To comply with that ruling, on 29 July 2024, the Commission opened the formal investigation procedure into the aid to Condor, notwithstanding the fact that an appeal case is pending against that judgment.

3.5.5. Procedure

In *Hemweg*, the Court of Justice upheld on 13 June 2024[126] the General Court’s judgment[127] annulling the Commission’s decision of May 2020[128]. In that decision, the Commission had found that, on the basis of the information provided by the Dutch authorities, it could not be concluded with a sufficient degree of certainty that the measure examined provided an advantage and thus constituted State aid, but that, in any event, the measure would be compatible with the internal market. The Court of Justice confirmed that the Commission does not have the power to decide on the compatibility with the internal market of measures which have not, first, been established as being State aid. As a result, the Commission cannot legally adopt a compatibility decision without having concluded on the presence of a State aid.

On the notion of interested party, the Court of Justice delivered on 5 September 2024 a relevant judgment in *PBL and WA*[129]. The Court of Justice recalled that the person who relies on the status of ‘interested party’ within the meaning of Article 1(h) of Regulation 2015/1589 (or Procedural Regulation)[130] must demonstrate to the requisite legal standard, first, that it is indeed the grant of the alleged aid as such that may affect his or her interests, to the exclusion of any other conduct or measure, in particular any legally distinct measure which may have been adopted by the Member State granting that aid, even if such a measure is in fact linked to that aid. Second, that person has to show that it is indeed ‘his’ or ‘her’ interests, that is to say interests which are personal to him or her, which may be affected by the grant of the alleged aid. Third, that person should establish that the grant of the alleged aid actually has or, at the very least, is potentially likely to have a specific effect on his or her interests.

[123] Judgment of the General Court of 8.5.2024 in Case T-28/22, *Condor*, ECLI:EU:T:2024:301 (under appeal in C-505/24 P).
[124] Case SA.63203 – Germany – *Restructuring aid for Condor*.
[125] Guidelines on State aid for rescuing and restructuring firms in difficulty, other than financial institutions, OJ 2014 C 249, p. 1.
[126] Judgment of the Court of Justice (Second Chamber) of 13.6.2024 in Case C-40/23 P, *Commission* v *Netherlands*, EU:C:2024:492.
[127] Judgment of the General Court of 16.11.2022 in Case T-469/20, *Netherlands / Commission*, ECLI:EU:T:2022:713.
[128] Case SA.54537 – The Netherlands – *Prohibition of coal for the production of electricity in the Netherlands*.
[129] Judgment of the Court of Justice of 5.9.2024 in Case C-224/23 P, *PBL and WA* v *Commission*, EU:C:2024:682.
[130] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification), OJ L 248, 14.9.2015, p. 9.

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With regard to economic continuity, the Court of Justice delivered a noteworthy judgment in *Koiviston Auto Helsinki* on 29 July 2024[131]. It clarified the procedural obligations of the Commission in the case where a successor company emerges during the formal investigation procedure, and held that the Commission must seek input from any entity that inherits the economic activities of an original aid recipient. In the case at hand, the Court found that that the transfer of the former undertaking was a 'relevant issue' for the Commission's investigation within the meaning of Article 6(1) of Regulation 2015/1589. Since this relevant issue arose after the opening decision, the Commission was required, in order to allow interested parties to submit their comments, to publish a supplementary opening decision. Without such a decision, neither the appellant nor other interested parties were given an opportunity to submit comments on economic continuity and on the possibility to recover the aid at issue from the new undertaking. Consequently, the Commission infringed an essential procedural requirement by failing to adopt such a supplementary opening and to involve the appellant in the formal investigation procedure. Moreover, the Court found that the Member State holds the responsibility for calculating the exact amount to be recovered from the new undertaking, ensuring it reflects only the competitive advantage that was retained.

In its judgment of 5 September 2024 in *Slovenia* v *Flašker*[132], the Court of Justice upheld the General Court's judgment[133] annuling the Commission's decision which had concluded that the granting of management assets to a public establishment operating nearly 50 pharmacies in Slovenia constituted existing State aid that it did not raise 'serious difficulties' and therefore did not require an in-depth investigation procedure[134]. The Court of Justice clarified the concept of 'serious difficulties', holding that serious difficulties should be assessed both in terms of the context and the content of the decision, and that the burden of proof lies with the applicant for annulment to show such difficulties. However, mere assertions of the national authorities are not sufficient to exclude the existence of 'serious difficulties' or 'doubts' which the Commission may face after a preliminary examination, since the Commission has, in particular, under Procedural Regulation 2015/1589, the power to request additional information from Member States. Furthermore, the Court of Justice pointed out that Article 108(3) TFEU leaves the Commission no margin of discretion, and that it is under an obligation to initiate a formal investigation procedure where serious difficulties remain following the preliminary examination.

3.5.6. Arbitration

In its judgment of 2 October 2024 in *Micula*[135], the General Court, acting upon referral from the Court of Justice, upheld the 2015 Commission's decision which had found that the payment of damages by Romania to Swedish investors under an arbitral award constituted incompatible State aid[136]. The Court clarified that Article 351 TFEU, which applies to pre-EU accession agreements with third countries, did not apply, as the Bilateral Investment Treaty (BIT) between Sweden and Romania became an internal EU matter post-accession. The General Court found that the compensation paid constituted an economic advantage under Article 107(1) TFEU, and that the beneficiaries included a single economic unit formed

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[131] Judgment of the Court of Justice (Fourth Chamber) of 29.7.2024 in Case C- 697/22 P, *Koiviston Auto Helsinki and Commission,* EU:C:2024:641.
[132] Judgment of the Court of Justice of 5.9.2024 in Case C-447/22 P, *Slovenia* v *Flašker and Commission*, EU:C:2024:678.
[133] Judgment of the General Court of 27.4.2022 in Case T-392/20, Slovenia v Flašker and Commission, EU:T:2022:245.
[134] Case SA.43546 – Slovenia – *Alleged State aid to Lekarna Ljubljana*.
[135] Judgment of the General Court (Second Chamber, Extended Composition) of 2.10.2024 in Joined Cases T- 624/15 RENV, T- 694/15 RENV and T- 704/15 RENV, *Micula and Others*, EU:T:2024:659.
[136] Case SA.38517 – Romania – *Arbitral award Micula v Romania*.

by the Micula brothers and their companies. As a consequence, the Court found that the Commission's decision to recover the aid was legally justified, confirming that the aid measure should restore the situation prior to the payment, eliminating any competitive advantage gained by the investors. The actions brought by the investors were therefore dismissed in their entirety.

In *Mytilinaios*[137], on 22 September 2024 the Court of Justice overturned the General Court's judgment[138] which had annulled the 2015 and 2017 Commission's decisions regarding an arbitration award establishing reduced electricity tariffs for Mytilinaios AE[139]. The General Court had qualified the arbitration award as a State measure capable of constituting State aid. However, the Court of Justice found this qualification legally flawed. It emphasised that the arbitration tribunal of the Greek Energy Regulator cannot be equated with a State court, as the arbitration process was founded on a contractual agreement between the parties rather than a State decision. Consequently, the Court of Justice held that the Commission was correct in concluding that the arbitration award did not involve State aid and referred the case back to the General Court for further proceedings.

3.6. Monitoring, recovery and cooperation with national courts

3.6.1. Increased monitoring of existing State aid to ensure competition on fair and equal terms

As in previous years, most of the new State aid measures implemented in 2024 were covered by a block exemption regulation (for example, the GBER)[140]. It is essential for the Commission to verify that Member States apply State aid schemes correctly and that they only grant aid when all conditions are met.

The monitoring by the Commission is a regular *ex post* control based on a sample of existing aid schemes, both block exempted and approved. It is a necessary complement to the approval of State aid schemes by the Commission, and it is the counterweight to 'self-assessment' by Member States resulting from the exemption from the notification obligation.

As part of the monitoring process, the Commission follows up on irregularities and uses the means at its disposal, as appropriate, to address the competition distortions that those irregularities may have caused. In some cases, Member States offer to voluntarily redress the problems detected, for example to amend national legislation or to recover aid granted above the limits permitted by State aid rules. In other cases, the Commission may need to take formal action.

In 2024, the Commission launched a new monitoring cycle of block exempted and approved aid granted by Member States in the period 2020 to 2022. The sample of schemes selected included also aid granted to support the economy in the context of the COVID-19 pandemic and aid schemes put in place due to the Russian war of aggression against Ukraine. This 2024 monitoring cycle is ongoing.

3.6.2. Restoring competition by recovering State aid granted in breach of the rules

To ensure the integrity of the Single market, Member States must take all necessary measures to recover unlawful and incompatible aid. The purpose of recovery is to restore the situation that existed on the

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[137] Judgment of the Court of Justice of 22.2.2024 in Joined Cases C- 701/21 P and C- 739/21 P, *Mytilinaios / DEI and Commission*, EU:C:2024:146.

[138] Judgment of the General Court of 22.9.2021 in Joined Cases T- 639/14 *RENV*, T- 352/15 and T- 740/17, *DEI* v *Commission,* EU:T:2021:604.

[139] Case SA.38101 – Greece – *Alleged State aid granted to Alouminion SA in the form of electricity tariffs below cost following an arbitration decision*.

[140] See the State Aid Scoreboard 2024: https://competition-policy.ec.europa.eu/state-aid/scoreboard_en

internal market prior to the granting of the aid. This is necessary to ensure effective competition in the Single Market.

In 2024 the Commission adopted seven new recovery decisions[141]. 35 recovery cases (resulting from previously adopted negative decisions with recovery) were pending at the end of 2024.

By 31 December 2024, the total of unlawful and incompatible aid recovered from beneficiaries amounted to EUR 28.7 billion[142]. At the same point in time, the outstanding amount pending recovery was EUR 7 billion.

Figure 8: Recovery Decisions in 2024

Recovery decisions adopted in 2024	7
Pending recovery cases on 31/12/2024	35

In 2024, the Commission imposed penalties on Greece and Italy based on Court judgments condemning these two Member States for having infringed EU law on State aid[143].

3.6.3. Cooperation with national courts to ensure the effectiveness of State aid rules

The Commission cooperates with national courts under Article 29 of Regulation 2015/1589 and according to its Notice on the enforcement of State aid rules by national courts (the Notice)[144]. This includes direct case-related assistance to national courts when they apply EU State aid rules. National courts and tribunals can ask the Commission to provide case related information, or to provide an opinion on the application of State aid rules. The Commission may also submit *amicus curiae* observations on its own initiative. To make its views publicly known, the Commission publishes its opinions and *amicus curiae* observations to national courts, as well as observations to other bodies, for example arbitration tribunals, on its website[145].

The Commission also reaches out to national judges by providing trainings on State aid rules on the Notice and its concrete implications for national judges[146]. In this context, the Commission advocates for

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[141] Cases SA.39182 –- Estonia – *Aid to AS Tartu Agro;* SA.48580 – Germany – *Casinos - State aid to WestSpiel;* SA.43260 – Germany – *Measures implemented by Germany in favour of Flughafen Frankfurt Hahn GmbH and Ryanair DAC*; SA.44944 – Germany – *Tax treatment of public casinos operators*; SA.62829 – Romania – *Restructuring aid to Blue Air;* SA.52162 – Denmark – *State aid in favour of the Oresund Bridge Consortium;* and SA.50787 and SA.50837 – Czechia – *Aid schemes implemented by Czechia in favour of large enterprises active in primary agricultural production.* In the two last cases, the Commission in April 2024 concluded that Czechia's investment support granted to certain large Czech agricultural companies in 2017 and 2018 was not in line with EU State aid rules. Czechia must recover the incompatible State aid. The aid was based on the former Agricultural Block Exemption Regulation, under which the aid can only be granted to SMEs. The Czech authorities erroneously qualified some of the beneficiaries as SMEs, while they were in fact large enterprises.

[142] The reference period is 1 January 1999 to 31 December 2024. This amount includes also the amount of aid registered in pending insolvency proceedings. In addition, the amount of EUR 4.5 billion could not be recovered from concluded insolvency proceedings because of the lack of mass from the liquidation of assets which did not allow satisfying the State aid claims.

[143] Cases SA.15525 – Greece – *Hellenic Shipyards*; SA.34572 – Greece – *State aid to Larko General Mining & Metallurgical Company S.A.*; and SA.9398 – Italy – *Employment measures*.

[144] Communication from the Commission, Commission Notice on the enforcement of State aid rules by national courts, OJ C 305, 30.7.2021, p. 1.

[145] See: https://ec.europa.eu/competition-policy/state-aid/national-courts_en

[146] See also, Competition state aid brief. Issue 2/2022 – March 2022, '*The review of the Notice on the enforcement of State aid rules before national courts'*.

the use of the Notice among national judges to promote the coherent enforcement of State aid rules at national level. Past studies on the enforcement of State aid law at national level point towards a relatively limited number of State aid cases brought before national courts[147].

Since national courts can play a crucial and complementary role in the system of enforcement of State aid rules, the Commission recently stepped up its efforts to reach out to judges with more tailored trainings. For instance, following a general tender for the training of national judges[148], the Commission cooperates with the VUB (Vrije Universiteit Brussel) to deliver trainings through the SUNAJUST programme aimed to (i) develop accessible and engaging course material; and (ii) organise multiple training events targeting judges, prosecutors, apprentice national judges, and staff of national courts from EU Member States. Within that programme, a survey among EU judges will seek to identify the main hurdles encountered in State aid enforcement.

4. THE FOREIGN SUBSIDY REGULATION

The Foreign Subsidies Regulation (FSR)[149] is a Single Market legislation that aims at addressing possible distortions of competition in the Single Market when subsidies granted by non-EU governments benefit economic activities in the EU. It started to apply in July 2023.

4.1. Context

The FSR aims at filling a regulatory gap in tackling distortive effects in the internal market created by foreign subsidies. This gap concerned instances where companies benefitting from distortive foreign subsidies have an advantage in acquiring undertakings active in the internal market, in participating in public procurement processes or more generally in their investment and commercial decisions in EU markets. Such distortive subsidies, like below-market-interest rate loans, unlimited State guarantees, favourable tax agreements or dedicated State funding, would be problematic if granted by an EU Member State, when assessed under EU State aid rules.

Considering the challenge to find a multilateral solution to subsidies within a reasonable timeframe, the Commission committed, as part of the New Industrial Strategy for Europe, to explore how best to strengthen the EU's anti-subsidies mechanisms and tools. As a result, the FSR was adopted on 14 December 2022.

Under the FSR, the Commission has the power to examine any foreign subsidy granted to an undertaking engaging in an economic activity in the internal market. The Commission has the power to act on its own initiative (*ex officio*) or through the review of compulsory notifications for large concentrations and large public procurement procedures. Within the Commission, DG Competition (Directorate General for Competition) is in charge of concentration notifications and *ex officio* investigations, while DG GROW (Directorate General for Internal Market, Industry, Entrepreneurship and SMEs) deals with public procurement procedures (and related *ex officio* cases).

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[147] See 'Final Study on the enforcement of State aid rules and decisions by national courts (COMP/2018/001)', Publications Office of the European Union, Luxemburg, 2019.

[148] SMP-COMP-JUDG-2022 — Training of National Judges in EU Competition Law, see: https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/topic-details/smp-comp-judg-2022

[149] Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, OJ L 330, 23.12.2022, p. 1-45.

To provide legal clarity on the implementation of the FSR towards undertakings and transparency of the Commission's action towards the civil society DG Competition and DG GROW's websites include *Q&As* providing clarifications on a number of procedural, jurisdictional and implementation issues which are regularly updated[150].

Moreover, at the time of the adoption of the FSR, the Commission committed to provide clarifications on key concepts of the regulation such as the distortion caused by a foreign subsidy on the internal market (Article 4(1) FSR), the application of the balancing test set out in Article 6 FSR, and the assessment of a distortion in a public procurement procedure set out in Article 27(1) FSR. These initial clarifications were published on 26 July 2024[151].

This first step in clarification will be complemented with Guidelines to be adopted before 13 January 2026 as provided for by Article 46 FSR. The Guidelines will cover: the application of the criteria for determining the existence of a distortion (Article 4(1)); the application of the balancing test (Article 6); the application of the Commission's power to request the prior notification of any concentration (Article 21(5)) or of foreign financial contributions received by an economic operator in a public procurement procedure (Article 29(8)); and the assessment of a distortion in a public procurement procedure (Article 27).

4.2. Enforcement

Under the FSR, the Commission may review notified proposed concentrations, participations to public procurement procedures or carry out *ex officio* investigation if information indicates the existence of a foreign subsidy distorting the internal market. DG Competition is tasked with concentration notification cases and *ex officio* procedures: those activities are described below. FSR enforcement benefits from the support of the intelligence and forensic teams of the CTO Unit in DG Competition.

In 2024, 102 concentrations were notified under the FSR.

In the case of the acquisition by *Emirates Telecommunications Group - e& (*formerly known as *Etisalat)* of sole control of *PPF Telecom Group*, the Commission opened an in-depth investigation. The acquisition was notified to the Commission on 26 April 2024 by Emirates Telecommunications Group Company PJSC. On 24 September 2024[152], the Commission adopted a decision with commitments. This is the first Commission's decision under the FSR.

e& is a telecommunications operator based in the United Arab Emirates (UAE) and it is controlled by the federal sovereign wealth fund of the UAE, the Emirates Investment Authority (EIA). PPF Telecom Group (the target) is a telecommunications operator active in Bulgaria, Hungary and in Serbia (under the brand 'Yettel') as well as in Slovakia (as 'O2').

In the interest of addressing the Commission's concerns, e& offered commitments early in the in-depth investigation. The Commission, while carrying out a detailed in-depth investigation, was therefore able to adopt the decision well ahead of the legal deadline, without needing to formalise its concerns in a Statement of Grounds.

The decision finds that e& and the EIA benefitted from unlimited guarantees because of respectively partial and full exemptions from the ordinary UAE bankruptcy rules and other relevant factors. In

[150] See: https://competition-policy.ec.europa.eu/foreign-subsidies-regulation/questions-and-answers_en and on https://single-market-economy.ec.europa.eu/single-market/public-procurement/foreign-subsidies-regulation/questions-and-answers_en

[151] Initial clarifications on the application of Article 4(1), Article 6 and Article 27(1) of Regulation (EU) 2022/2560 on foreign subsidies distorting the internal market - Commission Staff Working document.

[152] Commission Decision C(2024) 6745 of 24.9.2024.

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addition, the EIA enjoyed other foreign subsidies in the form of grants, loans and repayable advances by the UAE Government, and of a revolving credit facility loan underwritten by banks ‘whose actions can be attributed’ to the UAE in the meaning of the FSR.

The Commission assessed the possible distortive effects of the foreign subsidies both on the acquisition process and on the activities of the combined entity in the internal market. The decision concludes that because e& was the sole bidder and had sufficient own resources, the foreign subsidies did not distort the acquisition process. As to distortions on the activities of the combined entity in the internal market, the unlimited guarantees, which fall in the category of subsidies ‘most likely to distort the internal market’ within the meaning of Article 5(1)(b) FSR, would likely have allowed the combined entity to raise financing for its operations at preferential conditions. Using these subsidies, the merged entity could have made investments distorting competition in the Single Market. An unlimited guarantee also increases the beneficiary’s indifference to risk. Moreover, the EIA, as the owner of e&, has both the incentive and the ability to make the combined entity benefit from its subsidised funding.

As a result, in the specific context of the telecommunications sector, the Commission found that the combined entity could have engaged in investments, for instance spectrum auctions or the deployment of infrastructure or in acquisitions, through which it would distort the level-playing field by expanding its activities beyond what its own merits would have allowed, absent the subsidies.

The commitments offered by e& provide that the company will, in the future, be subject to the ordinary UAE bankruptcy law. They also ensure that e& and the EIA cannot provide (unless there would be a situation of acute liquidity crisis) any type of financing to the merged entity’s activities in the internal market, to ensure that foreign subsidies are not channelled to those activities. e& also committed that commercial transactions between the EU businesses of the target and other companies controlled by e& or the EIA, would take place on market terms, in other words unsubsidised. Finally, e& will inform the Commission of future acquisitions which do not qualify as notifiable concentrations under the FSR. Finally, e& will appoint a Trustee who will monitor compliance with the commitments.

In 2024, the Commission also launched preliminary reviews in the fields of security equipment for airports and ports and wind energy.

For instance, the Commission carried out an unannounced inspection in the premises of *Nuctech*, a Chinese company active in the production and sale of security equipment in the EU on 23 April 2024. The Commission is currently reviewing the information gathered in this context. In case of sufficient indications of distortive foreign subsidies, the Commission may open an in-depth investigation.

On 29 May 2024, the EU entities of Nuctech lodged an appeal to the General Court requesting the annulment of the inspection decisions and of any subsequent acts or requests by the Commission including requests to have access to mailboxes located in China. On the same day, they applied for interim measures to suspend the execution of the inspection decisions, together with any subsequent act or request by the Commission and the legal hold requests.

On 12 August 2024, the President of the General Court issued an order rejecting Nuctech’s application for interim measures[153]. The President of the Court confirmed that the Commission can address an inspection decision to a business that is incorporated outside the EU if it operates within the EU and that it can inspect the EU premises of such businesses. The President of the court confirmed that the Commission must be able to inspect information accessible from a business’ EU premises even when

[153] Order of the President of the General Court in Case T- 284/24 R, *Nuctech Warsaw Company Limited and InsTech Netherlands* v *Commission,* ECLI:EU:T:2024:564, (under appeal).

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that information is stored outside of the EU, in that case, in China. If it was not the case, the Commission could not carry out investigations effectively and companies might be encouraged to store data outside the EU to evade inspections.

Further, the Court held that the EU entities had not proven that the data requested was not accessible to them. The applicants argued that providing access to such information would oblige the EU entities to violate Chinese laws, which would expose the company and individuals, to pecuniary fines and criminal sanctions. The President of the Court found that: (i) the applicants had failed to show that the Chinese law provisions that they referred to actually applied in this case; (ii) the laws in question did not seem to forbid Chinese companies from granting access to information but merely obliged them to obtain State authorisation before doing so, and that the EU entities had failed to show that they had either requested or been denied such authorisation; (iii) the EU entities did not substantiate why Chinese law prevented them (as opposed to their Chinese parent companies) from responding; and (iv) infringements of the laws in question would only result in financial penalties and, if imposed, the EU entities could seek compensation from the Commission, hence, the mere threat of financial penalties did not exempt them from producing the information requested.

In April 2024, the Commission also launched a *preliminary review into the conditions for the development of a number of wind parks in some Member States* based on indications that some wind manufacturers and other companies active in the internal market may possibly benefit from foreign subsidies granting them an unfair advantage over their competitors, and which may lead to distortions of competition[154]. This investigation follows the European Wind Power Action Plan[155] in which the Commission committed to closely monitor potential foreign subsidies which create distortions of competition.

The preliminary review is based on Articles 9 and 10 FSR, which enable the Commission to examine on its own initiative any information from any source regarding alleged foreign subsidies distorting the internal market, and, where the Commission considers that the information available indicate the possibility that a foreign subsidy distorting the internal market exists, to seek all the information it considers necessary to assess, on a preliminary basis, whether the financial contribution under examination constitutes a foreign subsidy and whether it distorts the internal market. To further investigate the possible existence of distortive foreign subsidies in the context of the EU wind sector, the Commission sent requests for information to several undertakings, both wind park developers and wind turbine manufacturers active in the EU. The review of the information is ongoing.

5. THE DIGITAL MARKETS ACT

The Digital Markets Act (DMA)[156] is a Single Market legislation harmonising the obligations of so-called gatekeepers - large digital platforms that provide an important gateway between business users and consumers - across the EU. It contributes to a well-functioning Single Market by laying down rules

[154] See: https://ec.europa.eu/commission/presscorner/detail/en/speech_24_1927

[155] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'European Wind Power Action Plan', COM/2023/669 final.

[156] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), OJ L 265, 12.10.2022, p. 1–66.

ensuring contestability and fairness in digital markets: it aims at creating a fair and contestable digital landscape in Europe by opening ecosystems, creating real opportunities for businesses to enter and expand into new markets and providing end-users with real choices The DMA is one of the centrepieces of the European Digital Strategy[157]. It complements, but does not affect EU competition rules, which continue to apply fully.

5.1. Context

The DMA is one of the first regulatory tools in the world to comprehensively regulate the gatekeeper power of the largest digital companies. It entered into force on 1 November 2022 and became applicable on 2 May 2023. The Commission (with DG Competition and DG Communications Networks, Content and Technology in the lead) is the central enforcer of the DMA. It works in close cooperation with the NCAs within the ECN in accordance with Articles 37 and 38 DMA.

The DMA establishes criteria for identifying and designating gatekeepers. Where a platform provider meets the quantitative thresholds regarding (i) its size, (ii) its number of active business users and end users, and (iii) its entrenched and durable position, in principle it will be designated as a gatekeeper, unless the platform manages to rebut the presumption. The Commission will also be able to designate gatekeepers that do not meet these thresholds upon qualitative assessment.

The DMA covers ten types of core platform services (CPSs), i.e. digital services that feature a number of characteristics that can be exploited by the undertakings providing them, namely online intermediation services; online search engines; online social networking services; video-sharing platform services; number-independent interpersonal communication services (N-IICS); operating systems; cloud computing services; advertising services; web browsers and, virtual assistants.

Under the DMA, designated gatekeepers are obliged to comply with a set of clearly defined obligations. If a gatekeeper fails to comply with those obligations, the Commission may take formal enforcement actions, including imposing fines and additional remedies (such as obliging a gatekeeper to sell a business or parts of it or banning acquisitions).

As a result of the implementation of these obligations, business users will benefit, for example, from a fair treatment and a level playing field when competing with gatekeeper services, such as the ability to sell applications (apps) through alternative channels (other than gatekeeper's app stores); interoperability with gatekeeper services to offer innovative services; access to data generated by their activities on gatekeeper platforms or the ability to promote offers and conclude contracts with customers outside gatekeeper platforms.

The implementation of the obligations under the DMA will also benefit end-users who will be able, for example, to choose alternative app stores and services (not just gatekeeper's defaults); to exercise better control over their data, including the ability to decide whether gatekeepers can link accounts; to easily access data from one service or app to another, allowing for seamless data backups and movement between services; to use alternative electronic identification or in-app payment services.

The DMA provides for a close cooperation mechanism between the Commission as the sole enforcer and NCAs, as well as a *High Level Group* composed of European bodies and networks identified in the DMA. The main objectives of the High Level Group are to support a coherent and effective implementation of the DMA and other sector-specific regulations applicable to gatekeepers. It convenes several times a year

[157] See: A Europe fit for the digital age - European Commission

to discuss and coordinate on actual topics of regulatory relevance[158].

5.2. Enforcement

5.2.1. Gatekeeper designations

As of 7 March 2024, six undertakings which had been designated as gatekeepers in September 2023 with respect to 22 CPSs (namely *Alphabet*'s Google Maps, Google Play, Google Shopping, Google Ads, Chrome, Google Android, YouTube and Google Search; *Amazon*'s Marketplace and Ads; *Apple*'s App Store, Safari and iOS; *ByteDance*'s Tiktok; *Meta*'s Facebook, Instagram, Marketplace, Ads, Whatsapp and Messenger; *Microsoft*'s LinkedIn and Windows PC OS), were required to fully comply with all the obligations under the DMA and to report on the implementation of those obligations in compliance reports[159].

On 12 February 2024, the Commission concluded the four market investigations launched on 5 September 2023 to further assess *Microsoft*'s and *Apple*'s submissions that, despite meeting the thresholds, some of their CPSs do not qualify as gatekeeper services (so-called gateways), namely Microsoft's online search engine *Bing*, web browser *Edge* and online advertising service *Microsoft Advertising* and Apple's messaging service *iMessage*. Following a thorough assessment, the Commission found that iMessage[160], Bing[161], Edge[162] and Microsoft Advertising[163] do not qualify as gateways.

On 29 April 2024, concluding the market investigation launched on 6 September 2023, the Commission designated *Apple* as a gatekeeper with respect to *iPadOS*[164]. The DMA's obligations applied as of 4 November 2024 to iPadOS[165].

On 1 March 2024, Booking, ByteDance and X notified to the Commission that their services meet the DMA thresholds. On 13 May 2024, the Commission designated *Booking* as a gatekeeper with regard to its online intermediation service *Booking.com*[166]. On 13 November, Booking published a compliance report detailing the measures it has taken for Booking.com to comply with the DMA[167]. The DMA obligations applied to Booking.com as of 14 November 2024[168]. In parallel, on 13 May 2024 the Commission decided not to designate *X Ads*[169] and *TikTok Ads*[170] as CPSs, and following a market investigation on 16 October 2024 it reached the same conclusion in relation to the online social

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[158] See: https://digital-markets-act.ec.europa.eu/high-level-group-digital-markets-act-agrees-coordinate-efforts-ensure-ai-development-aligns-dma-2024-05-23_en
[159] See: https://digital-markets-act.ec.europa.eu/designated-gatekeepers-must-now-comply-all-obligations-under-digital-markets-act-2024-03-07_en and https://digital-markets-act-cases.ec.europa.eu/reports/compliance-reports
[160] Case DMA.100022, *Apple - number-independent interpersonal communications services*.
[161] Case DMA.100015, *Microsoft - online search engines*.
[162] Case DMA.100028, *Microsoft - web browsers*.
[163] Case DMA.100034, *Microsoft - online advertising services*.
[164] Case DMA.100047, *Apple – iPadOS*.
[165] See: https://digital-markets-act.ec.europa.eu/apples-operating-system-ipados-must-comply-all-relevant-obligations-under-digital-markets-act-2024-11-04_en
[166] Case DMA.100019, *Booking - Online intermediation services – verticals*.
[167] See: https://digital-markets-act-cases.ec.europa.eu/reports/compliance-reports.
[168] See: https://digital-markets-act.ec.europa.eu/booking-must-comply-all-relevant-obligations-under-digital-markets-act-2024-11-14_en
[169] Case DMA.100232, *X - online advertising services*.
[170] Case DMA.100042, *ByteDance - online advertising services*.

networking service *X*[171], based on the rebuttals filed by the three companies respectively.

5.2.2 *Non-compliance*

On 25 March 2024, the Commission opened non-compliance investigations, against *Alphabet* with regard to its *rules on steering in Google Play and self-preferencing on Google Search*; against *Apple* with regard to *its rules on steering in the App Store and with regard to user choice obligations, including the choice screen for its web browser Safari*, uninstallation and defaults, and against *Meta* for the '*pay or consent' model for users* in the EU[172]. The Commission was concerned that the measures that these gatekeepers put in place fall short of effective compliance with their obligations under the DMA. Notably, with regard to Alphabet, steering rules in Google Play may not be fully compliant with Article 5(4) DMA and self-preferencing in Google Search may lead to discrimination against third-party services. With regard to Apple's obligations on choice screen, uninstallation and defaults, Apple may not be fully compliant with Article 6(3) DMA which obliges it to display a browser choice screen, enable uninstallation of apps and allow for an easy change of defaults where Apple is steering users from its operating system to its own services.

On 24 June 2024, the Commission sent preliminary findings to *Apple* stating that its steering rules for the App Store are in breach of the DMA as they prevent app developers from freely steering consumers to alternative channels for offers and content[173]. In addition, the Commission opened a new non-compliance investigation against Apple over concerns that its new contractual requirements for third-party app developers and app stores, including Apple's new 'Core Technology Fee', fall short of ensuring effective compliance with Apple's obligations under the DMA[174].

On 1 July 2024, the Commission sent preliminary findings to *Meta* stating that its *'pay or consent' advertising model* fails to comply with the DMA's requirements under Article 5(2) DMA[175]. Specifically, the Commission's preliminary view is that the model does not allow users to opt for a service that uses less of their personal data but is otherwise equivalent to the 'personalised ads' based service and does not allow users to exercise their right to freely consent to the combination of their personal data.

On 19 September 2024, the Commission initiated two specification proceedings to assist Apple in complying with its obligations under Article 6(7) DMA to provide free and effective interoperability to third party developers and businesses with hardware and software features controlled by Apple's operating systems iOS and iPadOS, designated under the DMA[176]. The specification proceedings formalise the Commission's regulatory dialogue with Apple on certain specific areas of Apple's compliance with such provisions. In particular, the first proceeding focuses on several iOS connectivity features and functionalities, including notifications; device pairing and connectivity and other features predominantly used for and by connected devices (for example, smartwatches, headphones, virtual reality headsets). The second proceeding focuses on the process Apple has set up to address interoperability requests submitted by developers and third parties for iOS and iPadOS, including transparency,

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[171] Case DMA.100041, *X - online social networking services.*

[172] See: https://digital-markets-act.ec.europa.eu/commission-opens-non-compliance-investigations-against-alphabet-apple-and-meta-under-digital-markets-202

[173] Case DMA.100206, *Apple - New business terms*.

[174] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3433

[175] See: https://digital-markets-act.ec.europa.eu/commission-sends-preliminary-findings-meta-over-its-pay-or-consent-model-breach-digital-markets-act-2024-07-01_en

[176] See: https://digital-markets-act.ec.europa.eu/commission-starts-first-proceedings-specify-apples-interoperability-obligations-under-digital-2024-09-19_en

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timeliness and fairness. On 18 December 2024, the Commission sent preliminary findings to Apple in the context of both proceedings. These findings indicate the proposed measures for Apple to ensure interoperability of connected devices with iPhones and to make interoperability by third parties more predictable and transparent, as required by the DMA[177]. To ensure that these proposed measures achieve effective interoperability in compliance with the DMA, the Commission launched two public consultations[178]. The input from the consultations as well as Apple's observations will feed into the final measures.

In addition to formal enforcement proceedings, the Commission held *regulatory dialogues* with all gatekeepers across various CPSs and obligations with a view to adress non-compliant solutions. These dialogues lead to gatekeepers improving their compliance measures in several instances, for example in relation to data access obligations or the prohibition of tying. The input of affected *third parties* is key in these discussions. The Commission therefore held general *compliance workshops*[179] with stakeholders of all gatekeepers, as well as several more dedicated ones on specific obligations.

Finally, in April 2024, the Commission launched a *whistleblower tool for the DMA*, to enable individuals to provide information, without fear of reprisals, allowing to identify and uncover any violations of the DMA obligations by designated gatekeepers[180].

5.3. Regulatory cooperation and transparency

On 22 May 2024, *the High Level Group for the DMA*, which convened for the third time in Brussels after its its inaugural meeting on 12 May 2023, agreed on the need to coordinate enforcement and adopted a public statement on AI[181].

The Commission also cooperated regularly with NCAs under the DMA's specific mechanism to coordinate the complementary application of the DMA and national competition law as well as in multilateral fora such as the G7 Competition Summit[182]. In addition, in October 2024, the Commission launched a call for tenders for a study to assess the foreseeable impact of emerging technologies towards existing online platforms and implementation of the regulatory framework, with a particular focus on the DMA[183].

Finally, in 2024, the Commission received information about nine submissions pursuant to Article 14 DMA, which requires gatekeepers to inform the Commission of any intended acquisition within the digital sector[184].

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[177] Cases DMA.100204, *SP - Apple - Article 6(7) – process*, and DMA.100203, *Apple – Operating systems – iOS – Article 6(7) – SP – Features for Connected Physical Devices.*

[178] See: https://digital-markets-act.ec.europa.eu/dma100203-consultation-proposed-measures-interoperability-between-apples-ios-operating-system-and_en and https://digital-markets-act.ec.europa.eu/dma100204-consultation-proposed-measures-requesting-interoperability-apples-ios-and-ipados-operating

[179] See: https://digital-markets-act.ec.europa.eu/events_en

[180] See: https://digital-markets-act.ec.europa.eu/commission-launches-whistleblower-tools-digital-services-act-and-digital-markets-act-2024-04-30_en

[181] See: https://digital-markets-act.ec.europa.eu/high-level-group-digital-markets-act-public-statement-artificial-intelligence-2024-05-22_en

[182] See, for example: https://digital-markets-act.ec.europa.eu/g7-competition-summit-effective-international-cooperation-contributing-fair-open-and-contestable-ai-2024-10-04_en

[183] See: https://digital-markets-act.ec.europa.eu/study-how-emerging-technologies-may-impact-digital-market-regulation-2024-10-14_en

[184] See: https://digital-markets-act-cases.ec.europa.eu/acquisitions

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6. DEVELOPING THE INTERNATIONAL DIMENSION OF EU COMPETITION POLICY

As world markets continue to integrate and more companies rely on global value chains, competition agencies need to increase their collaboration more than ever before. Effectively enforcing competition rules depends to a growing extent on cooperation with other enforcement authorities and on having effective tools to ensure a fair business environment in the EU.

6.1. Multilateral relations

In 2024, the Commission continued to engage actively in international competition related fora such as the Organisation for Economic Co-operation and Development (OECD) Competition Committee, the International Competition Network (ICN), the G7 Competition Summit and the United Nations Conference on Trade and Development (UNCTAD).

At the *OECD Competition Committee* meeting in June 2024, the Commission presented the judgment of the Court of Justice in *Super League*[185] and contributed to exchanges on monopolisation, moat building and entrenchment strategies[186]. It also contributed to the revision of the 2005 Recommendation on Merger Review by actively engaging in dedicated drafting working group meetings. The Commission further took part in discussions on AI, data and competition, and pro-competitive industrial policy. In September, the Commission took part in the launch event of the OECD Competitive Neutrality Toolkit[187]. In December 2024, the Commission took part in the Competition Committee's deliberations on the use of structural presumptions in antitrust and the standard and burden of proof in competition law cases[188], and to the OECD Global Forum on Competition's roundtable on competition in the food supply chain[189].

The Commission further continued acting as co-chair of the *ICN Merger Working Group*. In this context, it delivered a new draft chapter on non-horizontal mergers for the ICN Recommended Practices for Merger Analysis[190], and continued work on updating chapters on unilateral and coordinated effects. In May 2024, the Commission also participated in the annual ICN Annual Conference[191], with the Director General of DG Competition speaking on the Merger Working Group plenary panel and in one Cartel Working Group breakout session, and other Commission speakers contributing in various breakout sessions[192]. The Commission also actively participated in the organisation of the ICN Merger Workshop, which took place in November 2024 in Taiwan, where DG Competition's delegation moderated and facilitated various break-out sessions[193].

At the *G7 Competition Summit* held in Rome in October 2024, the discussions focused on competition and regulatory challenges linked to the rapid growth of AI, in particular Generative AI models and

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[185] See: EUR-Lex - 62021CJ0333 - EN - EUR-Lex
[186] See: OECD Roundtables on Competition Policy Papers | OECD
[187] See: Launch event of the OECD Competitive Neutrality Toolkit | OECD
[188] See: OECD Roundtables on Competition Policy Papers | OECD
[189] See: Global Forum on Competition 2024 | OECD
[190] See: MWG-RPs-on-Non-Horizontal-Mergers-2024.pdf
[191] See: https://icn2024sauipe.cade.gov.br/
[192] See: https://icn2024sauipe.cade.gov.br/sessions/
[193] See: ICN Merger Workshop

algorithms[194]. Authorities and agencies present at the Summit also exchanged views on other concerns in digital markets and on how to act *ex ante* and *ex post* to address related challenges. The Commission shared its experience on the enforcement of the DMA, with a particular focus on AI. The Commission also briefed the G7 partners about the regulatory developments in the EU, including the recently adopted AI Act[195]. The participants agreed to promote cooperation, exchange of knowledge and develop a common vision for the future of competition policy and other policies, and their enforcement among G7 countries in the era of AI.

In July 2024, the Commission attended the 22nd meeting of the *UNCTAD Intergovernmental Group of Experts on Competition Law and Policy*[196] where the discussions focused on ways to improve global cooperation in competition policy enforcement and to enhance convergence through dialogue. The Commission also participated, as one of three reviewers, in the peer review of Egypt's competition law and policy.

6.2. Bilateral relations

In April 2024, the Commission and *the U.S. competition authorities* held the fourth high-level meeting of the Joint Technology Competition Policy Dialogue[197] to continue working together to ensure and promote fair competition in the digital economy. The dialogue focused on the evolving business strategies of big tech companies, including the recent investments and partnerships between major cloud providers and AI providers, as well as their implications for competition enforcement.

In 2024, the Commission also continued working on bilateral cooperation with *the United Kingdom* as foreseen in the EU/UK Trade Cooperation Agreement (TCA)[198] and the Withdrawal Agreement[199]. The Commission's work focused on control of potentially competition distorting subsidy schemes in the UK, which entails monitoring and reporting on subsidy and competition legislation and enforcement. It also represented the EU in the formal Committees foreseen in the TCA and Withdrawal Agreement.

Early 2024, the Commission started negotiations with *Switzerland* on eight themes relevant to the bilateral relations, including one on State aid[200]. Those negotiations have been conducted at a rapid pace throughout the year and conluded in record time. On 20 December 2024, the Commission President announced the conclusion of the negotiations between the European Union and Switzerland[201].

[194] See: https://digital-markets-act.ec.europa.eu/g7-competition-summit-effective-international-cooperation-contributing-fair-open-and-contestable-ai-2024-10-04_en

[195] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (Text with EEA relevance), OJ L, 2024/1689, 12.7.2024.

[196] See: https://www.oecd-ilibrary.org/finance-and-investment/oecd-roundtables-on-competition-policy-papers_20758677

[197] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1952

[198] Trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, OJ L 444, 31.12.2020, p. 14.

[199] Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ C 384I, 12.11.2019, p. 1–177.

[200] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1508

[201] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_6562

The Commission also continued its cooperation on competition policy with the *Korean* and the *Japanese Fair Trade Commissions*. DG Competition's multilateral technical cooperation with the *Chinese, Japanese, Korean, Indian* and *ASEAN competition authorities* continued as well[202].

The Commission also aims to include provisions on competition and subsidy control when negotiating Free Trade Agreements (FTAs). In 2024, the Commission continued *FTA negotiations with India, Indonesia, Philippines, Thailand* and *ESA5*[203].

As regards Competition Cooperation Agreements, the Commission continued the negotiations with *Canada* to ensure that the provisions on data protection line up with the standards established by the Opinion of the Court of Justice on the 2014 EU Canada Passenger Name Record Agreement[204]. In October, the Commission and *the UK* finalised technical discussions on a Competition Cooperation Agreement. The future agreement would be a 'supplementing agreement' to the EU-UK TCA, which foresees the possibility to enter into a separate agreement on competition cooperation. The agreement would not only allow the Commission but also the national competition authorities of the EU Member States enforcing EU competition law to cooperate with the UK competition authority[205].

As regards *candidate* [206] *and potential candidate*[207] *countries*, the Commission's main policy objective with regard to competition law is to provide support for setting up of legislative frameworks with well-functioning and operationally independent competition and State aid authorities that will build up a solid enforcement record. In 2024, the Commission continued to monitor the compliance of the candidate and potential candidate countries with their commitments under the Stabilisation and Association/Deep and Comprehensive FTA and to assess the legal alignment of their national rules with the EU acquis. The Commission is also working on the implementation of Support Facilities for *Ukraine* and for *the Western Balkan countries* and the setting up of a Support Facility for *Moldova* to assist the legal, administrative but also economic integration of the candidate countries with the EU internal market.

In 2024, the Commission also engaged actively with several *African national and regional authorities* to develop further cooperation in the competition field[208]. The Commission organised the third Africa-EU Competition Week to foster dialogue with African competition authorities at national and regional level. The Commission has also prepared the launch of pan-African (African Continental Free Trade Area (AfCFTA)) and regional (EAC, WAEMU-UEMOA/ECOWAS and COMESA) capacity building programmes for their start of implementation.

7. SUPPORTING EU COMPETITION LAW ENFORCEMENT

7.1. Digital Transformation

Adapting to an increasingly digital and fast-paced environment is a constant challenge for the

[202] See: https://asia.competitioncooperation.eu/

[203] Five Eastern and Southern Countries: Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe.

[204] Opinion of the Court of Justice (Grand Chamber) of 26.7.2017, Opinion 1/15, *Draft agreement between Canada and the EU — Transfer of Passenger Name Record data from the EU to Canada*, EU:C:2016:656.

[205] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_5468

[206] Countries granted candidate country status by the European Council on the basis of a recommendation by the European Commission: Albania, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia, Türkiye and Ukraine.

[207] Potential candidate for EU membership: Kosovo.

[208] See: https://africa.competitioncooperation.eu/

enforcement of EU competition policy. New sophisticated digital tools and algorithms used by economic operators, combined with an exponential increase in electronic communications, the sheer quantity of data and the number of documents on case files render many competition investigations increasingly complex. DG Competition identified digital transformation as a key priority and concentrates efforts to put in place innovative and optimised digital solutions to make competition enforcement more effective by working on the implementation of its Digital Solutions Modernisation Plan and IT strategy, in line with the Commission's revised Digital Strategy[209].

7.1.1. *Case Management modernisation*

In 2024, the modernisation of DG Competition's case management further progressed. The replacement of the ageing case management system for Antitrust, Cartels, and Mergers with CASE@EC is expected to be completed in 2025. The CASE@EC modules supporting the DMA and the FSR were also improved.

7.1.2. *Improving digital exchanges with Member states' administrations, businesses and citizens*

DG Competition continued improving its digital solutions to improve and fully digitise its communication and collaboration processes with external stakeholders, notably Member State administrations, NCAs, citizens, businesses and legal representatives.

Two new digital solutions started to be developed, including a new future *eNotifications* solution to digitise the notification process in the field of Merger and State Aid control, as well as a new solution that will help Member States comply with the enhanced transparency requirements from the new General, SGEI and Agriculture *de minimis* regulations[210]. This solution will allow Member States to document *de minimis* aids, enhancing transparency and reducing reporting obligations for companies receiving aid.

Other digital solutions supporting DG Competition's activities were also improved, including requests for information (*eRFI*)[211], leniency programme (*eLeniency*)[212], negotiation on confidentiality claims in access to file procedures (*eConfidentiality*)[213], public search tool for competition decisions (COMP Cases)[214], collaboration and communication tool within the ECN (*ECN2*), calculation of interests due on State Aid recovery cases aid (AIDCAL)[215], State Aid Notification (*SANI2*)[216] and Reporting (*SARI2*).

7.1.3. *Advanced data support and digital solutions for competition investigations*

As DG Competition continues to face an exponential increase in the volume of electronic communications and of electronic evidence, digital solutions are further developed to improve the handling of large volumes of submissions and the 'on-premises' access to file. For instance, in 2024 the Commission initiated the procurement of an AI-based eDiscovery software with Technology Assisted Review (TAR) to provide support in the analysis of voluminous files.

DG Competition's horizontal unit 'Data Analysis and Technology' (CTO team) supports competition enforcement activities with specialist skills to make the most of technological advances for digital

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[209] Communication of the Commission, European Commission digital strategy - Next generation digital Commission, C(2022) 4388 final, 30.6.2022.

[210] See more on the new *de minimis* regulations above in I. Legislation and Policy developments, section 3.1. State aid for horizontal objectives and in II. Sectoral Overview, section 6.2. Contribution of EU competition policy to tackling the challenges.

[211] See: https://competition-policy.ec.europa.eu/mergers/procedures/erfi_en

[212] See: https://competition-policy.ec.europa.eu/antitrust-and-cartels/leniency/eleniency_en

[213] See: https://competition-policy.ec.europa.eu/index/it-tools/econfidentiality_en

[214] See: https://competition-cases.ec.europa.eu/

[215] See: https://competition-policy.ec.europa.eu/state-aid/procedures/recovery-unlawful-aid_en

[216] See: https://competition-policy.ec.europa.eu/state-aid/legislation/forms-notifications-and-reporting_en

investigations, intelligence collection and market monitoring, forensics and eDiscovery (in particular the AI-based eDiscovery software). It also provides assistance with advanced data services to assist processing and exploiting non-standard submissions of large volumes of documents. The CTO team collaborates with among others European Institutions, Member States and organisations.

7.2. Single Market Programme

DG Competition benefits from a dedicated Competition Programme as part of the Single Market Programme (SMP) to finance actions to enhance the Commission's competition enforcement capacity, policy initiatives, international cooperation, and competition policy advocacy. In addition to the development of digital business solutions, the programme also supported the training of judges in competition law, as well as initiatives of exchange and capacity-building among enforcement bodies, national authorities and international organisations. Moreover, it allowed DG Competition to fund studies, evaluations, and research to underpin effective policymaking[217]. With an EU budget contribution of EUR 20.5 million for 2024, the Competition Programme channeled investments into areas that support effective and up-to-date enforcement of EU competition policy.

7.3. Staff Report on 'Protecting competition in a changing world'

On 24 June 2024, DG Competition published a Staff Report entitled '*Protecting competition in a changing world - Evidence on the evolution of competition in the EU during the past 25 years*'[218]. The Staff Report draws on research contributions from the OECD[219], insights of a consortium of external consultants and academics[220], and from research done by DG Competition itself. The main objective of the report was to gather evidence on (i) how and why the conditions of competition have evolved in the EU over the past 20-25 years, (ii) how and why effective competition matters for broader economic outcomes (prices, productivity, competitiveness, growth).

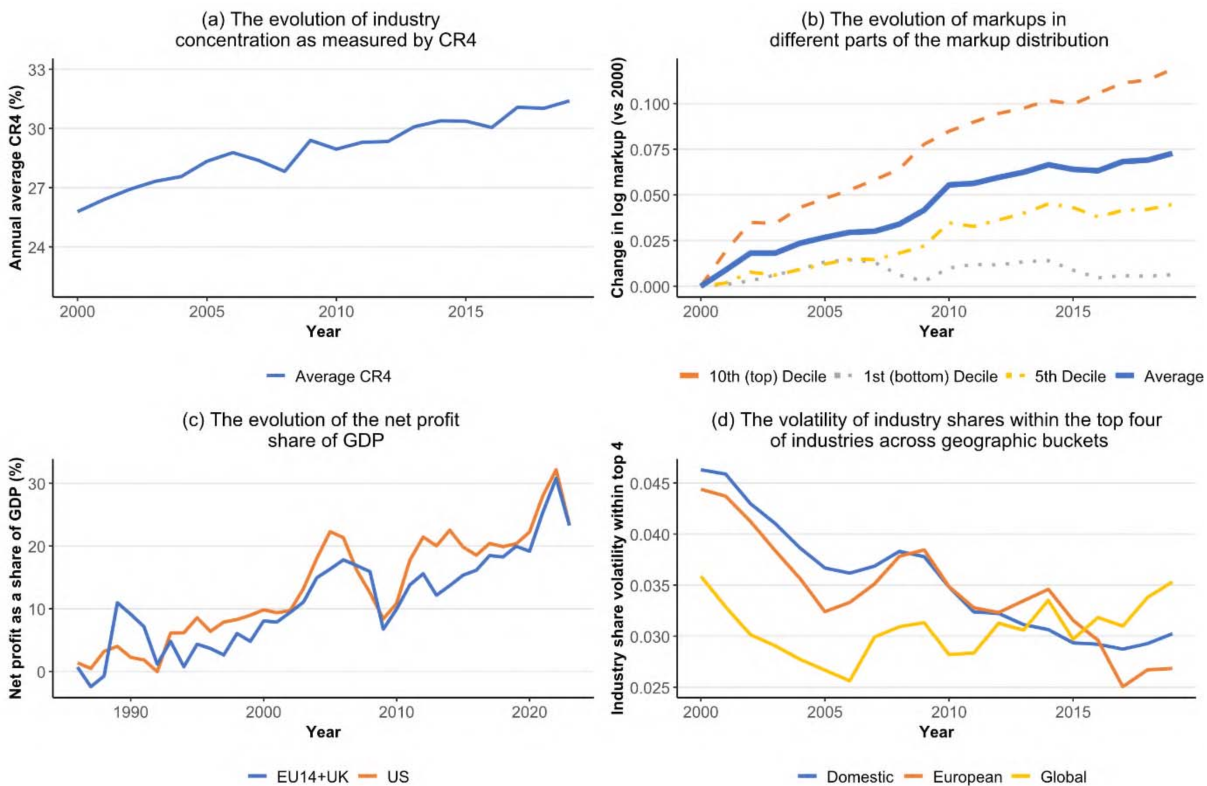
The research presented in the first part of the report suggests that on average and in a wide range of sectors in the EU over the past 25 years the **following trends** can be observed:

- European industries (defined at broad NACE 3-digits levels) have become more concentrated over time, as measured by the joint production share of the four largest firms (CR4). Average CR4 at industry level increased by 5 percentage points from 2000-2019 (see Figure 9(a) below). CR4 increased mostly in already more concentrated sectors with industry CR4s in the 30%-80% range.
- Using retail sales data from a novel dataset (Euromonitor), it is found that European consumer facing markets are characterised by significantly higher concentration levels (average CR4 > 60%) than the corresponding broad industry shares. Recently, those markets have also become more concentrated and less dynamic (2012-2019). Average concentration in consumer facing markets is lower in the EU than in the US, Japan, Korea and Canada. Within the EU there are however significant differences between Member States even when controlling for population size. Concentration is particularly high in consumer facing markets which matter most for poor households (energy, food).

[217] For example, research in support of staff report '*Protecting competition in a changing world. Evidence on the evolution of competition in the EU during the past 25 years*'.
[218] See: https://op.europa.eu/en/publication-detail/-/publication/c03374f1-3833-11ef-b441-01aa75ed71a1
[219] OECD (Calligaris et al., 2024), Exploring the evolution and state of competition in the EU; OECD (Abele et al., 2024), A taxonomy of industry competition. Both studies available at: https://competition-policy.ec.europa.eu/publications/ex-post-economic-evaluations_en
[220] Lear et al. (2024), *Exploring aspects of the state of competition in the EU – Final report*, Publications Office of the European Union, 2024, https://data.europa.eu/doi/10.2763/012974

- Markups have increased from 2000-2019 by 7%, in particular for firms at the top of the markup distribution (+12%) (Figure 9(b) below). Markups have increased more in digitally intensive industries than in industries with low digital intensity.
- Net profits of firms as a share of EU GDP have significantly increased from 1990-2022 (Figure 9(c) below). The average profit rates of the world's 50 most profitable large firms ('Global superstars') have almost doubled, growing from 11% in 1998 to 20% in 2022.
- The level of business dynamism/churn among market leading firms is low and seems to have decreased, as shown, for example, by decreasing industry share volatility at the top of the firm distribution. Entry by new firms seems to have declined.

Figure 9: Evolution of industry concentration, markups, net profit share of GDP and volatility of industry shares



- In addition, the gap between leading firms on the one hand and followers and entrants on the other hand appears to have grown as regards markups, profits and productivity. Followers and entrants seem to find it increasingly difficult to catch up with leaders.
- The trends in the EU regarding concentration, markups and profits seem to have gone in the same direction as in other advanced economies, although they appear to be somewhat less pronounced than in the US.

In examining what may have been the **drivers** of these trends, the presented evidence suggests that:

- Important drivers of the above trends may have been (i) changing economies of scale due to the rise of investments in proprietary IT solutions and other intangibles (R&D, patents, brands), (ii) globalisation, (iii) regulatory barriers to entry and (v) possibly to a more limited extent, rising M&A activity.
- These changes may have produced both benign effects (efficiencies) and adverse effects (more concentrated sectors, more pronounced market power, higher barriers to entry). While the trends and

the mix of contributing factors will vary by sector, on average, the intensity of competition seems to be weaker and the market power of firms at the top of the markup and profit distribution seems to be more pronounced than in the past.

- These developments may have contributed to adverse macro-economic trends in the EU such as (i) reduced business dynamism and (re-)allocation of resources, (ii) higher productivity dispersion and slower productivity growth, (iii) higher wage inequality and a lower labour share and (iv) a lower resilience to economic shocks and a lower responsiveness to economic policy measures.
- An analysis of competition risk at industry level uses several indicators of competition to rank sectors according to their degree of competition risk, resulting in a sector 'scorecard'. Relating this scorecard to data on EU competition interventions the analysis finds that EU interventions in merger control and antitrust have occurred most frequently in sectors with high competition risks. This suggests that the European Commission's enforcement priorities were by and large correctly focused.

Additional research presented in the **second part** of the report confirms and supplements prior research that effective (or weak) competition can have significant positive (or negative) effects not only on prices and thus on the purchasing power of consumers, but also on the productivity and competitiveness of EU firms and thus on overall economic growth:

- A study on price-concentration relationships in six sectors with notable price variations across EU Member States provides qualitative and, for mobile telecoms and airlines, empirical evidence that higher concentration levels appear to be associated with higher prices. Consistent with previous studies, it also finds that European customers benefit from significantly lower prices than US customers in both mobile telecoms and airlines markets. For mobile telecoms the research finds for the period 2009 to 2019 that higher concentration levels were not associated with higher investment.
- A survey of EU-based exporting firms suggests that effective domestic competition within the EU Single Market (i) is an important driver of their global export competitiveness - in particular effective competition in upstream goods markets - and (ii) for a majority of respondents does not constrain their scale in a way that would hinder their success on global export markets.
- A study on the macroeconomic effects of competition, relying on simulations in a general equilibrium macroeconomic model, estimates first that the increase in markups observed in the EU since 2000 may have reduced EU GDP by up to 5-7% compared to a scenario without such an increase. However, without the EU's competition interventions taken over the last ten years the impact might have been even larger by almost one quarter. The study also estimates that strengthening competition in the EU could yield substantial macroeconomic benefits: measures limiting the market power of the most powerful firms or pro-competitive regulatory reforms across the EU might each increase GDP by up to 2%-4%, depending on the time horizon.

7.4. *Ex post* evaluation: study on 'killer acquisitions' in the pharma sector

On 28 November 2024, the Commission published an **ex-post evaluation study** commissioned by DG Competition covering 'killer acquisitions' in the pharmaceutical sector[221]. For the purposes of the study, the authors defined killer acquisitions as the acquisitions of innovative pharmaceutical pipeline products which have as their object or effect to discontinue one of overlapping R&D projects. There is a significant

[221] Buccirossi, P., Marrazzo, A. et al. (2024), *Ex-post evaluation: EU competition enforcement and acquisitions of innovative competitors in the pharma sector leading to the discontinuation of overlapping drug research and development projects*, Final report prepared by Lear for the European Commission, November 2024. See https://competition-policy.ec.europa.eu/publications/ex-post-economic-evaluations_en

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risk that such killer acquisitions reduce innovation competition involved in the transaction and ultimately in the entire market.

The study assessed not only M&A deals, but also other types of transactions including licensing deals and R&D co-operation agreements[222]. According to the study, between 2014 and 2018, on average 48 transactions per year involved the acquisition of narrowly overlapping R&D projects at the level of clinical trials. In a significant number of these, one of the R&D projects of the parties were subsequently abandoned. While without access to internal documents the study was not able to identify specific examples of deals that are confirmed ('proven') killer acquisitions, around 18 transactions per year were found to 'deserve further scrutiny', meaning that there was no clearly identifiable technical or safety reason explaining the discontinuation in question. The study assessed the Commission's past enforcement addressing potential killer acquisitions and the legal framework guiding the Commission's actions in this respect. It found that the Commission had correctly assessed the theories of harm in five merger cases involving killer acquisitions[223]. Moreover, the study included suggestions for improving the design of remedies. Finally, the study analysed the suitability of the merger and antitrust tools used to deal with killer acquisition cases where the Commission does not have jurisdiction.

7.5. External Communication and Advocacy

DG Competition engages in communication activities with businesses, national courts, lawyers, policy makers, academics, students, and civil society. Various channels are used, such as the participation of the Executive Vice-President responsible for competition in events, press conferences and speeches, as well as press releases, newsletters, conferences, specialised publications, and social media.

Some of the cases and policy initiatives generated broad media coverage in 2024, for example the upcoming guidelines on exclusionary abuses of dominance, the revised market definition notice, the first decision under the FSR, the IPCEIs on the Hydrogen Value Chain, and high-profile cases such as the *Mondelēz* and *Apple music* streaming cases. Important communication efforts were also undertaken at the occasion of the publication of the DG Competition staff report '*Protecting competition in a changing world. Evidence on the evolution of competition in the EU during the past 25 years*', with a launch conference on 27 June 2024[224] and an expert workshop on 15 October 2024.[225] University students were invited to take part in a 'Student Challenge' to answer the question: '*What would you have said if you had been a speaker*?'[226]

In terms of events, DG Competition completed the travelling debate series '*Making Markets Work for People*'[227], bringing competition policy to non-specialist settings and locations outside the national capitals. After debates in Italy, Austria, Spain and the Czech Republic in 2023, in May 2024 DG

[222] Without access to internal documents the authors were unable to confirm ('prove') specific examples of killer acquisitions, The order of magnitude of the findings in the study is comparable to what other researchers using different methods and datasets have found.

[223] The five cases were selected for the purposes of the study and do not indicate the total number of cases involving potential killer acquisitions.

[224] See: https://competition-policy.ec.europa.eu/about/reaching-out/protecting-competition-changing-world_en

[225] See: https://competition-policy.ec.europa.eu/about/reaching-out/protecting-competition-changing-world-public-workshop_en

[226] See: https://competition-policy.ec.europa.eu/about/reaching-out/protecting-competition-changing-world/student-challenge_en

[227] See: https://competition-policy.ec.europa.eu/about/reaching-out/making-markets-work-people_en

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Competition closed the series with an event in Aarhus, Denmark entitled '*This is why we need competition policy*'.

DG Competition also continued its '*Let's Talk Competition*' series[228] to debate some of the most relevant competition policy developments with experts from academia, the legal world, and national authorities. The topics covered in 2024 included State aid and industrial policy, the revised market definition notice, and the past and future of competition policy. This format allows DG Competition to reach a wide audience of people interested in competition policy: the seven episodes produced so far have accumulated more than 15 000 views on YouTube.

DG Competition's social media accounts have increased their reach and followers base: the LinkedIn account has now more than 33 000 followers – making it one of the most followed LinkedIn accounts among all DGs – and the X account has more than 24 000 followers. DG Competition has also focused on the development of a YouTube channel, with more than 1 400 subscribers. The channel hosts videos and animations created to highlight and explain policy instruments. Two were produced in 2024, one on State aid, and another on the Merger Regulation. The channel also hosts the '*COMP Flash*' series, where DG Competition officials explain high-profile cases in a very short video. In addition, in 2024 DG Competition's weekly newsletter reached 12 500 subscribers, its publications were viewed or downloaded more than 40 000 times, and its website attracted over 10 million views. Finally, DG Competition issued more than 150 press releases during 2024.

In 2024, Executive Vice-President Vestager delivered 26 speeches to a variety of audiences, both within and outside Europe and Executive Vice-President Ribeira opened her mandate by giving a keynote address at the CRA annual Conference on Competition policy adapted to the new global realities[229]. Supported by the Commission's representations, the Director General of DG Competition also participated in more than 50 international events and, together with other senior managers, engaged in extensive outreach efforts on the benefits of a strong and effective competition policy and enforcement.

7.6. Estimation of the benefits of EU competition law enforcement for citizens

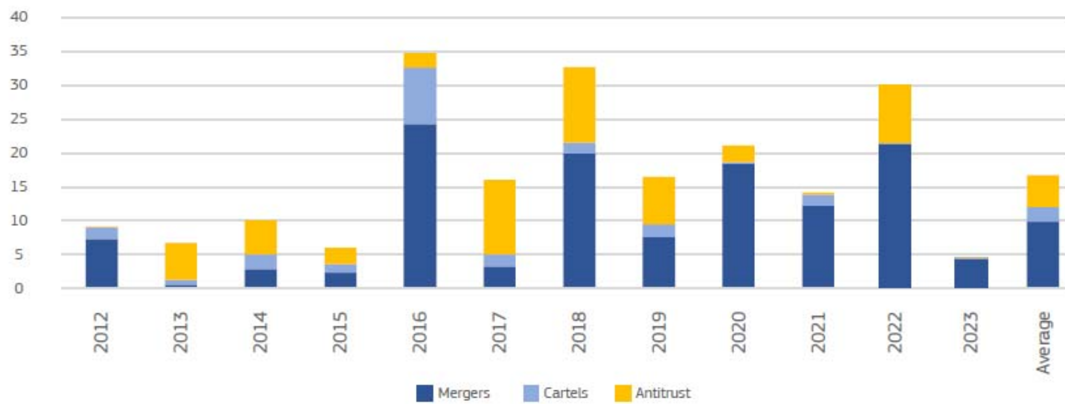
The Commission's enforcement actions in the fields of antitrust and mergers generate direct benefits for citizens. DG Competition measures the impact of its activities in several ways. An important measure is the '*direct customer savings*', that is the likely direct price effects for customers in the markets where the Commission intervened via merger control, cartel and antitrust enforcement.

DG Competition estimates (based on a simplified OECD method) that direct customer savings generated by the Commission's antitrust (cartels and non-cartel antitrust) and merger enforcement over the period 2012-2023 amount to on average EUR 12 to 21 billion per annum.

Figure 10: Customer savings (midpoints) 2012-2023

[228] See: https://competition-policy.ec.europa.eu/about/reaching-out/lets-talk-competition_en

[229] See: https://ec.europa.eu/commission/presscorner/detail/en/speech_24_6341



The Commission is not the only enforcer of EU competition rules. For this reason, DG Competition has in 2024, for the first time, started to measure the additional customer savings generated by the enforcement actions taken by NCAs within the ECN. For a 3-year period (2020-2022), the estimated total direct customer savings from all interventions by the 13 NCAs which provided data[230] were in a range of EUR 7-11 billion per year. The combined (Commission and NCAs) customer savings therefore sum up to a range of EUR 23-38 billion per year during the period 2020-2022. While these are rough and partial estimates, they provide a an impression of the order of magnitude of the likely direct savings generated by competition enforcement, both by the Commission and the 13 NCAs[231].

In addition to these direct customer savings, there are also the (indirect) deterrent effects of enforcement and the positive effects on innovation and quality. While both effects are more difficult to estimate, economists tend to agree that they are likely more significant than the direct customer savings. In 2023, the Commission commissioned a *study on the deterrence effects of competition enforcement*. The selected contractor is currently conducting a survey among businesses and competition lawyers to better understand how companies take into account EU competition rules, and their enforcement, when making business decisions. The results will be fed into a final report.

Customer savings have further been used as a starting point to model and estimate the macroeconomic impact of the Commission's competition enforcement. Using the QUEST III model, the Commission's basic macro-economic forecasting model, modelling by the JRC suggests that the Commission's competition enforcement activities may trigger an increase of real EU GDP relative to the baseline in the range of 0.6%-1.1% in the medium to long term (= the equivalent of an uplift of EUR 100-180 billion in current GDP), a 0.3%-0.7% reduction in the overall price level and an increase in consumption (0.5%) and investment (1.1%)[232].

II. SECTORAL OVERVIEW

1. ENERGY & ENVIRONMENT

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[230] At this initial stage, the NCAs of 13 Member States submitted data for the calculation of customer benefits. Several further NCAs may contribute for the next stage of this project.

[231] In addition, it is worth noting that this initial exercise covered three years during which enforcement was likely affected by the Covid pandemic.

[232] European Commission: Directorate-General for Competition, Directorate-General for Economic and Financial Affairs, Joint Research Centre, Dierx, A., Fedotenkov, I. et al., *Modelling the macroeconomic impact of competition policy – 2023 update and further development*, Publications Office of the European Union, 2024, https://data.europa.eu/doi/10.2763/959314

1.1. Overview of key challenges in the sectors

In 2024, the situation in the energy markets improved, with gas and electricity prices gradually decreasing and stabilising. However, Europe continued to be affected by the economic disturbance caused by Russia's war of aggression against Ukraine and by wider geopolitical tensions. Energy prices remained above pre-crisis levels, and this context continued to pose risks and remained a source of uncertainty. Despite the general positive trend, energy markets remained vulnerable.

To prevent price shocks in the future, the EU adopted in 2024 a structural reform of its electricity market. The *Electricity Market Design* (EMD) reform[233] elaborated new rules to make electricity prices less dependent on the price of fossil fuels, and to create a price-shock absorber between markets and the electricity bills paid by consumers during electricity crisis, essentially by implementing two-way *'Contracts for Difference'* (CfDs)[234]. The EMD reform largely dominated the work on energy files in 2024. In the long term, its implementation will ensure greater stability in European electricity prices. The reform entered into force on 16 July 2024, while the obligation to support Renewable Energy Sources (RES) and nuclear electricity production through two-way CfDs will apply from 17 July 2027 onwards. In the meantime, Member States are required to limit profitability and/or introduce clawbacks for newly signed contracts.

In parallel, to adjust its temporary response to the persistence of high energy prices and uncertainty in energy markets and contribute to stabilising prices, the Commission prolonged in 2023 certain provisions of the TCTF[235]. Section 2.4 (aid to compensate for high energy prices) was prolonged by six months until 30 June 2024. Under this section, Member States continued to provide support by covering parts of additional energy costs only as far as the energy prices significantly exceed pre-crisis levels.

The structural European strategy to make energy prices less dependent on volatile fossil-fuels and to keep reducing prices for European electricity consumers consists in further accelerating the deployment of renewables and clean energy production, as well as decarbonising the European economy. For this reason, the sections of the TCTF covering the transition towards a net-zero economy, required to accelerate the decarbonisation of the European economy and reduce dependencies from fossil fuels (sections 2.5, 2.6 and 2.8) remain available until 31 December 2025.

Apart from the TCTF, the main tools to assess State aid regarding energy and environmental protection are the Guidelines on State aid for climate, environmental protection, and energy (CEEAG)[236] and the GBER[237]. Since their adoption in January 2022, 50 cases have been adopted under the CEEAG, out of

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[233] Regulation (EU) 2024/1747 of the European Parliament and of the Council of 13 June 2024 amending Regulations (EU) 2019/942 and (EU) 2019/943 as regards improving the Union's electricity market design.

[234] A *two-way contract for difference* is a contract signed between an electricity generator and a public entity, typically the State, which sets a strike price, usually by a competitive tender. The generator sells the electricity in the market but then settles with the public entity the difference between the market price and the strike price. It thus allows the generator to receive a stable revenue for the electricity it produces, while at the same time it provides a revenue limitation for generators when market prices are high. In a two-way CfD, if the market price is below the strike price, the generator receives the difference; if the market price is above the strike price, the generator pays back the difference.

[235] See more details above in I. Legislation and Policy developments, section 3.2. Temporary Crisis and Transition Framework to support transition towards a net-zero economy.

[236] Communication from the Commission, Guidelines on State aid for climate, environmental protection, and energy, OJ C 80, 18.2.2022, p.1.

[237] The Green Deal GBER amendment - adopted on 23 June 2023 - modifies the section related to energy and environment to further simplify and speed up support for the EU's green transition, whilst protecting the level playing field in the Single Market.

which 13 in 2024. The Guidelines continue to be a structuring framework for the Commission to assess the compatibility of support measures with the internal market in order to ensure a level-playing-field, while at the same time reaching the ambitious objectives of the European Green Deal and reducing the EU's dependence on fossil fuel imports.

1.2. Effective competition in the green economy.

In 2024, competition enforcement continued to contribute to the EU environmental objectives through the application of the State aid, antitrust and merger rules. The reduction and avoidance of industrial greenhouse gas emissions is fundamental to reach the objectives of the European Green Deal and to reduce dependency on fossil fuels, notably from Russia. In 2024, the Commission approved 51 State aid measures[238] aimed at accelerating the green transition across various sectors.

1.2.1. Supporting hydrogen production and use at large scale

On 21 June 2024, under section 4.9 CEEAG, the Commission approved a *German scheme* with an estimated budget of EUR 3 billion to support the *construction of the Hydrogen Core Network* (HCN)[239]. The HCN will contain projects of common interest (PCIs), such as those included in the 6th PCI list[240], and it is also expected to include projects that are part of the IPCEI Hy2Infra[241]. The construction and operation of the HCN will be financed by hydrogen transmission system operators (TSOs). The aid will take the form of a state guarantee which will allow the TSOs to obtain more favourable loans to cover initial losses in the ramp-up phase of the HCN. At first, Germany expects only a small number of consumers to be using the network. The tariffs set by the regulator will be lower than otherwise needed to cover the relevant costs of the TSOs, to encourage this use and facilitate the uptake of hydrogen. Therefore, the measure facilitates an intertemporal allocation of the investment's costs, stretching them over a longer period. The first major pipeline is expected to be operational as from 2025, while the completion of the entire HCN is expected in 2032. The HCN will be regulated under the internal energy market legislation, making it subject to non-discriminatory third-party access and tariff regulation.

On 29 July 2024, the Commission approved a EUR 990 million *Dutch scheme to support hydrogen production through electrolysis*[242], under section 4.1 CEEAG. The project will play a significant role in diversifying the country's gas supplies and phasing-out its dependence on fossil fuels from Russia before 2030. As both the renewable hydrogen targets set by the Netherlands and those set in the EU Hydrogen Strategy require a swift scale up of electrolysis capacity, the project aims to ramp up electrolysis capacity through targeted support to large scale electrolysis projects (at least 0.5 MegaWatt (MW)). The support will cover both the costs for installation of electrolysers and the costs for production of renewable hydrogen.

In February 2024, the Commission approved, also under the CEEAG, an innovative EUR 350 million *German scheme to support the production of renewable hydrogen through the European Hydrogen Bank's 'Auctions-as-a-Service' tool*[243]. The Hydrogen Bank is a financing instrument to accelerate the establishment of a full hydrogen value chain in Europe. Under the approved scheme, the competitive

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[238] This number does not include aid granted under the GBER.

[239] Case SA.113565 – Germany – *Aid for the construction of the Hydrogen Core Network in Germany*.

[240] PCIs are key cross-border infrastructure projects that link the energy systems of EU countries. See: https://energy.ec.europa.eu/topics/infrastructure/projects-common-interest-and-projects-mutual-interest_en

[241] Cases SA.102821 – France; SA.102810 – Poland; SA.102825 – Germany; SA.103494 – Portugal; SA.102815 – Italy; SA.102811 – Slovakia; SA.102807 – The Netherlands, RRF – Important Project of Common European Interest on Hydrogen Infrastructure'. The HCN will not be limited to projects that are part of the 6th PCI list or Hy2Infra.

[242] Case SA.110068 – The Netherlands – *Hydrogen production through electrolysis 2024*.

[243] Case SA.109550 – Germany – *European Hydrogen Bank Auctions-as-a-Service 2023.*

bidding process supervised by the European Climate, Infrastructure, and Environment Executive Agency will not only allocate support under the Innovation fund but also State aid earmarked to support the construction of up to 90 MW of new electrolysis capacity and the production of up to 75 000 tonnes of renewable hydrogen in Germany. The aid will take the form of a direct grant per kilogram of renewable hydrogen produced. It will be granted for a maximum duration of ten years. Beneficiaries will have to prove compliance with EU criteria to produce renewable fuels of non-biological origin. This includes contributing to the deployment or financing of the additional renewable electricity which is needed to produce the hydrogen supported under the scheme.

This decision paves the way for other EEA Member States to use the European Hydrogen Bank's hydrogen auction to allocate additional, national funds to projects that could not be awarded under the Innovation Fund[244] budget. It is a service offered by the Commissionto Member States to make use of an auction scheme that was designed to be compatible with the CEEAG, thereby streamlining the process of notifying and approving State aid. Auctions-as-a-Service can play a significant role in the nascent hydrogen market. In new markets, it is crucial to prevent market fragmentation with different national support schemes and the resulting divergent price signals. Project developers, too, would benefit from a single set of rules for obtaining a subsidy across Europe rather than having to apply for various funding schemes with different application procedures and timelines. The service can also save the administrative costs of developing several support schemes in different Member States and bring such subsidies to the market earlier, when they are most needed.

IPCEI Hy2Infra
On 15 February 2024, the Commission approved the *IPCEI Hy2Infra*[245]. A total of 32 companies from seven Member States are participating in this IPCEI with 33 projects.

The IPCEI Hy2Infra covers a wide part of the hydrogen value chain by supporting (i) the deployment of 3.2 GW of large-scale electrolysers to produce renewable hydrogen; (ii) the deployment of new and repurposed hydrogen transmission and distribution pipelines of approximately 2 700 km; (iii) the development of large-scale hydrogen storage facilities with capacity of at least 370 GWh; and (iv) the construction of handling terminals and related port infrastructure for liquid organic hydrogen carriers (LOHC) to handle 6 000 tonnes of hydrogen a year. Participants will also collaborate on interoperability and common standards to prevent barriers and facilitate future market integration. The seven Member States will provide up to EUR 6.9 billion in public funding, which is expected to unlock an additional EUR 5.4 billion in private investments.

IPCEI Hy2Move
On 27 May 2024, the Commission approved EUR 1.4 billion of State aid for the *IPCEI Hy2Move*[246]. A total of 11 companies from seven Member States (Estonia, France, Germany, Italy, Netherlands, Slovakia and Spain) are participating in this IPCEI with 13 projects. The approved State aid is expected to unlock EUR 3,3 billion in private investments. The IPCEI Hy2Move covers a wide part of the hydrogen technology value chain, including hydrogen applications in transport means (e.g. fuel cell cars and trucks), high performing fuels cells, on-board storage solution for hydrogen and electrolysers and components for hydrogen refuelling stations for on-site production of pressurised, pure fuel cell grade hydrogen.

1.2.2. Consolidating nuclear-based energy

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[244] See: Innovation Fund - Performance - European Commission

[245] Cases SA.102821 – France; SA.102825 – Germany; SA.102815 – Italy; SA.102807 – The Netherlands; SA.102810 – Poland; SA.103494 – Portugal; SA.102811 – Slovakia – RRF – *Important Project of Common European Interest on Hydrogen Infrastructure (IPCEI Hy2Infra).*

[246] Cases SA.104442 – Estonia; SA.104668 – France; SA.104676 – Germany; SA.104453 – Italy; SA.104440 – The Netherlands; SA.104434 – Slovakia; SA.104435 – Spain – RRF – *Important Project of Common European Interest on Hydrogen on Mobility & Transport (IPCEI Hy2Move).*

In the nuclear sector, 2024 was characterized by several emblematic cases.

On 26 April 2024, the Commission approved a EUR 300 million aid to *Electricité de France*'s *(EDF) subsidiary Nuward* for early phase research and development activities on small modular nuclear reactors as a possible technology to decarbonise energy systems[247].

On 30 April 2024, the Commission approved pursuant to Article 107(3)(c) TFEU, after an in-depth investigation, a *Czech measure to support the development of a new nuclear power plant in Dukovany*[248]. As part of a wider programme to support low carbon generation sources, Czechia aims at nuclear power generation accounting for approximately 50% of the overall electricity generation capacity in Czechia by 2030. The beneficiary of the measure is Elektrárna Dukovany II (EDU II), a fully owned subsidiary of the ČEZ Group, the only nuclear power plant operator in Czechia. Under the measure, the beneficiary will benefit of direct price support in the form of a power purchasing contract with a State-owned Special Purpose Vehicle which will ensure stable revenues for the nuclear power plant for a period of 40 years. This measure replicates the design of a two-way CfD and therefore has similar effects in terms of providing revenue stability and limiting overcompensation, as well as efficient operation incentives for the power plant. The beneficiary will also benefit of a subsidised State loan to cover a majority of the construction costs and a protection mechanism against unforeseen events or policy changes that may make the realisation of the project impossible.

In the context of the 2022 energy crisis and Russia's war of aggression against Ukraine, the Belgian government decided to *extend the lifetime of two nuclear reactors (Doel 4 and Tihange 3)*[249] for ten years, to reduce Belgium's dependency on fossil fuels and to contribute to security of supply. The Commission had doubts on the compatibility of the proposed aid measure with the internal market and had thus decided to open a formal investigation procedure. The decision opening the formal investigation procedure was adopted on 22 July 2024.

On 18 December 2024, the Commission opened the formal investigation procedure under Article 108(2) TFEU concerning *aid measures for the first nuclear power plant in Poland*[250]. Poland notified the Commission of its plan to support State-owned company Polskie Elektrownie Jądrowe sp. z o.o (PEJ) in the construction of a new nuclear power plant in Lubiatowo-Kopalino. The plant would increase security of electricity supply for Poland and for neighbouring countries, helping the decarbonisation of the energy sector and diversifying the Polish energy mix. Based on its preliminary assessment, the Commission found that the aid package is necessary and has an incentive effect, as PEJ would not carry out the project without public support. Nevertheless, the Commission had doubts at this stage on whether the measure is fully in line with EU State aid rules. For this reason, the Commission decided to open an in-depth investigation.

1.2.3. Encouraging the deployment of renewable energy sources

On 2 July 2024, the Commission approved, under section 2.5.2 TCTF, a EUR 10.82 billion *French scheme to support renewable offshore wind energy*[251]**.** The scheme supports the construction and operation of two bottom-fixed offshore wind farms. The first farm is expected to generate 3.9 TWh of renewable electricity per year and the second 6.1 TWh. The aid for the electricity produced takes the form of a monthly variable premium under a two-way CfD. The tender process includes non-price award

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[247] Case SA.106964 – France – *Soutien à la phase APD du projet Nuward.*
[248] Case SA.58207 – Czech Republic – *Support for Dukovany II, a new nuclear power plant in Czechia.*
[249] Case SA.106107 – Belgium – *Lifetime extension of two nuclear reactors (Doel 4 and Tihange 3).*
[250] Case SA.109707 – Poland – *Aid measures for the first nuclear power plant in Poland.*
[251] Case SA.109161 – France – *Support to two offshore windfarms in Atlantic and Manche zones.*

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criteria (in particular, carbon footprint) in line with EU law and WTO requirements. This case allowed to share experience and prepare for the forthcoming Net Zero Industry act (NZIA) non-price criteria horizontal implementing provisions.

On 13 September 2024, the Commission approved a complex support measure for the *deployment of a 700-MW offshore wind farm in Belgium in the Princess Elizabeth Offshore Zone* (the world's first artificial energy island, located in the North Sea and enabling the connection of several future offshore wind farms)[252]. Besides the industrial innovation of this project, the discussions between the Commission and the Belgian authorities led to contractual innovation: the support contract designed for this measure takes the form of a 'capability-based' two-way CfD. Capability-based CfD remunerates power plants based on the estimated production potential of a reference project, having similar characteristics as the supported asset. The price premium is paid based on the potential electricity production of the wind farm, independently from its actual electricity production. This design enables a better integration of the renewable assets into the electricity markets because it exposes the actual electricity production to market prices signals (as the RES producer revenues are directly linked to their electricity sales on the market) while limiting the level of risks to which the RES producers are exposed (and hence the overall cost of the project). In that respect, this State aid decision sets a good practice towards an improved integration of clean energy production into the internal market. Capability-based CfDs are also expected to lead to the minimisation of taxpayers' costs.

On 4 June 2024, the Commission approved under section 4.1 CEEAG, *Italy's Renewable Energy Scheme 2024* (FER II)[253]. The scheme provides aid to produce electricity from renewable technologies that are innovative or not yet fully mature, meaning traditional geothermal energy with innovations, zero-emission geothermal energy, offshore wind power (floating or fixed), thermodynamic solar, floating solar (offshore or on inland waters) etc., as well as energy produced from biogas and biomass. The aid takes the form of a two-way CfD applied to the production of electricity fed into the network, and will be granted until 31 December 2028. The objective of the measure is to increase the share of energy from renewable sources in the total energy consumption through the development of renewable energy technologies.

On 23 October 2024, following an in-depth investigation, the Commission concluded that two *Swedish tax exemption schemes for non-food biogas and bio-propane*[254] are in line with EU State aid rules (in particular Section 4.1 CEEAG). The Swedish tax exemption schemes are aimed at increasing the use of biogas and bio-propane and reducing the use of fossil fuels and their greenhouse gas emissions. The tax exemptions apply to both domestic and imported biogas and bio-propane. The Commission concluded that the schemes contribute to the development of renewable energy, in line with national and EU energy and climate objectives and that they are necessary, appropriate and proportionate. Moreover, the Commission's investigation confirmed that both Sweden and Denmark consider the impact of potential support from other Member States when monitoring their schemes and that the risk of overcompensation is appropriately addressed through the combination of the Swedish and the Danish monitoring mechanisms.

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[252] Case SA.107336 – Belgium – *Support mechanism for lot 1 of the Princess Elisabeth offshore Zone.*

[253] Case SA.105880 – Italy – *Renewable Energy Scheme 2024 (FER II).*

[254] Cases SA.56125 and SA.56908 – Sweden – *Prolongation and modification of scheme SA.49893 (2018/N) - Tax exemption for nonfood-based biogas and bio-propane in heat generation implemented by Sweden* and *Prolongation and modification of biogas scheme for motor fuel in Sweden.*

On 17 December 2024, the Commission approved under Section 4.1 CEEAG a EUR 1.7 billion *Danish State aid scheme to support the production of upgraded biogas and e-methane*[255] to be injected into the Danish grid. The scheme will support the construction of biogas plants, as well as the extension of existing plants. The aid will take the form of a price premium per gigajoule of renewable gas produced, paid on top of the market price for natural gas, over a 20-year period. The aid will be awarded through a competitive bidding process where beneficiaries will bid on the price premium needed to carry out their project. Denmark plans to conduct five bidding rounds from 2024 until 2030. The plants must be connected to the grid within three years after the granting of the aid. The scheme is expected to reduce greenhouse gas emissions by approximately 450 000 tonnes of CO_2 annually from 2033. It will also contribute to Denmark's efforts to reduce its greenhouse gas emissions by 70% by 2030 compared to the 1990 levels and to reach carbon neutrality by 2050.

Under Section 2.5.2 TCTF, the Commission approved *Romania*'s EUR 3 billion support *scheme to produce renewable electricity from onshore wind and solar photovoltaic*[256]. Aid will be granted through two-way CfD and take the form of a variable premium paid for each MWh of electricity delivered to the grid, calculated as the difference between a fixed price set in the competitive bidding procedure (the 'strike price') and a monthly output-weighted average day-ahead market prices (the 'reference price'). The beneficiaries are onshore wind and solar photovoltaic energy producers of all sizes.

1.2.4. Addressing the risk of carbon leakage

On 25 October 2024, the Commission approved a EUR 724 million *Danish scheme to lower the rate of a new greenhouse gas emissions tax for certain companies* under Section 4.7.1 CEEAG[257]. The measure intends to prevent the risk of carbon leakage, where companies relocate production outside of the EU to countries with less ambitious climate policies, resulting in increased greenhouse gas emissions globally. The tax aims to further encourage the reduction of greenhouse gas emissions in Denmark, through boosting the impact of the EU emission trading system (ETS1) by providing operators with a stronger financial incentive to cut their emissions. The measure will benefit companies that (i) are subject to ETS1, (ii) are active in sectors listed in the EU ETS Carbon Leakage List, and (iii) cause greenhouse gas emissions through eligible production processes, namely mineralogical and metallurgical processes, chemical reduction and electrolysis. Eligible companies will benefit from a reduced tax rate which will be set at 33% of the standard rate.

1.2.5. Addressing electricity costs for energy-intensive industries

Under Section 4.11 CEEAG, the Commission approved three schemes for electricity levy reduction targeted at energy intensive users (EIUs) in 2024. Those schemes aim to decrease the risk that activities in certain economic sectors, particularly exposed to international trade and relying heavily on electricity for their value creation, would relocate outside the EU where environmental policies are absent or less ambitious.

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[255] Case SA.102206 – Denmark – *Aid for upgraded biogas and other gases from renewable sources that can be injected into the Danish gas system*.

[256] Case SA.108510 – Romania – TCTF/RRF – *Contracts for Difference support scheme for the production of renewable electricity from onshore wind and solar photovoltaic.*

[257] Case SA.109130 – Denmark – *Reduced* CO_2e *emissions tax rate for certain production processes*.

On 8 August 2024, the Commission approved an *amendment to Slovakia's scheme supporting EIUs through a levy reduction on the part of the system operation tariff related to the component financing RES support*[258], extending the scheme until 2030 with an estimated budget of EUR 300 million.

On 14 October 2024, the Commission approved the scheme of the *Wallonia region in Belgium providing aid for EIUs in the form of a levy reduction*[259], from the levy aimed at financing the TSO's obligation to purchase green energy certificates supporting RES electricity production. The scheme has an estimated budget of EUR 150 million and a duration of eight years.

On 21 November 2024, the Commission approved the *Romanian scheme providing aid for EIUs in the form of a levy reduction linked to the cost of green certificates supporting RES development and paid by energy suppliers*[260]. The scheme has an estimated budget of EUR 578 million and a duration of seven years.

The beneficiaries of these schemes are required to conduct energy audits, as defined by Article 8 of Directive 2012/27/EU[261], and commit to at least one of the following actions: implementation of investments recommended by the audit that do not exceed three years; cover at least 30 % of their electricity consumption from carbon-free sources; or invest at least 50 % of the aid amount in projects leading to substantial reductions of their greenhouse gas emissions.

1.2.6. Removing entry barriers in the collection of packaging waste sector

In a Letter of Formal Notice issued in June 2024, the Commission informed Czechia of its preliminary view that certain provisions of the *Czech Packaging Act* as well as Czechia's enforcement of such rules may be infringing the EU competition rules (Article 106 TFEU in conjunction with Article 102 TFEU)[262]. The Commission considers that these measures may have created significant entry barriers for companies seeking to compete with *EKO-KOM*, which is currently the only company authorised for the collection and recovery of packaging waste in Czechia. These measures would have prevented other companies from being authorised by the Czech authorities to offer the same services on the market and allowed EKO-KOM to operate as a *de facto* monopolist for more than two decades, thereby hindering the development of effective competition in the Czech market for waste collection and recovery.

1.2.7. Supporting the shift to clean mobility

The shift to zero-emission mobility remains one of the key objectives of the European sustainable and smart mobility strategy and makes an important contribution to the European Green Deal. It can also help reducing dependency on imported fossil fuels.

The Commission continued in 2024 to advise Member States on several clean mobility schemes to bring them under the GBER.

In addition, on 17 June 2024, the Commission approved under the CEEAG, a EUR 570 million *Italian scheme to incentivise ships to use shore-side electricity to power onboard services, systems and equipment* when they are at berth in maritime ports instead of burning diesel[263]. The measure contributes to reducing greenhouse gas emissions, air pollution and noise in line with the objectives of the European

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[258] Case SA.110954 – Slovakia – *Amendment of SA.53564 Compensation for EIUs for the part of the system operation tariff in relation to the RES component.*
[259] Case SA.113672 – Belgium – *Electricity levy reduction for energy-intensive users in the Walloon Region.*
[260] Case SA.110166 – Romania – *Electricity levy reduction for energy-intensive users in Romania.*
[261] See: Directive - 2012/27 - EN - EUR-Lex
[262] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3188
[263] Case SA.105117 – Italy – *Aid scheme for the use of shore-side electricity in the form of a reduction in general system charges for ship operators.*

Green Deal. The aid takes the form of a reduction of electricity charges to bring the cost of electricity at a competitive level compared to the cost of producing electricity on-board with diesel-powered engines.

1.2.8. Reducing industrial emissions

Reduction and avoidance of industrial greenhouse gas emissions is another important leg of the European Green Deal and is equally important to reduce dependency on fossil fuels.

In 2024, the Commission approved under the CEEAG several *ad hoc* State aid measures aiming at the decarbonisation of the industrial processes such as steel and fertilisers through the uptake of hydrogen-based technologies[264]. For example, in February 2024, a EUR 1.3 billion German State aid measure was approved: it supports ArcelorMittal in decarbonising part of their steel production processes. The State aid scheme contributes to the targets set up in the EU Hydrogen Strategy, the European Green Deal, and the Green Deal Industrial Plan. Moreover, the scheme measure reduces dependence on Russian fossil fuels and will fast-forward the green transition, in line with the REPowerEU Plan[265]. Furthermore, the Commission approved one *ad hoc* State aid measure for the production of renewable synthetic aviation fuels[266] using renewable hydrogen and biogenic CO_2, which will contribute to the objectives of the ReFuelEU Aviation Regulation[267].

Such measures to decarbonise the industry aim at swiftly abandoning the use of the most polluting fossil fuels such as oil, lignite and coal, especially in energy-intensive industrial sectors (steel, refiners, cement, chemicals, fertilisers etc.) and gradually shifting from natural gas to renewable and low-carbon hydrogen to avoid huge quantities of GHG emissions, thereby contributing to the goals of the Green Deal.

The Commission further approved in 2024 four aid schemes for a total budget of around EUR 13 billion in Germany, Austria, Sweden and France in the form of carbon contracts for difference. The aid is paid per tonne of CO_2 abated or captured and stored along operation of industrial plants and the projects are selected based on a competitive bidding process. While the Swedish case exclusively concerned projects avoiding biogenic CO_2 emissions via carbon capture and storage, the German, Austrian and French schemes encompassed a wide range of industrial sectors and decarbonisation technologies[268].

The Commission also approved seven support schemes for investments aiming at the decarbonisation of the industry through electrification, the switch to hydrogen or improved energy efficiency under section 2.6 TCTF for France, Germany, Italy (two schemes), the Netherlands, Luxembourg and Finland[269].

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[264] Case SA.109640 – Sweden – *Support to SSAB Lulea for the transition to carbon-neutral production of slabs*; Case SA.108431 – Lithuania – *Aid to Achema for the integration of electrolysis into ammonia production – JTF*; Case SA.110031 – Sweden – RRF – *H2GS – decarbonisation of steel production.*

[265] Case SA.104898 – Germany – RRF – *ArcelorMittal (Bremen & Eisenhüttenstadt).*

[266] Case SA.106395 – Germany – *Concrete Chemicals project*.

[267] Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation), OJ L, 2023/2405, 31.10.2023.

[268] Case SA.107009 – Sweden – *Reversed auction for state aid for biogenic CCS*; Case SA.109730 – Austria – *Transformation der Industrie: transformation and investment grants under the CEEAG*; Case SA.104880 – Germany – RRF – *Climate protection contracts support scheme*; Case SA.112361 – France – *Régime d'aides en faveur de la décarbonation des industries les plus émettrices*.

[269] Case SA.107476 – Italy – RRF – *Aid scheme to support investments for the use of hydrogen in industrial processes in Italy*; Case SA.108729 – Germany – *Investment aid for industrial decarbonisation through electrification and hydrogen switch*; Case SA.108810 – France – *Régime d'aides en faveur de la décarbonation des procédés industriels grâce à l'électrification, ainsi qu'en faveur des mesures d'efficacité énergétique*; Case SA.109439 – Italy – RRF – Aid scheme to support decarbonisation and energy efficiency in industrial production processes; Case SA.112112 – the Netherlands – *Aid*

1.3. Secure energy supply

In 2024, the Commission coordinated an external study on demand response (DR)[270]. DR is recognised as one of the key tools to help rebalance the electricity market and ensure the stability of electrity supply in the EU. The final report '*Barriers for demand response participation in electricity markets and State aid support'* was published on 19 November 2024[271]. The study was led by a consortium of joint partners (MRC Consultants, BIP Consulting and Grimaldi Studio Legale). The report highlights the key issues and challenges faced by DR operators and aggregators and it investigates the cost and revenues streams from the supply of DR services. It also analyses the barriers hindering a fair competition of demand response with other competing technologies in State aid measures implemented by eight EU Member States. Finally, the report provides a review of the EU legal framework on State aid for flexibility measures and a list of aspects that Member States could consider before putting into place measures supporting demand response among other technologies providing flexibility services. The results of this study will help the Commission to exercise State aid control more efficiently and to address flexibility needs of electricity systems without undue distortions of competition and trade.

In parallel in 2024, the Commission continued to provide guidance to Member States regarding measures to ensure security of energy supply, including through participation in conferences and workshops[272] organised by stakeholders and EU institutions. These contributions led to (i) increase of the knowledge of the stakeholders (capacity building), (ii) improvement of the design of the measures for security of supply, and (iii) facilitation and acceleration of approval of the measures.

Moreover, on 27 May 2024, a EUR 3.2 billion Czech scheme was approved by the Commission, which will support the *electricity generation from new and modernised high-efficiency combined heat and power plants*[273]. The scheme will contribute to the implementation of Czechia's National Energy and Climate Plan, the European Green Deal and EU's energy efficiency targets.

1.4 Effective competition in energy markets

With respect to *mergers*, the energy sector saw a slight increase in the total number of cases in 2024 (relative to 2022 and 2023). Most cases were dealt with under the simplified procedure: the majority of those simplified cases involved electricity generation, with a strong emphasis on the production of solar energy.

The Commission examined several merger cases. For example, in a case concerning the *trading and clearing of Nordic, French and German power derivatives* (acquisition of *Nasdaq* by *EEX)*, the transaction was abandoned in the course of the Commission's investigation into its impact in the energy market concerned, following the submission by the notifying party of commitments in the first phase of

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for decarbonisation of industrial production processes through electrification; Case SA.107987 – Luxembourg – *Aid for the transition towards a net-zero economy*; Case SA.113721 – Finland – *Aid to promote the transition towards a climate-neutral economy.*

[270] Demand response is defined as the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer's bid to sell demand reduction or increase at a price in an organised market, whether alone or through aggregation (Article 2 of the Electricity Regulation).

[271] See: https://competition-policy.ec.europa.eu/document/download/2996a788-4807-42a0-9907-74bc4146b257_en?filename=KD0124004enn_study_barriers_for_demand_response.pdf

[272] Such as EASE annual storage global conference 2024 Energy Storage Global Conference | EASE: Why Energy Storage? | EASE ; Annual capacity mechanisms forum 7th Capacity Mechanisms Forum — GlobalBSG

[273] Case SA.108368 – Czechia – *Support for electricity from high-efficiency combined heat and power generation.*

the Commission's proceedings[274]. The Commission also assessed and approved other important transactions in the *Italian gas import and transmission network*[275], in the *Czech gas distribution network and gas retail to small and large customers*[276], and in the *production of electricity in Hungary*[277].

With respect to *antitrust enforcement*, the Commission continued its investigation against the Greek electricity incumbent *Public Power Corporation* (PPC). In February 2024, it sent a Statement of Objections to PPC informing the company of its preliminary view that, between 2013 and 2019, it abused its dominant position on the Greek wholesale electricity market by supplying the electricity generated by its thermal (lignite and gas) units at prices below variable costs[278]. The Commission suspects that this conduct may have marginalised PPC's rivals in the Greek wholesale electricity market and deterred investment into more environmentally friendly energy sources, thereby resulting in higher prices for Greek consumers and higher emission levels of local pollution.

The Commission also continued its investigation into a possible collusion between car manufacturers in relation to the collection, treatment and recovery of end-of-life passenger vehicles. Furthermore, the Commission continued its investigation into the synthetic turf industry in several Member States to determine whether the companies active in this sector have infringed EU competition rules[279].

In 2024, the Court of Justice rendered a significant judgment in the energy sector.

In *Orlen*[280] the Court of Justice dismissed the appeal against the General Court's judgment of 2 February 2022[281] which fully upheld the Commission's decision to accept binding commitments from Gazprom[282]. In its judgment of 26 September 2024, the Court of Justice clarified that, in a procedure leading to the adoption of a commitments decision pursuant to Article 9 of Regulation 1/2003, there is no need for the Commission to state reasons regarding objections which were set out in a Statement of Objection (SO) but not further pursued in the post-SO investigation. The Court of Justice also clarified that, in the context of such a procedure, the Commission cannot accept commitments that would result in an infringement of other Treaty objectives such as the principles of energy solidarity or energy security of supply. This, however, does not mean that the Commission, acting as a competition regulator in the context of the procedure provided for in Article 9 of Regulation 1/2003, has the power to impose obligations going beyond those intended to remedy the competition issues identified in its investigation by requiring more binding commitments in that regard.

2. Information, Communication, Technologies and media

2.1. Overview of key challenges in the sectors

Markets in the information, communication, technologies and media sectors (ICT) continue to be key drivers for a smart, sustainable and inclusive growth. Digital services have increased consumer choice, and improved efficiency and competitiveness. Large platforms in the provision of digital services represent key structural elements of today's economy.

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[274] See ft 336, for more information.
[275] Case M.11568, *VTTI/Snam/ALNG*.
[276] Case M.11538, *CEZ/BCI/Czech Gas Networks JV*.
[277] Case M.11515, *Veolia Environnement/Uniper Hungary Energetikai*.
[278] Case AT.40278, *Greek wholesale electricity market.*
[279] See I. Legislation and Policy developments, section 1.4, above.
[280] Judgment of the Court of Justice of 26.9.2024, in Case C-255/22 P, *Orlen* v *Commission*, ECLI:EU:C:2024:790.
[281] Judgment of the General Court of 2.2.2022, in Case T-616/18, *Polskie Górnictwo Naftowe i Gazownictwo* v *Commission*, ECLI:EU:T:2022:43.
[282] Case AT.39816, *Upstream gas supplies in Central and Eastern Europe*.

At the same time, certain features of ICT markets, such as access to critical inputs, network effects and increasing returns to scale render them particularly apt to lock in consumers and entrench positions of dominant firms. Some dominant firms also impose unfair trading conditions that are detrimental to their business partners or consumers. These risks have been identified as being equally acute in the AI space and virtual worlds.

In 2024, the Commission monitored AI and virtual worlds spaces using a variety of investigative steps from its antitrust and merger toolboxes. Compute-intensive tasks, such as AI and machine learning, are driving a significant increase in demand for specialised chips (such as graphics processing units (GPUs) as well as customised (in-house) AI accelerators).

As recognised in the *Joint Statement on Competition in Generative AI Foundation Models and AI Products* of 23 July 2024[283], specialised chips, compute resources[284], the availability of quality data at scale, and specialist technical expertise are among the most critical ingredients for AI foundation models. The control of these strategic inputs could put a small number of companies in a position to exploit bottlenecks, for example by entrenching or leveraging market power, with consequences for competition and innovation across the AI ecosystem. Furthermore, the distribution of generative AI can pose numerous challenges. For instance, vertically integrated undertakings developing proprietary AI models can have limited incentives to distribute third-party AI models on equal terms. Existing partnerships and financial investment arrangements, which can be in many instances beneficial for the development of startups, may also in certain cases create dissimilar distribution conditions for third-party AI models. Finally, when creating AI-based solutions developers might choose to call upon AI models which are pre-installed/pre-integrated, which can limit use of other AI models.

In September 2024, the Commission published a *Competition Policy Brief on competition in generative AI and virtual worlds*[285]. The policy brief explores market dynamics, emerging tendencies and barriers to entry, as well as anticompetitive concerns that may emerge and how they could be addressed by antitrust enforcement, merger control and the DMA. The brief builds on a workshop held in June 2024 and on two calls for contributions launched in January 2024 which prompted 120 contributions on generative AI and just above 50 contributions on virtual worlds[286]. In parallel, the Commission also sent requests for information to large digital companies and AI developers to investigate whether their agreements and partnerships may raise potential anticompetitive concerns[287].

As regards *mergers*, the Commission closely monitored partnerships between AI startups and established firms, as well as the structure of those transactions. Lately, a number of transactions raised questions on the boundaries of what can be reviewed under merger control rules, notably whether certain investments into, or the hiring of staff of, small AI developers by large companies may constitute a concentration under the EUMR[288]. The Commission intends to ensure that no transaction avoid effective merger control.

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[283] See: https://competition-policy.ec.europa.eu/about/news/joint-statement-competition-generative-ai-foundation-models-and-ai-products-2024-07-23_en

[284] i.e. physical data centers or cloud services providing access to large clusters of specialised chips.

[285] Competition Policy Brief, Issue 3, September 2024, Competition in Generative AI and Virtual Worlds, see: https://competition-policy.ec.europa.eu/publications/competition-policy-briefs_en and https://digital-strategy.ec.europa.eu/en/news/commission-publishes-policy-brief-competition-generative-ai-and-virtual-worlds.

[286] The contributions received and a recording of the workshop are available at https://competition-policy.ec.europa.eu/about/europes-digital-future_en

[287] See ft 285.

[288] See ft 297 and 298 below.

2.2. Contribution of EU competition policy to tackling the challenges

2.2.1. *Technology markets*

2024 was characterised by findings of the Commission of large dominant digital players imposing unfair trading conditions, capable of harming consumers' interests or those of the dominant player's business partners.

For instance, on 4 March 2024, the Commission fined *Apple* EUR 1.84 billion for abusing its dominant position on the market for the *distribution of music streaming apps* used by iPhone and iPad users through its App Store[289]. In particular, the Commission found that Apple applied restrictions on app developers preventing them from informing iPhone and iPad users about alternative and cheaper music subscription services available outside of the app (anti-steering provisions). Apple's conduct, which lasted for almost ten years, may have led many iPhone and iPad users to pay significantly higher prices for music streaming subscriptions. Apple's anti-steering provisions also led to non-monetary harm in the form of a degraded user experience.

Moreover, the Commission finalised its investigation into *Meta (Facebook Marketplace).* On 14 November 2024, it adopted a decision finding that Meta abused its dominant position by tying its online classified ads service Facebook Marketplace to its personal social network Facebook and by imposing unfair trading conditions on other online classified ads service providers, and imposed on Meta a fine of EUR 797.72 million[290].

The Commission also pursued its investigation into *Google's advertising technology and data-related practices (Google adtech).* This follows up the Statement of Objections of 14 June 2023, in which the Commission preliminarily found that Google is favouring its own online display advertising technology services to the detriment of competing providers of advertising technology services, advertisers, and online publishers, thereby infringing Article 102 TFEU.

In the context of the increasing importance of compute-intensive tasks, such as AI and machine learning, in 2024 the Commission sent requests for information to several companies in the industry to investigate whether any anti-competitive practices are taking place on the markets for different types of computer chips and related hardware and software needed for such compute-intensive tasks[291].

On 25 June 2024, the Commission sent a Statement of Objections to *Microsoft* in which it took the preliminary view that the company is infringing Article 102 TFEU by anticompetitively tying its communication and collaboration product *Teams* to its popular productivity applications included in its Office 365 and Microsoft 365 suites for businesses[292]. The Commission is concerned that Microsoft may be abusing its market position in the market for SaaS (Software as a Service) productivity applications for professional use by restricting competition in the EU for communication and collaboration products, and that Teams may be granted a distribution advantage by the company not giving customers the choice whether or not to acquire access to Teams when they subscribe to Microsoft's SaaS productivity applications. Microsoft may also have limited the interoperability between Teams' competitors and its own offerings.

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[289] Case AT.40437, *Apple – App Store Practices (music streaming).*
[290] Case AT.40684, *Facebook Marketplace.*
[291] See ft 285.
[292] Cases AT.40721, *Microsoft Teams*, and AT.40873, *Microsoft Teams II.*

With respect to *mergers*, the Commission assessed in 2024 a number of transactions.

On 29 January 2024, *Amazon* abandoned its proposed acquisition of sole control over *iRobot* following the findings of the Commission's in-depth investigation and the sending of a Statement of Objections[293]. Amazon, based in the U.S., provides an online marketplace (the Amazon Stores) which allows retailers to advertise and sell products to customers. iRobot, also based in the U.S., manufactures robot vacuum cleaners (RVCs) and sells them on Amazon's online marketplace. On 6 July 2023, the Commission opened an in-depth investigation into this proposed acquisition and sent a Statement of Objections on 27 November 2023. As a result of its in-depth investigation, the Commission was concerned that Amazon might restrict competition in the EEA-wide and/or national markets for RVCs, by hampering rival RVC suppliers' ability to effectively compete.

On 21 June 2024, the Commission approved unconditionally the acquisition of the *webMethods and StreamSets software products of Software AG*, based in Germany, by *IBM*, based in the U.S.[294] webMethods is a suite of application integration middleware tools deployed on-premises and in the cloud, and StreamSets is a cloud-native real-time data streaming integration product. IBM is active worldwide in the development, production, and marketing of a wide variety of IT solutions. Following its investigation, the Commission concluded that the transaction would raise no competition concerns as the parties' market position would remain moderate, a number of sizable competitors would likely exert sufficient competitive pressure on the merged entity, and the merged entity would not have the ability to engage in any foreclosure strategy.

On 1 August 2024, the Commission also approved unconditionally the *acquisition of Juniper by HPE*, both based in the U.S.[295]. HPE supplies IT infrastructure, related software, and cloud solutions. Juniper supplies networking, infrastructure and security solutions. The Commission concluded that the transaction would not significantly reduce competition on the markets for wireless local area network (WLAN) equipment, wireless access points (WAPs) and Ethernet campus switches because, in the EEA, the parties' market position would remain moderate and a number of sizable competitors would likely exert sufficient competitive pressure on the merged entity. In addition, the Commission found that in the EEA, the merged entity would not have the ability to engage in anticompetitive bundling or tying practices in relation to Juniper's switches and HPE's activities in the global markets for the supply of high-performance computing systems and mid-range servers.

Moreover, in 2024, the Commission initiated the review of a number of partnerships in the AI sector, namely those between large companies and small AI developers[296]. For instance, the Commission monitored *Microsoft's significant investment in OpenAI*, both based in the U.S. Based on a review of internal documents, the Commission preliminarily concluded that the partnership between Microsoft and OpenAI currently does not constitute an acquisition of control on a lasting basis, and hence is not a concentration under the EUMR[297]. The Commission also monitored so called '*acqui-hires*', meaning transactions whereby a player acquires all or almost all the key employees of the target company. In that context, the Commission reviewed *Microsoft's hiring of the two co-founders of Inflection* combined with

[293] Case M.10920, *Amazon/iRobot*.
[294] Case M.11468, *IBM/Certain Software AG Products*.
[295] Case M.11457, *HPE/Juniper*.
[296] See: https://ec.europa.eu/commission/presscorner/api/files/document/print/cs/ip_24_85/IP_24_85_EN.pdf
[297] Competition Policy Brief, Issue 3, September 2024, 'Competition in Generative AI and Virtual Worlds', see' https://competition-policy.ec.europa.eu/document/download/c86d461f-062e-4dde-a662-15228d6ca385_en?filename=kdak24003enn_competition_policy_brief_generative_AI_and_virtual_worlds.pdf

the employment offers made to most of Inflection's staff and a non-exclusive licence for Inflection's IP. Both companies are based in the U.S. While this concentration does not meet the turnover thresholds under the EUMR, the Commission considers that the transaction involves all assets necessary to transfer Inflection's position in the markets for generative AI foundation models and for AI chatbots to Microsoft[298]. The Commission will continue working with the Member States and the parties to assess whether the transactions will be reviewed under national merger control or referred to the Commission, in line with the legal requirements for such referrals as clarified in the recent *Illumina* judgment by the Court of Justice[299].

On 20 October 2024, the Commission approved unconditionally the acquisition of *Run:ai* by *NVIDIA*[300]. NVIDIA, based in the U.S., is a global supplier of GPUs for datacentre applications. Run:ai, based in Israel, supplies GPU orchestration software allowing corporate customers to manage and optimise their AI compute infrastructure, whether on premises, in the cloud or in hybrid environments. The proposed acquisition had been initially notified in Italy, as required by the Italian Competition Act, upon request by the national competition authority, which used its 'call in' powers[301]. Italy submitted a referral request to the Commission pursuant to Article 22(1) EUMR. The Commission accepted the referral on 31 October 2024, concluding that the transaction met the criteria for referral under Article 22 EUMR. In particular, the transaction threatened to significantly affect competition in the markets where NVIDIA and Run:ai are active, which are likely to be at least EEA-wide and therefore include the referring country Italy. The Commission also concluded that it was best placed to examine the transaction given its knowledge and case experience in related markets. The Commission investigated the impact of the transaction on the markets for the supply of (i) discrete Graphic Processing Units (GPUs) for use in datacentres and (ii) GPU orchestration software. It concluded that it would not raise competition concerns on any of the markets examined in the EEA or in Italy, as NVIDIA will have neither the technical ability nor the incentive to hamper the compatibility of its GPUs with competing GPU orchestration software due to the availability and widespread use of tools that ensure such compatibility. In addition, the Commission found that customers will continue to have access to sufficient credible alternatives to Run:ai or the possibility of building their GPU orchestration software in-house.

From a *State aid* perspective, the Commission monitored the respect of EU state aid rules in the technology markets, including the compliance of public contracts with those rules.

In particular, the Commission dealt with a case involving the *German software company Cosinex*. Following a complaint, the Commission investigated whether Cosinex received undue economic advantages through a public-private partnership formed in 2002. Over the years, Cosinex and its subsidiaries were subcontracted for contracts worth approximately EUR 26 million. On 26 March 2024, the Commission adopted a decision in which it concluded that these contracts were awarded under market conditions and therefore no advantage within the meaning of Article 107(1) TFEU was granted, as the public procurement procedures were respected[302].

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[298] Case M.11671, *Microsoft/Inflection*. The referral requests by Member States in this case were withdrawn following the Court of Justice's judgment in *Illumina*.
[299] See ft 72.
[300] Case M.11766, *NVIDIA/Run:ai*.
[301] Such powers enable the Italian competition authority to review transactions not meeting the relevant national turnover thresholds when it finds that they pose concrete risks for competition and the other conditions laid down in the Italian Competition Act are met.
[302] Case SA.47650 – Germany – *State aid to public procurement platform Cosinex*.

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2.2.2. *Electronic communications sector*

In the field of standard essential patents (SEPs), the Commission submitted on 15 April 2024 written (*amicus curiae*) observations to the Higher Regional Court of Munich[303]. The Commission's observations clarify the legal requirements of the *Huawei* case-law[304], in particular regarding the extent and the substance of the obligations imposed by Article 102 TFEU on SEP holders and implementers when an injunctive relief is sought. Through this specific intervention, the Commission intends to ensure the coherent application of the existing *Huawei* case-law framework, in particular by ensuring that it is interpreted and applied by national courts in an uniform manner.

As regards *mergers*, on 20 February 2024, the Commission approved the creation of a joint venture by *Orange* and *MásMóvil,* subject to conditions[305]. Orange, based in France, is a global telecommunications operator active on the Spanish telecommunications market. MásMóvil, based in Spain, provides fixed and mobile telecommunications services mainly to residential customers in Spain. In this first 'gap case'[306] involving mobile network operators after the *CK Telecoms* judgment[307], the Commission carried out an in-depth investigation over concerns that the transaction would harm competition in the Spanish markets for the retail supply of mobile and fixed internet services, offered standalone or in bundles. To address the Commission's concerns, Orange and MásMóvil offered (i) to divest mobile spectrum assets to Digi, a small but fast-growing mobile virtual network operator, sufficiently to allow it to deploy a mobile network comparable to that of MásMóvil; and (ii) to enter into an optional national roaming agreement allowing Digi to use the joint venture's mobile network to complement its own future mobile network if needed. The Commission concluded that the transaction, as modified by the remedies, would no longer raise competition concerns.

On 30 May 2024, the Commission approved unconditionally the acquisition of *NetCo* by *KKR*[308]. NetCo, based in Italy, comprises the primary and backbone fixed-line network business of Telecom Italia (TIM) and FiberCop, a joint venture between TIM and KKR comprising TIM's secondary fixed-line network. KKR, based in the U.S., is a global investment firm. The Commission investigated the impact of the transaction on the market for wholesale broadband access services in Italy. It concluded that it would not significantly reduce the level of competition as KKR would not have the ability to restrict access to passive services and the transaction would not increase the likelihood of coordination on the market.

Continuous investments in both fibre and 5G infrastructure are of critical importance and the Commission pursued in 2024 its enforcement of *State aid* rules in the sector.

For instance, on 23 July 2024 the Commission approved an important *amendment to the German State aid scheme to support deployment of Gigabit networks*[309]. The scheme was assessed under Article 107(3)(c) TFEU and the 2023 Broadband Guidelines[310] which provide guidance on the assessment of the

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[303] Observations submitted in Case HMD Global Oy gegen VoiceAge EVS GmbH & Co.. See: [Amicus curiae observations - European Commission (europa.eu)]

[304] Judgment of the Court of Justice of 16.7.2015 in Case C-170/13, *Huawei Technologies Co. Ltd* v *ZTE Corp. and ZTE Deutschland GmbH*, ECLI:EU:C:2015:477.

[305] Case M.10896, *Orange/MásMóvil/JV*.

[306] A 'gap case' is a case involving mergers in oligopolistic markets that do not create or strengthen a dominant player.

[307] Judgment of the Court of Justice of 13.7.2023 in Case C-376/20 P, *European Commission* v *CK Telecoms UK Investments Ltd*, 13 July 2023, EU:C:2023:561.

[308] Case M.11386, *KKR/NetCo*.

[309] Case SA.109748 – Germany – *Amendment to and prolongation of the National gigabit scheme Germany*.

[310] Communication from the Commission 'Guidelines on State aid for broadband networks', OJ C 36, 31.1.2023, p.1.

compatibility of State aid for the deployment of fixed broadband networks and services with EU State aid rules. The Commission found in particular that the amended scheme encouraged Gigabit network rollout in high-cost areas where private investment is lacking and that it addressed specific market failures.

The Commission also approved on 19 July 2024 an EUR 80 million Greek Gig*abit voucher scheme to promote the uptake of broadband services*. This voucher scheme will support consumers and SMEs in Greece in subscribing to broadband services offering at least 250 Mbps download or 100 Mbps symmetric speeds. The scheme was also assessed under Article 107(3)(c) TFEU and the 2023 Broadband Guidelines. The Commission concluded that the scheme is necessary and appropriate to improve internet connectivity and access to high-quality services, thus stimulating economic growth in Greece[311].

In 2024, Member States implemented a variety of publicly supported broadband measures, some of which approved by the Commission (see above), while other were implemented by the Member States in application of the GBER. As an example, on 15 January 2024 the Commission approved the evaluation plan for a GBER exempted French aid scheme concerning aid for very high-speed broadband infrastructure with a budget of EUR 500 million per year[312]. These initiatives represent significant State aid spending aimed at advancing broadband infrastructure.

2.2.3. Media

The Commission's competition enforcement activity in the media sector aims at ensuring that consumers can benefit both from a wide choice and unrestricted access to high quality content at competitive prices, as well as from increased technological innovation.

As regards *mergers*, on 19 December 2024, the Commission opened an in-depth investigation into the proposed acquisition of *Dorna Sports*, based in Spain, by *Liberty Media*, based in the U.S., which was notified to the Commission. Liberty Media, based in U.S., operates and owns interests in media, sports and entertainment businesses, including the exclusive commercial rights for the FIA Formula One World Championship. Dorna Sports, based in Spain, is the organiser and the holder of exclusive commercial and television rights of the FIM World Championship Grand Prix, commonly referred to as MotoGP. The Commission is concerned that the transaction may reduce competition in the licensing of broadcasting rights for motorsports content. In particular, the Commission considers that the transaction may strengthen the position of Liberty Media and Dorna Sports vis-à-vis broadcasters of motorsports content, which could ultimately lead to higher prices[313].

In 2024, the Commission examined several *State aid measures* in the news media sector. Particular attention was paid to the fact that media play a key role for democracy, where support is provided in a way that respects and promotes quality independent journalism, media freedom and pluralism.

For example, the Commission approved on 4 July 2024 a measure *supporting the production and dissemination of printed newspapers and periodicals in Italy, published in Italian language*[314]. In addition, the Commission approved on 7 August 2024 *aid to film production in Malta* and *Poland*[315], and

[311] Case SA.112911 – Greece – RRF – *Gigabit Voucher Scheme.*
[312] Case SA.108574 – France –- *Plan d'évaluation du régime exempté n° SA.108574 relatif aux aides en faveur des infrastructures à très haut debit*.
[313] Case M.11539, *Liberty Media/Dorna Sports*.
[314] Case SA.113437 – Italy – *Tax credit for newspapers and periodicals.*
[315] Cases SA.108170 – Poland – *Polish Audiovisual Fund*, and SA.109768 – Malta – *Financial Incentives for the Audiovisual Industry*.

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on 10 October 2024 *videogames production in Germany*[316] to sustain the cultural diversity of the EU in the audio-visual sector.

2.2.4. Facilitating the Digital Transition

Performant, reliable and secure electronic communications networks are essential enablers to facilitate the EU Digital Transition. They are a crucial to bridge the digital divide and ensure social cohesion as well as a competitive, sustainable and resilient economy.

In 2024, the Commission published a White Paper on *'How to master Europe's digital infrastructure needs?'*[317], which served as a basis for a broad consultation among various stakeholders. The White Paper focuses on three pillars (i) creating the '3C Network' – 'Connected Collaborative Computing', (ii) complementing the Digital Single Market, and (iii) secure and resilient digital infrastructures for Europe. It summarises the trends and challenges in the digital infrastructure sector and outlines different scenarios and possible solutions to these challenges.

The Letta Report on the future of the Single Market[318] and the Draghi Report on the future of European competitiveness[319] highlight the value of the Single Market and the role that fair competition has played and will continue to play. The Draghi report proposes a reform of EU regulation to complete the Single Market for electronic communications. In addition to advocating for a more flexible approach to consolidation, it suggests that country-level *ex ante* regulation be reduced in favour of *ex post* competition enforcement. Similarly, the Letta report calls for a fully integrated Single Market. At present, electronic communication markets remain national in scope and that determines the basis for the merger assessment. As a consequence, 'cross border' consolidation - in the sense of a merger between electronic communications operators active in distinct national markets - has been generally unproblematic from a competition point of view, and leads to reducing the overall number of operators active within the EU without eliminating competition between direct competitors, as is generally the case for in-country consolidation. As to reducing *ex ante* regulation, it should be noted that it is a process which has considerably accelerated over the past years to the point that several markets throughout the EU are now deregulated. The overarching goal of the regulatory framework has always been to roll *ex ante* regulation back progressively as competition develops over time. It has been largely successful in this regard, making it possible for the Commission to reduce the number of markets susceptible to *ex ante* regulation from 18 to two. The remaining markets as identified in the current Commission's Recommendation on relevant markets[320], include only fixed bottleneck infrastructure markets, with no mobile markets subject to *ex ante* review any longer. Exceptions still persist in some Member States, where national regulatory authorities keep other markets regulated as a result of the strict application of the three criteria test[321], but they are constantly decreasing.

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[316] Case SA.114290 – Germany – *Promotion of digital games and interactive media content in central Germany*.
[317] See: [White Paper - How to master Europe's digital infrastructure needs? |Shaping Europe's digital future]()
[318] Enrico Letta, Speed, Security, Solidarity: Empowering the Single Market to Deliver a Sustainable Future and Prosperity for All EU Citizens, April 2024.
[319] Mario Draghi, The Future of European Competitiveness: A competitiveness strategy for Europe, Part A, September 2024 and The Future of European Competitiveness: In-depth Analysis and Recommendations, Part B, September 2024.
[320] Commission Recommendation (EU) 2020/2245 of 18 December 2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with the Code, OJ L 439, 29.12.2020, p. 23-31.
[321] As referred in Article 67(1)(a), (b), (c) of Directive (EU) 2018/1972, establishing the European Electronic Communications Code, OJ L 321, 17.12.2018, p. 36–214.

3. FINANCIAL SERVICES

3.1. Overview of key challenges in the sector

Both the Draghi Report[322] and the Letta Report[323] emphasise the importance of reducing the fragmentation of the Single Market by removing barriers for innovation, and enhancing company growth and large infrastructure projects in Europe, also for achieving a Capital Markets Union (CMU) and financial services integration. The Letta Report also calls for the establishment of a Savings and Investments Union (E-SIU) to keep European private savings within the EU, but also attract additional resources from abroad.

Both reports emphasise the need to complete the Banking Union and also highlight the crucial need for financial integration within the Single Market to achieve broader EU objectives (for example the green transition). According to both reports, integrating financial services is vital for mobilising resources to support the EU's strategic goals. In this context, State aid rules play an important role. The Draghi Report highlights that the overall process for accessing EU financing and obtaining approvals for national State aid schemes and projects from the Commission is overly complex. EU's procedures for prior approval and reporting are complicated and lengthy, which in itself constitutes a challenge to be addressed. In addition, according to the Draghi Report, National Promotional Banks could provide counter-guarantees and tailored financial products for small consumers or suppliers lacking a strong credit rating to allow expanding market access for SMEs, in particular in the context of energy related market platforms.

In 2024, the financial services sector continued to evolve rapidly. Digitalisation and the ability of certain firms operating digital platforms to leverage enormous volumes of data in their possession have fundamentally changed most financial services markets. As a result, distortions of competition can have particularly severe effects, for example by preventing market entry by innovative competitors or pushing them to exit the market.

The increasing importance of data possession and digitalisation is reflected in corporate acquisitions aimed at acquiring data, building data analytics competencies and moving certain data processing activities to the ‘cloud’.

The transition to a more sustainable and decarbonised EU economy influences market developments also in the financial services sector. An increasing number of financial institutions, including banks, insurers, as well as asset owners/managers have committed to net-zero initiatives and the joint setting of CO_2 emission targets. In parallel, the market for environmental, social and corporate governance data (ESG data) is growing rapidly.

3.2. Contribution of EU competition policy to tackling the challenges

EU competition policy and enforcement continues to contribute to more resilient and competitive financial services markets by safeguarding and nurturing competition on fair and equal terms. Competitive markets benefit consumers and stimulate the creation of innovative business models and financial services. In 2024, the Commission investigated market consolidation, anti-competitive unilateral conduct, and coordination between competing firms. The Commission also continued to review State aid granted to banks and other financial institutions in order to minimise possible distortive effects in the Single Market.

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[322] See ft 319

[323] See ft 318

3.2.1. *Contribution of EU competition policy to innovation in payments*

Payments are the backbone of the economy and contribute substantially to economic growth and development. The payments sector is very dynamic and continues to change rapidly in view of digitalisation. Competition enforcement is central to increase competitiveness of the European payments sector and to allow payment providers to compete effectively.

The commitment decision in Apple – Mobile Payments (see section 3.2.2. below) enhanced innovation in payments: the first alternative wallet developed under the commitments was launched on iPhones on 9 December 2024 (Vipps MobilePay). The Commission continued in 2024 to monitor International Card Schemes and the expansion of BigTech into the payments sector. In parallel, the Commission continued its Market Study on Competition in Online Payment Services in view of publishing a final report.

Regulation complements the efforts of competition enforcement to increase competitiveness of the European payments sector. For instance, the Commission's proposal for a digital euro Regulation[324] may lead to the creation of an additional, innovative and cheap pan-European means of payment. Digital euro would offer greater choice to consumers and businesses, including in situations where physical cash cannot be used. It could strengthen the international role of the euro and support the EU's open strategic autonomy[325] by setting up a competing means of payment to existing pan-European card payment solutions.

3.2.2. *Antitrust enforcement in the financial services sector*

On 11 July 2024, the Commission concluded its investigation into Apple's conduct in the market for mobile payment services (mobile wallets). The Commission adopted a decision in which it found that Apple's final commitments addressed its competition concerns in relation to the company's conduct and decided to make them legally binding[326].

Commission accepts commitments by Apple opening access to 'tap and go' technology on iPhones

In 2022, the Commission informed Apple of its preliminarily view that it abused its dominant position by refusing to supply the Near Field Communication (NFC)[327] function on iPhones for payments in stores, reserving the NFC access to its own solution Apple Pay. The Commission was concerned that Apple's conduct may exclude competitors, and reduce innovation and choice for mobile wallet users on iPhones.

To address the Commission's competition concerns, Apple initially offered to the Commission the following first set of commitments:

- allow third-party wallet providers access to the NFC input on iOS devices free of charge, without having to use Apple Pay or Apple Wallet in Host Card Emulation mode ('HCE'). HCE allows to securely store payment credentials and complete transactions using NFC, without relying on an in-device secure element;
- apply a fair, objective, transparent and non-discriminatory procedure and eligibility criteria to grant NFC access to third-party mobile wallet app developers;
- enable users to easily set an HCE payment app as default app for payments in stores and to use relevant functionalities such as Field Detect (opening the default payment app when a locked iPhone is presented to an NFC reader), Double-click (launching the default payment app when double clicking the phone's side or home button), and authentication such as Touch ID, Face ID and device passcode;
- establish a monitoring mechanism and separate dispute settlement to allow for independent review of Apple's decisions

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[324] Proposal for a Regulation of the European Parliament and of the Council on the establishment of the digital euro of 28.6.2023, COM (2023) 369 final.

[325] See: https://finance.ec.europa.eu/publications/communication-european-economic-and-financial-system-fostering-openness-strength-and-resilience_en

[326] Case AT.40452, *Apple – Mobile Payments.*

[327] The NFC 'tap and go' technology enables communication between a mobile phone and payments terminals in stores. NFC is an industry standard neither developed nor owned by Apple, available in almost all payment terminals in EEA stores and allowing for the safest and most seamless mobile payments.

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restricting access;

- apply the commitments to all third-party mobile app developers established in the EEA and to all iOS users with an Apple ID registered in the EEA, also while traveling temporarily outside the EEA.

Between 19 January 2024 and 19 February 2024, the Commission market tested Apple's commitments and consulted all interested third parties to verify whether they would remove the competition concerns.
In light of the outcome of this market test, Apple amended the initial proposal and further committed to:

- extend the possibility to initiate payments with Host Card Emulation (HCE) payment apps at other industry-certified terminals, such as merchant phones or devices used as terminal (so called SoftPOS), if this is enabled;
- explicitly acknowledge that HCE developers are not prevented from combining the HCE payment function with other NFC functionalities or use cases;
- remove the requirement for developers to have a licence as a Payment Service Provider (PSP) or a binding agreement with a PSP to access the NFC input;
- allow NFC access for developers pre-building payment apps for third party mobile wallet providers;
- update the HCE architecture to comply with evolving industry standards used by Apple Pay, and update standards even if they are no longer implemented by Apple Pay, under certain conditions;
- enable developers to prompt users to easily set up their default payment app and redirect users to the default settings page, enabling defaulting with a few clicks;
- comply with the same industry standard-specifications as developers of HCE payment apps and to protect confidential information obtained in the context of an audit;
- shorten deadlines for resolving disputes and additional independence and procedural guarantees for the monitoring trustee.

The Commission concluded that Apple's final commitments would address its competition concerns over Apple's restriction of third-party mobile wallet developers' access to NFC payments in stores for EEA iOS users. The commitments will remain in force for ten years and apply throughout the EEA. Their implementation will be monitored by an independent trustee appointed by Apple who will report to the Commission for the same time period.

The Commission also continued in 2024 to monitor the commitments made binding on *Visa and Mastercard as regards interchange fees for inter regional card transactions*[328]. These commitments were set to be in place until November 2024. In addition, the Commission took note of the voluntary continuation by Visa and Mastercard of the caps for inter-regional interchange fees beyond November 2024, meaning that inter-regional interchange fees will remain capped for another 5 years until November 2029.

In the area of *financial derivatives*, the Commission carried out unannounced inspections at the premises of companies active in the financial services sector in two Member States. The Commission has concerns that the inspected companies may have violated Article 101 TFEU and Article 53 EEA[329].

In *retail banking*, the Commission - in cooperation with the NCAs - closely monitored the *stickiness of deposit rates in banks in several Member States*. Depositors complained that banks were quick to raise interest rates of mortgage accounts while being slow to increase interest rates of savings' accounts. The Commission and the NCAs remained vigilant throughout 2024 to detect and address, at an early stage, potential antitrust concerns. For example, the Dutch NCA concluded a study on the impact of lack of competition on interest rates for savings accounts in the Netherlands[330], while the Hellenic NCA recently launched a sector inquiry on the development of deposit rates in Greece[331]. DG Competition is following the developments at ECN level in close cooperation with the NCAs.

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[328] See: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_2311
[329] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_4832
[330] See: https://www.acm.nl/system/files/documents/acm-study-competition-on%20the-dutch-savings-market.pdf
[331] See: https://www.epant.gr/en/enimerosi/press-releases/item/2890-press-release-sector-inquiry-by-the-hellenic-competition-commission-into-bank-deposits.html

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In the field of *motor insurance*, the Commission continued in 2024 to monitor the *commitments made binding on Insurance Ireland concerning competitor access to its data sharing system*[332]. As a result of these commitments, new companies were granted access to Insurance Ireland and to the data sharing system. The commitments apply until 2032.

In the area of *licencing inputs for trading credit default swaps*, the Commission continued in 2024 to monitor compliance of the *International Swaps and Derivatives Association* and the provider of commodity and financial data, *IHS Markit* (now part of S&P Global) with the commitments made binding on them in 2016[333].

3.2.3. *Merger enforcement in the financial services sector*

In 2024, the Commission continued to review proposed mergers across the financial services sector, notably in the markets for payments and banking services, as well as proposed mergers between financial market infrastructure providers.

On 4 March 2024, the Commission unconditionally approved the creation of a joint venture between *Worldline* and *Crédit Agricole*[334] which combined Crédit Agricole's payment acquiring services and Worldline's payment acceptance services for merchants. The joint venture creates an integrated payment solutions provider for merchants in France. The Commission did not identify any significant impediment to effective competition as the services provided by the parties were found to be largely complementary, and because the joint venture would not have a strong enough market position for it to be able to foreclose its competitors or the customers of the payment services concerned.

Early 2024, the Commission investigated the proposed acquisition of *Nasdaq*'s *European power trading and clearing business* by *European Energy Exchange AG (EEX),* having accepted referral requests under Article 22 EUMR from Denmark and Finland in August 2023[335]. According to the referral requests, the proposed merger would have significantly affected competition between on-exchange providers of trading and clearing services for Nordic electricity derivatives in these countries, potentially removing the choice of trading platform and clearing provider altogether. EEX notified the proposed merger to the Commission on 3 May 2024, but the notification was ultimately withdrawn[336].

In June 2024, the Commission approved the acquisition of sole control of *Alpha Bank Romania* by *UniCredit*[337]. The transaction related to various banking and financial services in Romania, such as retail and corporate banking, and financial market services.

The Commission also continued to monitor mergers in the financial services industry to identify transactions that could warrant a referral to the Commission. Since the judgment on the scope of application of Article 22 in *Illumina*[338], the monitoring is confined to possible referrals under Article 22 by Member States that are competent under their national merger control regime, or do not have such a regime at all, namely Luxembourg, as well as further deepening the Commission's understanding of market trends.

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[332] Case AT.40511, *Insurance Ireland: Insurance claims database and conditions of access.*
[333] Case AT 39745, *CDS Information Mark.*
[334] Case M.11120, *Worldline/Crédit Agricole/JV.*
[335] Also supported by Sweden and Norway.
[336] Case M.11241, *EES/Nasdaq Power.*
[337] Case M.11546, *Unicredit/Alpha Bank Romania.*
[338] See Case C- 611/22 P, *Illumina* v *Commission.*

3.2.4. State aid investigations in the financial services sector

In 2024, the Commission authorised the prolongations and reintroductions of certain existing State aid schemes under which Member States can provide aid to foster the restructuring or orderly market exit of entities in distress in case of need.

For instance, as regards to Poland, the Commission authorised the *reintroductions of the scheme for the liquidation of credit unions* (in place since February 2014)[339], and the scheme for the *resolution of cooperative and small commercial banks* (in place since December 2016)[340]. As regards Ireland, the Commission authorised two *prolongations of the restructuring scheme for credit unions* (in place since October 2014)[341], and one *extension of the orderly winding-up scheme for credit unions* (in place since December 2011)[342]. For Denmark, the Commission approved the *third re-introduction of the winding-up scheme for small banks*[343].

On 29 February 2024 the Commission decided not to raise objections to the proposed *alteration by Germany of the existing INVEST Scheme – Direct grants for risk capital investments*[344]. The existing aid scheme supports investments in small, young and innovative companies with an acquisition grant as well as an exit grant provided to natural persons (direct grants). The alteration to the existing aid scheme consists in a reduction in aid intensity from the current 25% of the invested amount to 15% of the invested amount. The German authorities may award aid on the basis of applications submitted until 31 December 2026 for acquisition grants and 30 June 2037 for exit grants. The overall budget of the existing aid scheme is EUR 183.72 million (EUR 45.93 million per year).

On 24 April 2024, the Commission approved a *reintroduction and amendment of the scheme for the management of loans granted under Government Housing Plans (OIKIA scheme)*[345]. The Commission did not raise objections to the the reintroduction of the scheme and certain changes in the eligibility criteria of its beneficiaries. The scheme provides grants in the form of partial debt write-offs to borrowers encountering difficulties in repaying their loans under a 'Government Housing Plan'. The need for reintroduction of the scheme was justified by significant delays in processing the applications in the Member State. The eligibility for the scheme was expanded to include applicants who either (i) were initially eligible but failed to submit required documents on time and have since corrected this, or (ii) were initially ineligible but now can settle their non-performing loans due to improved economic circumstances. On 5 December 2024, the Commission further approved an amendment of that scheme extending its implementation deadlines and approving targeted changes in the eligibility criteria of its beneficiaries[346].

On 30 May 2024, the Commission closed a case involving alleged State aid provided by the French

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[339] Case SA.114922 – Poland – *Reintroduction of the Credit Unions Orderly Liquidation Scheme*.

[340] Case SA.115557 – Poland – *Reintroduction of the Resolution Scheme for Cooperative Banks and Small Commercial Banks.*

[341] Cases SA.113513 – Ireland – *19th Prolongation of the Restructuring and Stabilisation Scheme for the Credit Union Sector* and SA.115809 – Ireland – *20th Prolongation of the Restructuring and Stabilisation Scheme for the Credit Union Sector*.

[342] Case SA.113879 – Ireland – *20th Prolongation of the Credit Union Resolution Scheme 2024-2025*.

[343] Case SA.114237 – Denmark – *Reintroduction of winding-up scheme for small banks*.

[344] Case SA.112196 – Germany – *INVEST Scheme – Direct grants for risk capital investments – Amendment of the INVEST Guidelines.*

[345] Case SA.112704 – Cyprus – *Scheme for the management of loans granted under Government Housing Plans* (OIKIA scheme).

[346] Case SA.116563 – Cyprus – *Amendment of the scheme for the management of loans granted under Government Housing Plans (OIKIA scheme).*

government to various entities, including a fund called *Fonds Écotechnologies*[347]. The case was triggered by a complaint alleging illegal aid in the context of the creation and operation of Fonds Écotechnologies – a fund established in 2012 by the French government, the Agence de l'environnement et de la maîtrise de l'énergie (ADEME), and the Caisse des dépôts (CDC). The fund's primary objective is to invest in SMEs in the field of ecology and technology. The French government has provided financial resources for the fund, with an initial capital of EUR 150 million. Following an investigation triggered by a complaint about alleged illegal aid, the Commission concluded that the measure does not constitute aid.

On 3 July 2024 the Commission did not raise objections to the *reintroduction of the increased rate for the income tax reduction scheme for direct investments in Social and Solidarity Economy* (SSE) *ventures* in France[348]. The case is related to the Investment Tax Credit for Small and Medium-sized Enterprises (IR-PME) scheme, which aims to encourage investments in SSE ventures and SMEs. The Commission had previously authorized the IR-PME scheme in 2020, which allowed for a reduced income tax rate of 18% for investments in SMEs and SSE ventures. However, in 2023, the French government introduced a new law that reintroduced a higher tax reduction rate of 25% for investments in SSE ventures, effective from 2024 to 2025. The Commission assessed the reintroduction of the higher tax reduction rate under the State aid rules and found that it was compatible with the internal market. The Commission noted that the SSE ventures are subject to specific eligibility criteria, including a requirement to have a genuine social purpose and to have a significant impact on their financial statements. The aid will help SSE ventures to access financing and achieve their social objectives. The Commission also found that the reintroduction of the reduction from a higher tax rate is proportionate and does not exceed the maximum allowed amount under the State aid rules. Additionally, the aid is limited in time and scope, and that it does not create undue distortions in the market.

On 22 July 2024, the Commission approved the prolongation of *two risk finance measures*, namely the *Enterprise Investment Scheme* (EIS) and the *Venture Capital Trust* (VCT) (together the EIS/VCT schemes) [349]. The EIS/VCT schemes were first approved in April 2009, and amendments were authorised by the Commission in the past years. In October 2023, the U.K. authorities notified a prolongation of the existing EIS/VCT schemes for another ten years after their due expiry on 6 April 2025. The notification by the U.K. authorities is limited to the prolongation of the EIS/VCT schemes as regards aid granted to beneficiaries located and registered in Northern Ireland and the Commission's assessment is limited to the scope of notification. The existing EIS/VCT schemes aim to promote investments in early-stage SMEs and knowledge-intensive SMEs and mid-caps which have difficulties accessing finance. The Commission considered the market failure faced by knowledge-intensive companies in Northern Ireland, including the lack of collateral for external financing and the presence of deep-pocket competitors. It noted that the schemes are designed to address this market failure by providing a fiscal incentive to investors to support these companies.

On 13 December 2024, the Commission approved an additional *extension and amendment of the Hercules asset protection scheme in Greece*[350]. Initially approved in October 2019, the scheme's first extension expired in October 2022. Subsequently, in 2023, the Commission approved its reintroduction, extending its applicability until the end of 2024. The scheme assists banks in the securitisation and

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[347] Case SA.110551 – France – *Aides potentielles liées au Fonds Écotechnologies*.

[348] Case SA.113388 – France – *Réintroduction du taux majoré du dispositif IR-PME de réduction d'impôt sur le revenu pour les investissements directs dans les entreprises solidaires d'utilité sociale* (SA.55869, tel que modifié par SA.59985, par SA.100943 et par SA.104703).

[349] Case SA.107221 – United Kingdom – *Prolongation of Enterprise Investment Scheme (EIS) and the Venture Capital Trust scheme (VCT).*

[350] Case SA.116229 – Greece – *Prolongation and amendment of the reintroduced Hercules Scheme*.

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offloading of non-performing loans from their balance sheets. Under the scheme, a separate private securitisation vehicle will buy non-performing loans from the banks and sell notes to investors. Greece facilitates the process by granting guarantees on the senior tranche of those notes, in exchange for market conform remuneration. The 2024 Greek notification addressed the extension of the scheme's expiry date, the increased budget, and the revised methodologies related to spread.

On 18 December 2024 the Commission approved the *prolongation of the aid scheme notified by Croatia on the continuation of the exception clause for Croatian Bank for Reconstruction and Development* (HBOR) short-term export credit insurance and reinsurance scheme[351]. The scheme aims to enable the continuation of the provision of short-term export credit insurance and reinsurance by the Croatian State through its public export credit agency, the state-owned HBOR, in cases where cover for marketable export credit risks is temporarily unavailable. The scheme's duration is scheduled until 31 December 2030.

On 18 December 2024, the Commission took the decision not to object to the *extension of French public development bank (SFIL) remit and subsequent amendment of the existing commitments*[352]. The extension of activities of SFIL[353] will not involve any new aid and the foreseen new SFIL's activities will be carried out on market terms.

Regarding *State aid in the form of public guarantees*, the Commission adopted two decisions in 2024 under the Guarantee Notice[354]. In these decisions, the Commission approved the methodologies used to determine the market conform guarantee premiums, which in turn serve as a reference to calculate the aid element included in public guarantees. First, on 19 June 2024 in a Spanish case[355], and secondly on 17 July 2024 in a Belgian case[356], the Commission did not raise objections with regard to notified methodologies for the calculation of aid amounts for public guarantees provided to SMEs in the agriculture, agri-food, forestry, fishery and aquaculture sectors.

3.2.5. *Evaluation of State aid rules in the financial sector*

In 2024, the Commission continued *its evaluation of the State aid rules for banks in difficulty*[357]. The objective is to assess how the rules have functioned, as well as the role of State aid control in preserving financial stability in the EU single market while ensuring a level-playing field by mitigating competition distortions. Following a public consultation, the Commission published the summary of the replies to this consultation in 2022. An econometric analysis of State aid approved in the period 2008-2022 was carried out by an external consultant, and the final report was submitted to the Commission in November 2023. This analysis, along with the input received through the public consultation, will feed into a Staff Working Document on the evaluation.

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[351] Case SA.116082 – Croatia – *Continuation of the exception clause for HBOR's short-term export credit insurance and reinsurance scheme.*

[352] Case SA.107658 – France – *SFIL – Levée des limites imposées à SFIL quant aux activités qu'elle est autorisée à exercer, en qualité d'établissement de crédit public de développement.*

[353] SFIL's remit of activities, which covered the financing of local municipalities and hospitals, will be extended to a broader scope of public beneficiaries.

[354] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ C 155, 20.6.2008, p. 10-22.

[355] Case SA.108449 – Spain – *Guarantee methodology MAPA-SAECA*.

[356] Case SA.113219 – Belgium – *Methodology of PMV to calculate the aid element in agricultural guarantees*.

[357] See: https://competition-policy.ec.europa.eu/public-consultations/2022-sa-banking-rules_en

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The work in this field goes hand in hand with the ongoing review of the EU bank Crisis Management and Deposit Insurance framework for which trilogues between the European Parliament, the Council of the EU and the Commission that started at the end of 2024.

In the ongoing *evaluation of the Guarantee Notice*[358], the Commission published in February 2023 a summary of replies and contributions to the public consultation on the effectiveness, efficiency, relevance, coherence, and added value of the Notice[359]. The final report of an econometric analysis of State aid approved in the period 2010-2022 carried out by an external consultant in 2024, was submitted to the Commission in November 2024. This analysis, along with the input received through the public consultation, will feed into a Staff Working Document on the evaluation.

4. TAXATION AND STATE AID

4.1. Overview of key challenges on tax evasion and avoidance, and fiscal aid

Outside the spheres in which EU tax law has been harmonised, Member States can decide on their own how to tax economic activities, which ones to tax, which rates to apply, and which tax base to take into account. Member States' fiscal sovereignty is however not absolute: this competence must be exercised in accordance with EU law, including State aid rules.

The Commission enforces State aid rules in certain fiscal matters. For instance, aggressive tax planning practices involving the granting of State aid that lead to discriminatory treatment of companies.

In the context of *fiscal measures*, the key aspect to find State aid is the existence of a selective advantage. It is for the Commission to assess whether fiscal measures selectively favour certain undertakings or certain sectors of activity[360]. The Court of Justice has clarified that, in order to identify the reference system (in direct taxation), the Commission must rely on national law[361] following an exchange of arguments with the Member State, and carry out an objective examination of the content, structure and effects of the applicable rules[362].

The so-called three-step test, usually applied to assess selectivity in relation to tax measures, involves: (i) the determination of the reference system; (ii) the identification of a derogation, and (iii) the justification by the logic of the tax system. The Commission cannot rely on any parameters and rules external to the national tax system, unless the national tax system refers explicitly to such parameters or rules[363]. As regards the assessment of selectivity in relation to an individual application of the tax rules (for example a tax ruling), the Court of Justice also clarified that to identify the reference system or the 'normal' tax regime on the basis of which that individual application must be analysed, the Commission

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[358] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ C 155, 20.6.2008, p. 10.

[359] See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13466-State-aid-rules-for-assessing-State-guarantees-on-loans-evaluation_en

[360] Judgments of the Court of Justice of 4.6.2015 in Case C-15/14 P, *Commission* v *MOL,* EU:C:2015:362, and of 30.6. 2016 in Case C-270/15 P, *Belgium* v *Commission*, EU:C:2016:489.

[361] Judgment of the Court (Grand Chamber) of 8.11.2022 in Joined Cases C-885/19 P and C-898/19 P, *Fiat Chrysler Finance Europe and Ireland* v *European Commission*, EU:C:2022:859.

[362] Judgment of the Court of Justice of 5.12.2023 in Case C-451/21 P and C-454/21 P, *Luxembourg and Others* v *Commission (Engie)*, EU:C:2023:948, paragraph 111. See also *World Duty Free Group SA and others* v *Commission* C-51/19 P and C-64/19 P. EU:C:2021:793, paragraph 62.

[363] See Cases C-885/19 P and C-898/19 P, *Fiat Chrysler Finance Europe and Ireland v European Commission*, paragraph 96.

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must rely on the provisions of national law as interpreted by the Member State (during an exchange of arguments), provided that this interpretation is compatible with the wording of those provisions. The Commission may only depart from the Member State's interpretation if it is able to establish, on the basis of reliable and consistent evidence, that another interpretation prevails in the case-law or the administrative practice of the Member State concerned[364]. In the recent *Engie*[365] and *Apple*[366] judgments, the Grand Chamber of the Court of Justice provided further consistent guidance on the identification of the reference framework in individual tax cases. It focused in particular on the interpretation of the national tax provisions presented by the relevant Member State and the Commission respectively in the light of the wording but also the objective and effects of those provisions.

Aggressive tax planning strategies involving the granting of State aid can take a variety of forms. Companies may strike individual 'sweetheart deals' with tax authorities, by which they achieve a lower level of taxation than what would apply to other taxpayers. They may also benefit from schemes that selectively offer fiscal advantages and that are based on legislation or administrative practice. Either way, such practices may have distortive effects on the internal market, as they unduly reinforce the competitive position of certain companies, as opposed to others. They also reduce public funding that would otherwise be available for investments, which are particularly needed to meet the objectives of a green, digital and resilient EU economy.

In parallel with the recently adopted legislation[367] and legislative proposals[368] existing at EU level to address aggressive tax planning, the Commission's State aid enforcement activities also contribute to tackling tax base erosion and profit shifting, in particular where a favourable tax treatment is granted to internationally mobile activities. Relevant developments took place in the case law of the EU Courts in 2024 as discussed below.

4.2. Contribution of EU competition policy to tackling the challenges

In 2024, the Commission continued to enforce State aid rules in both direct and indirect tax matters.

4.2.1. State aid investigations and decisions concerning aggressive tax planning

The Commission continued the investigation of pending cases concerning alleged aid granted by the Netherlands to *Inter Ikea*[369], *Starbucks*[370] and *Nike*[371], as well as alleged State aid granted by Luxembourg

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[364] See Case C-451/21 P and C-454/21 P, *Luxembourg and Others* v *Commission*, paragraph 121.
[365] See Case C-451/21 P and C-454/21 P, *Luxembourg and Others* v *Commission*, paragraphs 120, 121, 122 and 130.
[366] Judgment of the Court of Justice of 10.9.2024 in C465/20 P, *Commission* v *Ireland and Others*, EU:C:2024:724, paragraphs 200, 201, 374, 375, 376 and 377.
[367] See for example Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union, OJ L 328, 22.12.2022, p. 1.
[368] See the Commission's proposals for directives of 12 September 2023 to simplify tax rules and reduce costs for cross-border businesses, including the BEFIT proposal ('Business in Europe: Framework for Income Taxation') and a proposal aimed at harmonising transfer pricing rules within the EU (see more information on https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4405).
[369] Case SA.46470 – Netherlands – Netherlands Potential aid to IKEA.
[370] Case SA. 38374 – Netherlands – *State aid implemented by the Netherlands to Starbucks*. The investigation was resumed in 2022 after the final decision was annulled by the General Court in Joined Cases T-760/15, T-636/16, Kingdom of the Netherlands and Others v European Commission, ECLI:EU:T:2019:669.
[371] Case SA.51284 – the Netherlands – *Alleged aid to Nike.*

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to *Huhtamäki*[372], *Fiat*[373] and *Amazon*[374], and by Gibraltar to the *Mead Johnson Nutrition group*[375]. State aid investigations into Starbucks, Fiat and Amazon over their tax treatment in the Netherlands and Luxembourg were closed on 28 November 2024, with the Commission confirming the arrangements did not amount to selective tax advantages[376].

At the same time, the Commission continued monitoring Member States' tax rulings legislation and practice.

4.2.2. Important judgments in relation to aggressive tax planning

In 2024, the EU courts rendered several important judgments on aggressive tax planning.

The Apple case

On 10 September 2024 in *Apple*, the Court of Justice upheld the 2016 Commission's decision finding that Ireland had granted unlawful State aid to Apple through favourable tax rulings, and required the recovery of approximately EUR 13 billion (plus interest)[377].

In 1991 and 2007, Ireland issued two tax rulings in favour of two companies in the Apple Group, Apple Sales International (ASI) and Apple Operations Europe (AOE) which were incorporated - but not tax residents - in Ireland. Those tax rulings approved the methods used by ASI and AOE to determine their taxable profits in Ireland in relation to the trading activity of their respective Irish branches.

In 2016, the Commission decided that, by excluding from the tax base the profits generated by the use of intellectual property licences held by ASI and AOE on the ground that the head offices of those companies were located outside Ireland and that the management of those licences depended on decisions taken at the level of the Apple Group in the U.S., the tax rulings conferred to those companies unlawful and incompatible State aid benefitting to the Apple Group. The Commission ordered Ireland to recover the aid estimated at EUR 13 billion.

In July 2020, the General Court annulled the Commission's decision on the ground that the Commission had been unable to show that a selective advantage arose from the adoption of the tax rulings and that it resulted in a preferential reduction of the tax base in Ireland[378].

On 10 September 2024, on appeal by the Commission, the Court of Justice set aside the judgment of the General Court and rendered a final judgment on the matter.

The Court found that the General Court erred when it ruled that the Commission had not sufficiently proved that the intellectual property licences held by ASI and AOE and related profits, generated by sales of Apple products outside the U.S., should have been allocated for tax purposes to the Irish branches. In particular, the General Court erred when it ruled that the Commission's primary line of reasoning was based on erroneous assessments of normal taxation under the Irish tax law applicable in the case, and when the Court upheld Ireland's and ASI and AOE's arguments regarding the Commission's factual assessments of the activities of the Irish branches of ASI and AOE.

The Court further confirmed the Commission's approach that, under the relevant provision of Irish law, the activities of the branches of ASI and AOE in Ireland had to be compared to those of other entities of those companies, particularly their head offices outside Ireland, and not to the activities of other Apple Group companies (for example a parent company in the U.S.). The Court thereby confirmed the Commission's assessment of the selective advantage conferred by the tax rulings.

The Apple judgment complements the *Engie* case-law. While in *Engie*, the Court found that the Member States' interpretation of a tax rule was compatible with both the wording and the objective of that law (while the interpretation thereof by the Commission contradicted both the wording and objective of the law), in *Apple*, the Court considered that while both the Member State' and the Commission's interpretation of the tax rule were compatible with the wording of the law, the interpretation of Ireland was not coherent with the objective of the Irish rules (while the Commission's interpretation was in

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[372] Case SA.50400 – Luxembourg – *Huhtamäki*.
[373] Case SA.38375 – Luxembourg – *Potential State aid to Fiat.*
[374] Case SA. 38944 – Luxembourg – *Aid to Amazon.*
[375] Case SA.34914 – United Kingdom – *Gibraltar Corporate Income Tax Regime*.
[376] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_6105
[377] See Case C-465/20 P*, Commission* v *Ireland and Others.*
[378] Judgment of the General Court of 15.7.2020 in Case T-778/16 and T-892/16, *Ireland* v *Commission*, EU:T:2020:338.

line with it). On that basis, the Court rejected the interpretation by Ireland that leads to a result which contradicts the objective of the law.

The UK CFC case

On 19 September 2024, the Court of Justice rendered a jugdment in *UK CFC*[379], and annulled the 2019 Commission's negative decision[380] for failing to correctly identify the appropriate reference system in the tax selectivity analysis.

The Court of Justice concluded that the Commission and the General Court[381] erred in defining the reference framework as the UK Controlled Foreign Companies (CFC) rules, by considering that it is severable from the general corporate income tax system.

In this judgment, the Court of Justice extended the reasoning developed in *Engie* to the definition of the reference framework for schemes, when it considered that the CFC rules follow the same logic as the general corporate income tax system and form an integral part of it. In this context, the Court explained that the Member State's interpretation of its tax provisions should be followed, unless it is incompatible with the letter of the law or there is clear evidence towards a different interpretation in the national case law or administrative practice. The Court then found that the UK's interpretation is compatible with the wording of the law and with the logic of the general corporate income tax system.

4.2.3. Important cases in relation to tax schemes

The case-law stresses the importance of an appropriate motivation and correct definition of the reference framework considering that the existence of a selective advantage may be established only when compared with 'normal' taxation[382]. It has been clarified in recent case-law that the reference system or the 'normal' tax regime (in direct taxation), on the basis of which the selectivity of a tax must be analysed, includes the provisions laying down the exemptions which the national tax authorities consider to be applicable where those provisions do not, in themselves, confer a selective advantage[383]. In that regard, the Court of Justice also held that, in the light of the Member States' own competence in the matter of direct taxation, the Commission cannot establish a derogation from a reference framework merely by finding that a measure departs from a general objective of taxing all companies resident in the Member State concerned, without taking account of provisions of national law specifying the manner in which that objective is to be implemented[384]. Finally, the Court of Justice provided guidance in relation to situations where a set of rules can be considered severable from the overall reference system[385].

In 2024, the EU courts also provided additional guidance on the notion of selectivity in the following

[379] Judgment of the Court of Justice of 19.9.2024 in Joined Cases C-555/22 P, *United Kingdom and Others* v *Commission*, C-556/22 P, *ITV* v *Commission and Others* and C-564/22 P, *LSEGH (Luxembourg) and London Stock Exchange Group Holdings (Italy)* v *Commission and Others*, EU:C:2024:763 .

[380] Case SA.44896 – United Kingdom – *State aid scheme UK CFC Group Financing Exemption*.

[381] See Joined Cases C-555/22 P, *United Kingdom and Others* v *Commission*, C-556/22 P, *ITV* v *Commission and Others* and C-564/22 P, *LSEGH (Luxembourg) and London Stock Exchange Group Holdings (Italy)* v *Commission and Others,* paragraph 135.

[382] See Judgments of the Court of Justice of 16.3.2021 in Cases C-562/19 P, *Commission v Poland*, EU:C:2021:201 and C-596/19 P, *Commission v Hungary*, EU:C:2021:202; see also Judgments of the Court of Justice of 6.10.2021 in Case C-50/19 P, *Sigma Alimentos Exterior SL*, EU:C:2021:792; Joined cases C-51/19 and C-64/19 P, *World Duty Free Group SA and others v Commission*, EU:C:2021:793; Case C-52/19 P, *Banco Santander SA v Commission*, EU:C:2021:794; Joined cases C-53/19 P and C-65/19 P, *Banco Santander and Santusa v Commission*, EU:C:2021:795.

[383] Judgment of the Court of Justice of 5.12.2023 in Cases, C-451/21 P and C-454/21 P, *Luxembourg and Others* v *Commission*, EU:C:2023:948, paragraphs 118 and 177. See also Judgment of the Court of Justice of 19.9.2024, in Cases C-555/22 P, C-556/22 P and C-564/22 P, *United Kingdom and others* v *Commission*, EU:C:2024:763, paragraph 96.

[384] Judgment of the Court of Justice of 5.12.2023, in Cases C-451/21 P and C-454/21 P, *Luxembourg and Others* v *Commission*, EU:C:2023:948, paragraph 177.

[385] See ft 379.

case.

The Swedish risk tax on credit institutions

In 2021, the Commission adopted a decision regarding a Swedish tax on systemic risk payable by credit institutions[386]. The tax sought to strengthen public finances with contributions from large credit institutions that risk creating significant indirect costs to society in the event of a financial crisis. The tax is payable by credit institutions in Sweden whose liabilities exceed a certain threshold (SEK 150 bn in 2022). The Commission found that the tax was not selective and therefore did not constitute State aid.

The Swedish Bankers Association and a Swedish bank challenged the Commission's decision before the General Court, alleging that the Commission should have opened the formal investigation procedure.

In its judgment of 17 April 2024[387], the General Court confirmed the Commission's decision not qualifying as State aid the Swedish tax. The General Court applied the three-step test to assess selectivity and held that a tax is not selective if differences in taxation result from the application of the reference system, that is to say if comparable situations are treated in a comparable manner and if the modulation mechanisms do not disregard the objective of the tax in question. In this case, the objective was to strengthen public finances in order to manage future financial crises and the General Court found that exemptions for smaller credit institutions that do not create systemic risks were in line with this objective.

In the area of *tax schemes*, the Commission continued its investigations in 2024.

In particular, the Commission adopted a *decision on the tax treatment of casinos operators in Germany*[388]. In Germany, public casino operators are subject to special tax schemes (one scheme in each State, Bundesland) replacing the otherwise applicable general taxes, in particular corporate or income tax, and a local entertainment tax. Based on its in-depth investigation, the Commission found that the special tax schemes entail an economic advantage for the public casinos operators in the form of a potentially lower tax burden in comparison to the normal tax rules. The Commission also found that, as a result of the design of the special tax rules, the advantage is not automatic, and it does not materialize in all tax years and for all operators. Therefore, based on the Commission's decision, it is now for the German authorities to determine whether or not an advantage was granted to the public casinos operators, and if this is the case, to recover the incompatible aid plus interest.

5. BASIC INDUSTRIES AND MANUFACTURING

5.1. Overview of key challenges in the sectors

Making up almost one-fifth of the EU's economy, manufacturing is a driver of growth and innovation and employs around 30 million people (approximately 15% of the EU workforce). European businesses active in the sector face substantial challenges in the form of energy price increases, trade tensions, the introduction of advanced technologies and the need to adapt their practices and processes to make their products climate-friendly. This was exacerbated by the pandemic and the Russian war of aggression against Ukraine, which both negatively impacted supply chains and led to price increases for energy, raw materials and components, which persisted into and throughout 2024. The RRF and the REPowerEU Plan aim to address these challenges by continuing to boost investment during the recovery from the pandemic and the transition to a clean, digital and resilient economy independent of Russian fossil fuels.

Enforcing antitrust and merger rules in the manufacturing and basic industries sectors facilitates these transformations in the spirit of the Single Market goals, by ensuring that innovation is not hampered and that companies can compete on fair and equal terms. Meanwhile, the application of State aid rules ensures

[386] Case SA.56348 – Sweden – *Swedish tax on credit institutions*.
[387] Judgment of the General Court of 17.4.2024 in Case T-112/22, *Svenska Bankföreningen and Länsförsäkringar Bank* v *Commission,* EU:T:2024:250, (judgment under appeal).
[388] Cases SA.44944 – Germany – *Tax treatment of public casinos operators in Germany*, and SA.53552 – Germany – *Alleged guarantee for public casinos operators in Germany (Wirtschaftlichkeitsgarantie)*.

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that purely national interests do not distort competition.

5.2. Contribution of EU competition policy to tackling the challenges

5.2.1. Antitrust enforcement in the basic industries and manufacturing sectors

In 2024, the Commission continued enforcing antitrust rules in the basic industries and manufacturing sectors.

On 28 November 2024, the Commission imposed a EUR 5.7 million fine on *Pierre Cardin and Ahlers* for infringing EU antitrust rules. The Commission found that Pierre Cardin - a French fashion house that licenses its trademark to allow third parties to manufacture and distribute Pierre Cardin branded clothing – and Ahlers, its main licensee, infringed Article 101 TFEU by restricting cross-border sales of Pierre Cardin-branded clothing, as well as sales of such products to specific customers in the EEA[389].

On 6 November 2024, the Commission opened proceedings against *Corning Incorporated* (Corning)[390] regarding an alleged infringement of Article 102 TFEU. The Commission has concerns that Corning may have been imposing exclusive purchasing obligations and exclusive rebates on mobile phones manufacturers (Original Equipment Manufacturers) and companies that process raw glass (Finishers) in relation to the supply of raw Alkali-aluminosilciate glass used for cover glass in handheld electronics devices. The Commission sent its Preliminary Assessment to Corning on the same day. In response to the preliminary assessment Corning submitted commitments to address the Commission's concerns. On 29 November 2024 the Commission invited all interested parties to submit their views on the commitments. Interested parties have until 13 January 2025 to submit their comments.

5.2.2. Merger enforcement in the basic industries and manufacturing sectors

In January 2024, the Commission *approved the purchaser of the divestment business* related to the merger between *Novozymes* and *Christian Hansen*[391]. This decision follows the Commission's 2023 decision clearing the merger subject to the divestment of Novozymes' lactase production facility, and Christian Hansen's lactase distribution business including its project to enter the market for the manufacture of lactase. The Commission's investigation of the transaction had shown that the merger would have reduced competition in the market for the manufacture and supply of one specific enzyme, lactase, using genetic modification technology. In particular, the Commission found that Christian Hansen had a project to start manufacturing this product and would very likely grow into an effective competitor within a short timeframe, and that post-merger there would not be sufficient potential competitors to exert sufficient competitive pressure on the merged entity.

On 16 October 2024, the Commission approved the acquisition of *EQOS* by *Eiffage*, subject to conditions[392]. EQOS and Eiffage, respectively headquartered in Germany and France, are active in the installation and maintenance of catenaries and overhead contact lines for long distance railway lines in Belgium. The Commission found that the merger would lead to higher prices, lower quality and less innovation, to the detriment of the railway infrastructure manager in Belgium and ultimately consumers. The Commission's decision was conditional upon the divestment of EQOS Belgium, which regroups all of EQOS' activities for the installation and maintenance of catenaries and overhead contact lines for long distance railway lines in Belgium. This will enable an independent player to act as a new competitive

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[389] Case AT. 40642, *Pierre Cardin/Ahlers*.
[390] Case AT.40728, *Corning*.
[391] Case M.11043, *Novozymes/Chr Hansen Holding*.
[392] Case M.11577, *Eiffage/Eqos*.

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constraint on the market. On 18 December 2024, the Commission approved *Stadsbader*, a Belgian company active in the railway infrastructure sector, as the purchaser of EQOS Belgium.

On 22 October 2024, the Commission conditionally approved the acquisition by *JD Sports* of *Courir*[393]. Both companies are multi-brand sports goods retailers, and more specifically retailers of leisure sports footwear and apparel in several EEA countries. The Commission found that the merger would allow for high combined market shares in several local markets in France and Portugal, leading to less competition, higher prices and less choice for consumers in these local markets. The Commission's clearance was conditional upon the divestment of all Courir stores in Portugal and several stores in certain local markets in France to Snipes, a direct competitor of the parties.

Finally, in March 2024 the Commission sent a statement of objections to *Kingspan* informing the company of its preliminary view that it had provided, intentionally or negligently, incorrect, incomplete and misleading information during the Commission's merger review of Kingspan's planned acquisition of Trimo, notified in March 2021[394]. The incorrect, incomplete and misleading information concerned basic facts related to Kingspan's internal organisation, as well as basic facts aimed at assessing: (i) the scope of the relevant product and geographic market; (ii) the existence of barriers to entry and expansion; (iii) the importance of innovation; and (iv) the closeness of competition between Kingspan and Trimo, and vis-à-vis their competitors. If the Commission were to conclude that Kingspan intentionally, or negligently, provided incorrect, incomplete or misleading information, it could for each instance impose a fine of up to 1% of the company's annual worldwide turnover. The Commission's investigation is ongoing.

5.2.3. State aid enforcement in the basic industries and manufacturing sectors

In 2024, the Commission approved State aid measures that effectively build up capacity in the EU semiconductor industry, as an objective of the Chips Act Communication[395].

On 31 May 2024, the Commission approved around EUR 2 billion for an *Italian State aid measure to support STMicroelectronics to set up a new semiconductor manufacturing facility for a fully integrated silicon carbide* (SiC) production line based on 8-inch wafer technology in Catania, Sicily[396]. The total investment is worth about EUR 5 billion.

On 20 August 2024, the Commission approved a EUR 5 billion German *measure to support TSMC, Bosch, Infineon and NXP with setting up a new semiconductor manufacturing facility (ESMC) in Dresden*, serving in particular automotive and industry demand[397].

On 18 December 2024, the Commission approved a EUR 1.3 billion *Italian aid measure to support Silicon Box in the construction of a first-of-a-kind semiconductor advanced packaging and testing facility* in Novara, Italy. Advanced packaging will improve performance and power efficiency, by integrating multiple chips, often with different functions, into a 'chiplet' that functions like a single chip[398]. The total investment is worth about EUR 3.2 billion.

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[393] Case M.11159, *JD Sports/Groupe Courir*.
[394] Case M.9938, *Kingspan Group/Trimo*.
[395] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Chips Act for Europe, COM(2022) 45 final.
[396] Case SA.107594 – Italy, *Catania Campus – STMicroelectronics S.r.l.*
[397] Case SA.107553 – Germany, *European Semiconductor Manufacturing Company (ESMC) New Fab Investment [BMWK IVA2 Microelectronics]*.
[398] Case SA.113264 – Italy, Aid to Silicon Box for project 'Vulcan'.

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In 2024, the Commission approved, under the Guidelines on regional State aid[399], a series of investment aid measures: to *Repsol Polimeros for the extension of a chemical plant* in Portugal[400]; to *Volvo Car for the construction of an electric vehicle factory* in Slovakia[401]; to a *Procter & Gamble* subisidiary, *Hyginett*, for an *investment in electric toothbrushes* in Hungary,[402] to *Nokian Tyres Europe* for the set up of a *new tyre plant* in Romania[403], to *Diamond Foundry* for the set up of a new factory for the production of semiconductor-grade rough synthetic diamonds in Spain[404] and to *Lek Pharmaceuticals* for the construction of a high-tech plant to produce biological drug substances in Slovenia[405]. In one case, the Commission decided that the planned aid was not compatible with State aid rules because Hungary failed to prove that the aid was decisive for *Rubin NewCo* (now *GKN Automotive Hungary*) to locate its automotive component plant in Hungary[406].

Also in 2024 the Commission approved several investment aid measures for the production of equipment necessary for the transition towards a net-zero economy, their key components and related critical raw materials, under section 2.8 TCTF, for example a EUR 902 million German investment aid to *Northvolt*, for the construction of an electric vehicle battery plant[407]. The Commission notably found that, absent the aid, the company would rather have invested in the United States.

6. AGRI-FOOD AND FISHERIES

6.1. Overview of key challenges in the sectors

In 2024, the agricultural markets showed a positive sign of partial return to stability, but weather-related problems and trade disruptions continued to pose significants risks[408].

Food inflation returned to a moderate rate[409]. While food prices remained relatively stable in 2024, prices remained much higher than pre-COVID levels for products such as olive oil, sugar and certain vegetables[410], and consumers paid on average 30% more for food than before the start of the cost-of-living crisis in 2022[411]. Input costs for agriculture declined throughout 2024 after reaching a peak in 2022[412]. Prices of fertilizers slightly declined with levels of EU domestic showing signs of recovery, but

[399] Communication from the Commission, Guidelines on regional State aid (OJ C 153, 29.4.2021, p. 1).

[400] Case SA.104316 – Portugal – LIP – *Regional investment aid to Repsol Polimeros, Unipessoal, Lda*.

[401] Case SA.103740 – Slovakia – LIP – *Regional investment aid to Volvo Car Slovakia s.r.o*. The investment aid amounts EUR 267 million and will support the establishment of a new electric passenger vehicles production plant in Valaliky near Košice in Eastern Slovakia. It will contribute to job creation, regional development, and the European Green Deal.

[402] Case SA.103309 – Hungary – LIP – *Regional investment aid to Hyginett Magyar*.

[403] Case SA.107012 – Romania – LIP – *Nokian Tyres Europe Operations SRL*.

[404] Case SA.106779 – Spain – LIP – *Regional investment aid to Diamond Foundry Europe*

[405] Case SA.112940 – Slovenia – LIP – *Biopharmaceutials Lendava*

[406] Case SA.63470 – Hungary – LIP – *Regional investment aid to Rubin NewCo 2021 Kft*.

[407] Case SA.107936 – Germany – TCTF – *Aid to Northvolt Germany GmbH*.

[408] See: https://agriculture.ec.europa.eu/document/download/048136bf-53f1-4f74-b92d-d13954196505_en?filename=short-term-outlook-spring-2024_en.pdf

[409] The inflation for 2024 is projected to be 2.4% in the euro area according to the ECB while food inflation in particular is projected at 2.9% in the euro area. These projections are based on information up to 16.8.2024.

[410] Food prices (of selected food products such as bread and cereals, fruit, milk, cheese and eggs, sugar, etc.) on average remain 43% higher than 2015 with the difference in certain countries being significantly above the average levels.

[411] See: https://ec.europa.eu/eurostat/cache/website/economy/food-price-monitoring/

[412] See: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20240626-1

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they are still at levels above those preceding the Russia's war of aggression against Ukraine[413].

In 2024, farmers complained about the increasing ambition of environmental regulations inspired by the European Green Deal and about administrative burden. As a response, the Commission committed to ease their administrative burden and to provide greater flexibility by reviewing, among others, certain provisions of the Common Agricultural Policy (CAP)[414].

The Commission also launched a *Strategic Dialogue on the future of agriculture*[415] to address challenges and opportunities, such as a ensuring a fair standard of living for farmers and rural communities, supporting agriculture within the boundaries of our planet and its ecosystems, exploiting the opportunities offered by knowledge and technological innovation, and promoting a thriving future for the EU's food system in a competitive world[416]. The Strategic Dialogue issued a report in September 2024[417], supporting the market-based approach of the CAP and calling for farms to derive their main income from the market. The report encourages farmers to join cooperatives and associations to reduce costs, increase efficiency and improve prices that they obtain in the markets. It recommends strengthening and encouraging sectoral organisation, sharing best practices, simplifying recognition, supporting capacity building and providing financial support for sustainability efforts. It also calls for collective farm initiatives to make use of the new antitrust rules regarding sustainability agreements in agriculture[418].

At the Competitiveness Council on 24 May 2024[419], several Member States asked the Commission to eliminate all territorial supply constraints (TSCs)[420]. They called on the current Commission to address this issue as a priority and in particular investigate the extent to which manufacturers use differentiated languages on labels and packaging to justify why the same products cannot be sold in all Member States. Member States particularly highlighted the fact that price differences for identical products exist between Member States.

In his report on the future of the Single Market[421], Enrico Letta noted that a renationalisation of sourcing and trading through TSCs is bound to reduce the benefits that consumers derive from the Single Market. The report further called to address national measures aimed at restricting the possibility of sourcing and trading freely within the Single Market.

6.2. Contribution of EU competition policy to tackling the challenges

6.2.1. Revision of Agriculture de minimis Regulation

On 10 December 2024 the Commission adopted an amendment to the agricultural *de minimis*

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[413] See: https://agriculture.ec.europa.eu/document/download/048136bf-53f1-4f74-b92d-d13954196505_en?filename=short-term-outlook-spring-2024_en.pdf
[414] See: https://ec.europa.eu/commission/presscorner/detail/en/qanda_24_1494
[415] See: https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/main-initiatives-strategic-dialogue-future-eu-agriculture_en#strategic-dialogue-report
[416] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_417
[417] See: Main initiatives: Strategic Dialogue on the future of EU agriculture - European Commission (europa.eu)
[418] Communication of the Commission, Commission guidelines on the exclusion from Article 101 of the Treaty on the Functioning of the European Union for sustainability agreements of agricultural producers pursuant to Article 201a of regulation (EU) No 1308/2013.
[419] See: https://data.consilium.europa.eu/doc/document/ST-9757-2024-INIT/en/pdf
[420] TSCs are defined as barriers imposed by private operators that deliberately make it difficult or impossible in practice for wholesalers or retailers to buy products in one Member State and resell them in other Member States.
[421] See ft 318.

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Regulation[422]. The regulation on *de minimis* aid in the agriculture sector[423] allows small aid amounts to fall outside the scope of EU State aid control because they are deemed to have no effect on trade between Member States and not to distort or threaten to distort competition. It reduces significantly the administrative burden for companies (in particular SMEs) and Member States. A review of this regulation was originally planned for 2027, when it was set to expire. However, in view of the increasing inflationary pressure on the farming sector and high commodity prices, and taking note of the European Council's conclusions of 17 and 18 April 2024 on the importance of a competitive, sustainable, and resilient agricultural sector, the Commission decided to launch a targeted review on 2 May 2024.

The main changes introduced with the amendment are an increase of the individual ceiling per company over three years from EUR 25 000 to EUR 50 000, an increase of the 'national caps' (upper limit of agricultural *de minimis* aid each Member State is allowed to grant) from 1.5% to 2% of the value of agricultural output of the Member State concerned, a deletion of the so-called 'sectoral cap' (upper limit of measures per Member State targeting only one product market), as well as an introduction of a mandatory *de minimis* register to align the regulation with the general *de minimis* Regulation[424], and with the SGEI *de minimis* Regulation[425]. Lastly, the period of validity of the regulation was extended until 31 December 2032. The raising of the ceiling and the central register for *de minimis* aid in this new Regulation significantly simplify the applicable rules. The raised ceilings allow Member States to deliver more support faster and simpler and the central registers reduce reporting obligations for stakeholders.

6.2.2. Antitrust enforcement in the agri-food sector

On 23 May 2024, the Commission adopted a decision imposing a fine of EUR 337.5 million on *Mondelēz International, Inc*. (Mondelēz) for hindering the cross-border trade of chocolate, biscuits and coffee products between Member States[426]. The Commission's investigation found that Mondelēz infringed EU competition rules by: (i) engaging in anticompetitive agreements or concerted practices aimed at restricting cross-border trade of various chocolate, biscuit and coffee products; and (ii) abusing its dominant position in certain national markets for the sale of chocolate tablets. In particular, Mondelēz engaged in 22 anticompetitive agreements or concerted practices by (i) limiting the territories or customers to which seven wholesale customers could resell Mondelēz' products, and by (ii) preventing ten exclusive distributors active in certain Member States from replying to sale requests from customers located in other Member States without prior permission from Mondelēz. One practice also involved setting higher discriminatory prices for exports compared to domestic sales. The Commission also found that, Mondelēz abused its dominant position, by (i) refusing to supply a broker in Germany to prevent the resale of chocolate tablet products in Austria, Belgium, Bulgaria and Romania where prices were higher; and (ii) ceasing the supply of chocolate tablet products in the Netherlands to prevent them from being imported into Belgium, where Mondelēz was selling these products at higher prices. Mondelēz' aim was to avoid that cross-border trade would lead to price decreases in countries with higher prices. Such illegal practices allowed Mondelēz to continue charging more for its own products, to the ultimate

[422] Commission Regulation (EU) 2024/3118 of 10 December 2024 amending Regulation EU (No) 1408/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector, OJ L 2024/3118, 13.12.2024.
[423] Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector, OJ L 352, 24.12.2013, p. 9.
[424] See ft 87.
[425] See ft 89.
[426] Case AT.40632, *Mondelēz Trade Restrictions*.

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detriment of consumers in the EU. The Commission's intervention shows its commitment to bring down unjustified barriers to ensure a better functioning of the Single Market and sanction territorial supply constraints that infringe competition rules.

The Commission also continued advancing in other investigations in the food supply chain, in particular in the market for online ordering and delivery of food, groceries and other consumer goods. On 23 July 2024, the European Commission opened a formal antitrust investigation to assess whether *Delivery Hero* and *Glovo* – two of the largest food delivery companies in Europe - have infringed EU competition rules by participating in a cartel in the sector of online ordering and delivery of food, grocery and other daily consumer goods in the EEA[427]. The initiation of proceedings follows unannounced inspections carried out in June 2022 and November 2023.

Furthermore, the Commission continued to investigate *Red Bull* for suspected anticompetitive practices concerning energy drinks. The Commission also addressed complaints concerning the alcoholic beverages sector including monopolies for the supply of alcohol products in Sweden[428].

6.2.3. Merger enforcement in the agri-food sector

EU merger control enforcement is essential to maintaining fair competition in the agricultural sector, as it prevents the concentration of market power to the detriment of smaller market players, including farmers. By scrutinizing mergers, the Commission ensures that agricultural supply chains remain competitive, allowing farmers to access a diverse customer base to sell their products at fair prices. This helps sustain a more resilient and competitive agricultural landscape, particularly in the face of trade disruptions and geopolitical tensions affecting the farming sector.

On 1 August 2024, the Commission conditionally approved *Bunge*'s acquisition of *Viterra*[429]. The two companies are global agribusinesses active across the agricultural value chain, from the upstream origination of crops to the downstream supply of food, feed and fuel products. The Commission's investigation showed that Bunge and Viterra exert significant market power towards upstream farmers as well as downstream customers throughout the value chains of rapeseed and sunflower seed in Central Europe. The Commission's clearance is conditional upon the divestment of Viterra's origination, processing and refining assets and personnel in Hungary and Poland.

6.2.4. State aid enforcement in the agriculture and fisheries sectors

State aid to promote economic development of the agriculture and fisheries sectors is embedded in the broader CAP and Common Fisheries Policy (CFP). State aid plays an important role in facilitating the economic activities in those sectors to enhance food security and accompany farmers and fishers in the green and digital transition, also in line with the Farm to Fork strategy. The main agricultural (ABER and agriculture, forestry and rural development Guidelines[430]) and fisheries (FIBER and fisheries and aquaculture Guidelines[431]) State aid rules entered into force in 2023.

In 2024, Member States adopted 1005 schemes under the sectorial block exemption regulations (913 under the ABER, and 92 under the FIBER), and the Commission approved 202 aid measures in these sectors out of which 120 under the agriculture, forestry and rural development Guidelines, 15 under the

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[427] Case AT.40795, *Food delivery services*.
[428] Case AT.40834, *Green Screen*.
[429] Case M.11204, *Bunge/Viterra*.
[430] Guidelines for State aid in the agricultural and forestry sectors and in rural areas (OJ C 485, 21.12.2022, p. 1–90).
[431] Guidelines for State aid in the fishery and aquaculture sector (OJ C 107, 23.3.2023, p. 1–48).

fisheries and aquaculture Guidelines and 67 under the TCTF (mainly under section 2.1, which was prolonged for the agriculture and fisheries sector until 31 December 2024)[432].

In the agriculture sector, the Commission approved State aid granted for a wide range of objectives, under the agriculture, forestry and rural development Guidelines. Many aid measures were approved to support farmers in achieving environmental and climate objectives, and to support them in the green transition. For example, aid measures were approved *for implementing voluntary agri-environment-climate commitments, including result-based eco schemes and organic farming*[433]*; to support farmers in increasing animal welfare*[434]*; for non-productive investments with environmental objectives*[435]*; to foster the transfer of knowledge and experience regarding innovative and sustainable farming methods*[436]*; for voluntary closure of lifestock farming*[437]*;* or *for the relocation of lifestock activities*[438].

The Commission also approved *aid for investments in methane-reducing technologies*, including to research and development of such technologies in livestock farming such as feed additives and advanced manure management systems, with the aim of reducing the climate and environmental impact of agriculture[439].

Moreover, the Commission approved *aid for the prevention of and to make good the damage caused by animal diseases*[440] and *aid to compensate for the damage caused by natural disasters and adverse climatic events*[441].

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[432] See for example: cases SA.112447 – Netherlands – *Scheme for subsidy additional financing for eco-activities in the context of the crisis caused by Russia's aggression against Ukraine*; SA.113258 – Slovakia – *State aid scheme to support primary agricultural production, fisheries and aquaculture*; SA.113894 – Poland – *Aid for the cereal producer, who is at risk of losing financial liquidity due to restrictions on the agricultural market*; SA.115943 – France – *Exceptional aid scheme for the definitive reduction of wine-growing potential following the consequences of Russia's aggression against Ukraine*.

[433] See, for example, cases SA.107675 – Belgium – *Aides en faveur de la mesure agroenvironnementale et climatique 'Sols'* ('Aides MAEC Sols'); SA.111602 – Germany – Lower Saxony – *aid for the protection of birds on grassland*; SA.113459 – Germany – Hessen – *Species and biotope protection in the open country*; SA.113163 – Germany – Hessen – *Conservation of steep-slope viticulture*; SA.115250 – Germany – Bayern – *Aid for peatland friendly management*.

[434] See, for example, case SA.107046 – Czechia – *Aid for improvement of welfare of pigs*; SA.107835 – Germany – Bund – *Investment aid for the conversion of livestock farming* 20242030; SA.107837 – Germany – Bund – *Guidelines on support for the conversion of livestock farming* 2024-2030; SA.114488 – Denmark – *Aid for animal welfare commitments to reduce the need for tail-docking of piglets*.

[435] See, for example, case SA.110961 – Germany – Bavaria – *Renewal of hedgerow and field copses*.

[436] Case SA.109689 – Czechia – *Aid for demonstration activities*.

[437] See for example cases SA.110017 – Belgium – *Support for the voluntary cessation of livestock farming in respect of holdings indicated with orange colour (oranje bedrijven) and of holdings in special area of conservation with area specific measures (in de maatwerkgebieden ligt) in order to implement the programmatic nitrogen approach*; SA.114339 – Netherlands – *Provincial area-based cessation of livestock farming sites* (MGB); SA.114713 – Netherlands – *National cessation scheme for animal husbandry sites smaller sectors*.

[438] Case SA.111058– Netherlands – *Relocation scheme for peak-load nitrogen deposition*.

[439] See for example case SA.113145 – Denmark – *Aid for the promotion of changes in feed practices aimed at reducing the production of methane in the digestive system of dairy cattle*.

[440] See, for example, cases SA.107695– Czechia – *Aid for the costs of prevention of spread of certain pig diseases*; SA.108787 – Czechia – *Aid for the costs of prevention of spread of certain poultry diseases and increased biosecurity measures*; SA.113826 – Slovakia – *State aid scheme to make good the damage caused by animal diseases and to cover certain costs for the prevention, control and eradication of animal diseases*.

[441] See, for example, cases SA.114194 – Italy – *Decree laying down the criteria and procedures for granting aid to support undertakings affected by flood and landslide events that occurred since 1 May 2023 referred to in Decree-Law No 61 of June 2023 in the regions of Emilia Romagna, Tuscany and Marche*; SA.115222 – Germany – *Rheinland-Palatinate: State aid to compensate for the damage caused by floods in July 2021*.

Furthermore, schemes[442] as well as individual measures[443] were approved for *investment aid for the processing and marketing of agricultural products*.

In the *fisheries sector*, under the fisheries and aquaculture Guidelines, the Commission approved aid to facilitate the economic development of the fishery and aquaculture sectors ensuring balance between stock capacities and fishing opportunities, as well as to compensate for damages. Aid also contributed to the development of the fisheries activities in the EU outermost regions.

For example, the Commission approved aid measures to foster *the development of sectoral contracts in the fisheries and aquaculture sector*, promoting cooperation and integration among operators in the sector, starting from production and ending in marketing[444]; aid to undertakings active in freshwater fishing and aquaculture for investments to *prevent and mitigate the damage caused by risk events to fishponds and reservoirs*[445]; aid to *remedy the damage caused by the rapid spread of alien species* with unprecedented adverse impacts on biodiversity and related ecosystem services[446]; aid for temporary cessation of fishing activity due to *emergency measures adopted in order to reduce incidental catches of cetaceans* in the Bay of Biscay cetaceous[447]; *investment aid for the acquisition of new vessels in outermost regions*[448]; and, aid for *compensating partially the loss of gross operating profit by wholesalers and processors following the deployment of a prior Brexit-related measure*[449].

6.2.5. State aid enforcement in the forestry sector

The EU Forest Strategy[450] is one of the flagship initiatives of the European Green Deal and builds on the EU biodiversity strategy for 2030[451]. The strategy will contribute to achieving the EU's biodiversity objectives as well as greenhouse gas emission reduction target of at least 55% by 2030 and climate neutrality by 2050. Only resilient forests will be able to produce the biomass needed in a climate-neutral

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[442] See, for example, case SA.107366 – France – *Aides aux investissements des grandes entreprises actives dans la transformation et la commercialisation de produits agricoles pour la période 2023-2029*.

[443] Cases SA.110593 – Italy – *Agro-industrial development contract – Newlat Food S.p.A.*; SA.110974 – Italy – *Individual investment aid to Monge &C for development of pet food production*; SA.115174 – Italy – *Agri-industrial development contract -industrial development with Nestlè Italiana s.p.a*.

[444] See, for example, case SA.109663 – Italy – *Measures to facilitate the implementation of the Programmes for Sectoral contracts in the fisheries and aquaculture sector*.

[445] See, for example, cases SA.109038 – Czechia – *Sub-programme 129 383, 'Elimination of emergency situations in ponds and reservoirs – stage 2*' (Podprogram 129 383 'Odstranění havarijních situací na rybnících a vodních nádržích – 2. Etapa') Re-introduction with modifications of scheme SA.43449; and SA.109425 – Czechia – *Sub-programme 129384*, *'Elimination of flood damage to ponds and reservoirs*' (Podprogram 129 384 Odstranění povodňových škod na rybnících a vodních nádržích') Re-introduction with modifications of scheme SA.43450.

[446] See for example case SA.109998 – Germany – *Directive on the granting of compensatory aid to deal with damage caused by fish mortality in the river Oder in 2022 and repeated fish deaths of the same cause to commercial fishing companies*.

[447] In particular, cases SA. 111687 – France – *Support scheme for certain fishing undertakings operating vessels affected by spatial and temporal measures aimed at reducing incidental catches of small cetaceans in the Bay of Biscay*; SA. 111922 – France – *Aid scheme to support fish wholesale traders particularly affected by the cessation of activity from 22 January to 20 February in 2024, 2025 and 2026 for all French vessels over 8 m using risk gear in the Bay of Biscay*, and SA.114781 – Spain – *Aid to shipowners for temporary cessation of fishing activity due to emergency measures'*.

[448] Case SA.113862 – France – *Aide publique à l'investissement pour l'achat de navires en Guyane*.

[449] Case SA.111510 – France – *Aid scheme to support fish wholesale traders particularly affected by the consequences of the individual support plan in the context of Brexit*.

[450] See: Forest strategy (europa.eu)

[451] See: Biodiversity strategy for 2030 (europa.eu)

economy, and to deliver at the same time the indispensable ecosystem services, such as carbon removals and biodiversity.

State aid for foresters is a tool to facilitate the transition to resilient forests which are better for biodiversity, climate and the bioeconomy. In 2024, the Commission approved *national*[452] and *regional*[453] *aid schemes for improving the quality and quantity of forests in the EU*, and for strengthening their protection, restoration and resilience.

7. PHARMACEUTICAL AND HEALTH SERVICES

7.1. Overview of key challenges in the sectors

The access of patients to innovative and affordable medicines is one of the pillars of the Commission's Pharmaceutical Strategy for Europe[454]. To contribute to these objectives, the Commission and the NCAs have continued to vigorously enforce EU competition rules in the pharmaceutical and healthcare sectors in 2024. Competition enforcement complements the regulatory framework in these sectors[455], and fosters both dynamic competition, which leads to more innovative medicines, and effective price competition, which contributes to more affordable and accessible medicines and treatments.

7.2. Contribution of EU competition policy to tackling the challenges

7.2.1. Antitrust enforcement in the pharmaceutical sector

In January 2024, the Commission published a *report to the Council and the European Parliament on competition enforcement in the pharmaceutical sector*[456]. The report provides an overview of how the Commission and the NCAs enforced EU antitrust and merger rules in the pharmaceutical sector in the period 2018-2022. It also highlights how competition law enforcement contributed to ensure that patients and healthcare systems have better access to affordable and innovative medicines and treatments.

In terms of *antitrust enforcement* during 2024, the Commission concluded its investigations into potential anticompetitive behaviours by Teva and Vifor Pharma.

On 31 October 2024, the Commission imposed on *Teva* a fine of EUR 462.6 million. The Commission found that Teva infringed Article 102 TFEU by a single and continuous infringement consisting of two distinct abuses on the market for glatiramer acetate medicines (used to treat multiple sclerosis): (i) misuse of divisional patents and (ii) exclusionary disparagement[457]. From 2015 to 2024, Teva implemented a strategy designed to prevent and/or hinder market entry of Synthon's glatiramer acetate, the only generic-like medicine competing with Teva's blockbuster multiple sclerosis treatment, Copaxone. In view of the expiry of its basic patent protecting Copaxone, Teva filed, in a staggered manner, several generations of divisional patents sharing essential features and related legal weaknesses. Teva then strategically

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[452] For example, cases SA.114216 – Italy – Plan 2023-2027, *Special Directive of the Federal Minister for Agriculture, Regions and Tourism for the implementation and execution of aids in accordance with the Forest Fund Act* (Prolongation and Amendment of SA.59973) and SA.115721 – Malta – *State Aid for an Agroforestry Scheme*.

[453] For example, case SA.115571 –Germany – *Bavaria*: *Forestry support programme* (WALDFÖPR 2025) (Prolongation and Amendment of SA.39842).

[454] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Pharmaceutical Strategy for Europe COM (2020) 761 final.

[455] On 26 April 2023 the Commission adopted a proposal for a new Directive and a new Regulation, which revise and replace the existing general pharmaceutical legislation; see https://health.ec.europa.eu/medicinal-products/pharmaceutical-strategy-europe/reform-eu-pharmaceutical-legislation_en

[456] Report from the Commission to the Council and the European Parliament - Update on Competition Enforcement in the Pharmaceutical Sector (2018-2022) – European competition authorities working together for affordable and innovative medicines.

[457] Case AT.40588, *Teva Copaxone.*

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withdrew the challenged patents to obstruct legal review and avoid adverse legal rulings, maintaining legal uncertainty concerning its remaining patents which it continued to enforce against rivals (so-called ‘divisionals game’ in the industry). Simultaneously, Teva implemented a disparagement campaign by misleadingly questioning – contrary to the findings of competent authorities – the safety and efficacy of Synthon’s product and its therapeutic equivalence to Copaxone. Teva’s disparagement campaign targeted health care professionals, health insurers and other bodies, that are the main drivers of demand on the pharmaceutical markets. The Commission found that Teva’s conduct was capable of delaying and/or hindering price competition to Copaxone and patients’ access to affordable treatments options in seven Member States (Belgium, Czechia, Germany, Italy, the Netherlands, Poland and Spain).

On 22 July 2024, the Commission accepted binding commitments from *Vifor Pharma* to address its competition concerns relating to the potential disparagement of Monofer, the closest – and potentially only – competitor in Europe of Vifor Pharma’s blockbuster high-dose intravenous iron medicine, Ferinject (used to treat iron deficiency)[458]. The Commission was concerned that Vifor may have unduly hindered Monofer’s uptake in Europe by disseminating to healthcare professionals potentially misleading information about Monofer’s safety, despite its approval by the European Medicines Agency. Under the commitments, Vifor agreed to launch a comprehensive and multi-channel communication campaign targeting nearly 200 000 European healthcare professionals to rectify and undo the effects of its potentially misleading messages. Vifor also committed not to communicate about Monofer's safety unless the information is based on Monofer's label or valid clinical trials. The commitments aimed to quickly stop Vifor’s potential disparagement and prevent any possible long-term anticompetitive effects. This was crucial, as Vifor’s past actions could have continued to influence doctors’ future prescriptions, which would have been especially harmful in a fast-growing market. While in the Teva case the disparagement occurred between branded and generic drugs, the Vifor case tackled potential disparagement between two branded and innovative drugs.

In March 2024, following inspections carried out in late 2021, the Commission opened a formal investigation into possible anticompetitive conduct by *Zoetis* over a novel pain medicine for dogs[459]. The Commission is concerned that Zoetis may have engaged in exclusionary behaviour by terminating the development of a late-stage pipeline product and refusing to transfer it to a third party which had exclusive commercialisation rights, to protect Zoetis’ other pipeline product for the same indication. In-depth investigation is ongoing.

Furthermore, following inspections in the *medical devices sector*[460], the Commission continued in 2024 its preliminary investigation in the sector.

[458] Case AT.40577, *Vifor (IV iron products)*.
[459] Case AT.40734, *Zoetis-Librela*.
[460] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4517.

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The *Servier* pay-for-delay case

On 27 June 2024, the Court of Justice delivered nine judgments[461] largely confirming the Commission's 2014 decision to fine *Les Laboratoires Servier* and generic pharmaceutical manufacturers. In its decision, the Commission found that Servier and generic challengers entered into five pay-for-delay agreements relating to the blood pressure medication perindopril and that Servier abused its dominant position[462]. This decision was challenged before the General Court which, in 2018, confirmed the Commission's findings that the agreements between Servier and respectively *Niche*, *Unichem*, *Matrix* (now Mylan), *Teva*, and *Lupin* constituted prohibited pay-for-delay agreements but also annulled the Commission's decision on two points: (i) the qualification of agreements between Servier and Krka and (ii) the definition of the relevant market and therefore on finding of abuse by Servier.

Following the appeals from both the Commission and the pharmaceutical companies, the Court of Justice, first, confirmed the General Court's judgment and the Commission decision finding that the agreements concluded by Niche, Unichem, Matrix, Teva and Biogaran were anti-competitive pay-for-delay agreements. Second, the Court upheld the Commission's appeal against the General Court's judgments, and confirmed the Commission's finding that the Settlement Agreement and the Licence Agreement between Servier and Krka constituted an infringement of Article 101 TFEU both by object and by effect. The Court also agreed with the Commission and underlined the importance of economic substitutability for the purpose of defining the relevant market (as opposed to the General Court's greater emphasis on therapeutic substitutability), and overturned the General Court's annulment of the Commission's decision on this point. On that basis, the Court referred the assessment of the relevant market, of the dominance and of the abuse as well as of one of the agreements between Servier and Krka back to the General Court.

7.2.2. Merger enforcement in the pharmaceutical sector

In 2024, the Commission continued to ensure that concentrations in the pharmaceutical sector do not lead to consumers paying higher prices, having less choice or to reduced innovation. The Commission reviewed several transactions in the sector, some of which under the simplified procedure.

On 26 June 2024, the Commission approved the acquisition of the European over-the-counter business of *Viatris* by *Cooper*, subject to conditions[463]. Based on its market investigation, the Commission concluded that the transaction would have reduced competition in the markets for laxative enemas for infants in Portugal, and earwax removal products in Germany. In particular, the Commission found that the transaction would have led to high combined market shares as well as high concentration levels in the affected markets and that, post-transaction, the merged entity would not face sufficient competitive pressure from actual or potential competitors. To address the Commission's competition concerns, the parties committed to divest the rights to develop, manufacture, sell and market Viatris's infant laxative medicine, Bebegel, in Portugal, as well as Viatris's earwax removal product, Otowaxol, in Germany. The Commission approved the proposed purchaser of the *Otowaxol* divestment business in December 2024.

[461] Judgment of the Court of Justice of 27.06.2024 in Case C-176/19 P, *Commission* v *Servier and Others*, ECLI:EU:C:2024:549; Judgment of the Court of Justice of 27.06.2024, C-201/19 P, *Servier and Others* v *Commission*, ECLI:EU:C:2024:552; Judgment of the Court of Justice of 27.06.2024, C-144/19 P, *Lupin* v *Commission*, ECLI:EU:C:2024:545; Judgment of the Court of Justice of 27.06.2024, C-164/19 P, *Niche Generics* v *Commission*, ECLI:EU:C:2024:547; Judgment of the Court of Justice of 27.06.2024, C-151/19 P, *Commission* v *Krka*, ECLI:EU:C:2024:546; Judgment of the Court of Justice of 27.06.2024, C-166/19 P, *Unichem Laboratories* v *Commission*, ECLI:EU:C:2024:548; Judgment of the Court of Justice of 27.06.2024, C-197/19 P, *Mylan Laboratories and Mylan* v *Commission*, ECLI:EU:C:2024:550; Judgment of the Court of Justice of 27.06.2024, C-198/19 P, *Teva UK and Others* v *Commission*, ECLI:EU:C:2024:551; Judgment of the Court of Justice of 27.06.2024, C-207/19 P, *Biogaran* v *Commission*, ECLI:EU:C:2024:553.

[462] Case AT.39612, *Perindopril (Servier)*.

[463] Case M.11383, *Cooper/Viatris* (*European OTC Business*).

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On 6 December 2024, the Commission unconditionally approved the acquisition of *Catalent* by *Novo Holdings*, the parent company of *Novo Nordisk*[464]. The Commission undertook a thorough investigation as to whether Catalent's customers for pre-filled syringes would be negatively impacted by the transaction in the event that Novo Nordisk were to use Catalent's facilities for its weight loss and type II diabeties treatments, Wegovy and Ozempic, which are also supplied in pre-filled syringes. The Commission's investigation found that Catalent's pre-filled syringe customers will continue to have access to a number of significant, credible CDMOs after the transaction and thus the transaction would not lead to customers lacking sources of supply alternative to Catalent. In addition, the Commission found that there is sufficient spare capacity in the market.

Furthermore, notable developments took place during 2024 with respect to the Commission's application of Article 22 of the EUMR following the judgment of the Court of Justice in *Illumina*[465], which annulled the Commission's decisions to accept jurisdiction over Illumina's acquisition of Grail. In 2022, following a referral from several Member States, the Commission had prohibited the transaction over concerns that it would have stifled innovation and reduced choice in the emerging market for blood-based early cancer detection tests[466]. While the Commission continues its pro-active monitoring of transactions in the pharmaceutical sector, since the *Illumina* judgment, this monitoring is confined to possible referrals under Article 22 by Member States that are competent under their national merger control regime, or do not have such a regime at all, namely Luxembourg, as well as further deepening the Commission's understanding of market trends.

7.2.3. State aid enforcement in the health services sector

State aid control in the health services sectors aims to ensure that aid to service providers does not unduly disadvantage their competitors.

IPCEI Med4Cure

In May 2024, the European Commission approved the *IPCEI Med4Cure*[467]. 13 companies from six Member States (Belgium, France, Hungary, Italy, Slovakia and Spain), most of them SMEs, are participating in this IPCEI with 14 projects. This IPCEI will notably contribute to the European Health Union objectives by delivering innovations addressing diseases for which there are no satisfactory means of prevention or treatment and by increasing the EU's preparedness for emerging health threats. The six Member States will provide up to EUR 1 billion in public funding in the coming years, which is expected to unlock an additional EUR 5.9 billion in private investments.

On 10 June 2024, the Commission adopted a decision finding that the *Slovenian healthcare system* is non-economic in nature, as (i) it is based on mandatory affiliation and universal coverage, (ii) it pursues a social purpose, (iii) it is based on the principle of solidarity, (iv) it is regulated and controlled by the public authorities, and (v) it stipulates that public healthcare services are provided for no or limited out-of-pocket payment[468]. On that basis, the Commission concluded that financing to public hospitals in Slovenia does not constitute State aid within the meaning of Article 107(1) TFEU.

[464] Case M.11486, *Novo Holdings/Novo Nordisk/Catalent*.
[465] See Case C- 611/22 P, *Illumina* v *Commission.*
[466] Case M.10188, *Illumina/GRAIL.*
[467] Cases SA.105088 – Belgium; SA.104974 – France; SA.105126 – Hungary; SA.105085 – Italy; SA.105097 – Slovakia; SA.105098 – Spain; RRF – *Important Project of Common European Interest on health (IPCEI-Med4Cure).*
[468] Case SA.45844 – Slovenia – *Slovenian Healthcare system*.

On 26 July 2024, the Commission approved a EUR 2 billion Dutch aid measure to the *PALLAS Foundation and New Co* (once it is set up), in the form of loans and public funding[469]. The PALLAS project consists in the construction of a new reactor and of a nuclear health centre to ensure long-term security of supply of medical radioisotopes for cancer diagnosis and treatment in the Netherlands. The measure contributes to the security of supply of essential and live-saving medicines in line with the Pharmaceutical Strategy for Europe.

On 18 December 2024, the Commission concluded that *public funding of Luxembourg's Large-Scale Testing programme to combat the spread of COVID-19* in 2020 and 2021 did not involve the granting of State aid in the sense of Article 107(1) TFEU[470].

8. TRANSPORT, POST AND OTHER SERVICES

8.1. Overview of key challenges in the sectors

An efficient and sustainable European transport system is a key component of a clean, just and competitive transition in the EU. In particular, it is critical to achieving the Green Deal's objective of net zero emissions by 2050, strengthening the economic and social cohesion of the EU and building agile and resilient supply chains. The sector is confronted with massive investment needs to accelerate decarbonisation and digitisation, to cope with a growing demand from passengers and shippers, and to reduce regional disparities. It is also confronted with major barriers to entry, which hinder the actual liberalisation of the sector. In particular, the Letta report[471] highlights, on the one hand, the essential role of the railway sector for the vitality of the Single Market, and, on the other hand, the persistence of fragmented markets and infrastructure, of legal and *de facto* monopolies and of formidable technical barriers, including in ticketing.

The maritime transport sector is of key importance for trade within the EU as well as globally. Its competitiveness has a significant importance for the functioning of the Single Market, also thanks to spill-over effects for other sectors in the globally-integrated European maritime economy. As highlighted in the Draghi report[472], the share of the global fleet owned by EU companies is shrinking, despite the 2004 Community guidelines on State aid to maritime transport (Maritime Guidelines)[473] enabling certain forms of support to the maritime transport sector.

The aviation sector is a crucial component of the EU's transport network, contributing to the region's connectivity and economic prosperity. The aviation sector assumes a position of strategic significance within the EU, playing a vital role in fostering connectivity and driving economic growth. Following its successful liberalisation and expansion, the sector, which currently accounts for approximately 8% of EU transport emissions, must now confront the substantial challenge of decarbonisation while maintaining its competitiveness.

Other services, such as postal services, also have a significant economic and social value in the EU.

8.2. Contribution of EU competition policy to tackling the challenges

8.2.1. State aid to the aviation sector

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[469] Cases SA.103925 and SA.103004 – The Netherlands – *VWS Medical isotopes NewCo: PALLAS-programme*. See also case SA.103926 – The Netherlands – *VWS Medical isotopes Loans PALLAS Foundation 2019-2022*.
[470] Case SA.100547 – Luxembourg – *Bionext Large Scale Testing COVID-19*.
[471] See ft 318.
[472] See ft 319.
[473] Commission communication — Community guidelines on State aid to maritime transport, OJ C 17.1.2004, p. 13.

8.2.1.1. Commission’s decisional practice

In 2024, the Commission assessed a number of aid measures in the aviation sector under the Guidelines for rescuing and restructuring undertakings in difficulties (R&R Guidelines)[474].

On 16 February 2024, the Commission adopted a decision finding that the *Romanian restructuring plan to Blue Air* was not capable of restoring the airline's long-term viability. The Commission concluded that the aid underpinning the plan was incompatible with EU State aid rules and that Romania must recover from Blue Air illegal State aid amounting to approximately EUR 33.84 million[475]. This decision followed the opening of a formal investigation in April 2023 regarding a public guarantee on a rescue loan granted to Blue Air to partly cover its short term liquidity needs. In its decision the Commission concluded that the plan submitted by Romania did not comply with the requirements of the R&R Guidelines. The Commission therefore found that, by continuing the State guarantee beyond the six-month rescue period without submitting a feasible, coherent, and far-reaching restructuring plan, Romania has unlawfully implemented the restructuring aid to Blue Air and should recover that aid with interest.

On 29 April 2024, the Commission approved a EUR 95.3 million *Romanian rescue and restructuring aid to TAROM*, a Romanian airline facing financial difficulties because of accumulated losses[476]. The aid aims at allowing TAROM to sustain daily operations and avoid insolvency proceedings. It takes the form of a capital injection and a debt write-off. The decision follows the opening of a formal investigation in July 2021 regarding an initial restructuring plan for which the Commission’s raised doubts regarding the aid’s compatibility with the internal market. The Commission found that the clear package of measures including a fleet renewal, an optimised routes plan, and other operational efficiency measures as well as measures leading to a reduction of capacity and activity coupled with the firm commitments offered by Romania significantly improved the initial restructuring plan and alleviated its doubts raised in the opening decision.

On 28 June 2024, the Commission approved a SEK 14.61 billion (approximately EUR 1.26 billion) *restructuring plan by Denmark and Sweden to SAS*, a Scandinavian network airline facing liquidity concerns[477]. The aid takes the form of a write-off and/or partial conversion of debt, equity financing, and debt financing. The plan aims at addressing SAS’s financial difficulties, in particular liquidation risks, while securing air connectivity within Scandinavia and internationally.

On 5 February 2024, the Commission also opened a formal investigation on *France’s possible amendments to the restructuring plan approved by the Commission in December 2020 in favour of the French airline Corsair*[478]. The investigated amendments concern the increase in profits and financial flows resulting from an increase in the fleet, the closure of loss-making routes and the substitution of these routes by new routes to Africa. The amendments also introduce new private and public financial support, with France’s intervention amounting to EUR 83.1 million in the form of financial contribution, a tax credit, a rescheduling of public debt and a debt write-off.

[474] See ft 125.
[475] Case SA.62829 – Romania – *Restructuring aid to Blue Air*.
[476] Case SA.59344 – Romania – *Restructuring aid to Tarom*.
[477] Case SA.110687 – Denmark and Sweden – *Restructuring of SAS Group*.
[478] Case SA.109662 – France – *Modification de l’aide et du plan de restructuration de Corsair*. See also case SA.58463 – France – *Aide à la restructuration de Corsair*.

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Furthermore, the aviation sector, which was hit very hard by the COVID-19 pandemic, continued to recover during 2024.

In 11 decisions[479], the Commission approved State aid either under Article 107(2)(b) TFEU as compensation for damages suffered due to the COVID-19 pandemic, or under Article 107(3)(c) TFEU in connection with the Guidelines on State aid to airports and airlines (the 2014 Aviation Guidelines)[480].

In addition to those decisions, the Commission also dealt with a number of cases following judgments adopted by the EU Courts or following complaints.

For instance, following a complaint on a number of measures implemented by Germany to support the *Frankfurt Hahn Airport*, the Commission adopted on 9 September 2024, a decision ordering the recovery of EUR 1.25 million from Frankfurt Hahn Airport (in relation to a land sale) and of at least EUR 13 million from Ryanair DAC (in relation to two marketing agreements and a training aid)[481]. On the same day, the Commission also found that four further *measures to Frankfurt Hahn Airport*, Ryanair and an aircraft maintenance company did not constitute State aid[482].

Although the COVID Temporary Framework[483] has been phased out gradually until 31 December 2023, the Commission had to apply it in three cases in 2024. The Commission adopted two decisions not to raise objections to aid measures granted by France and the Netherlands, to the *Air France/KLM Group*, finding that the aid met all the relevant conditions of the COVID Temporary Framework[484]. These decisions follow the annulment by the General court[485] of two previous decisions of 2020 and 2021 on the same measures because the Commission did not consider that the measures benefitted the whole Air France-KLM Group but rather Air France for the French measures and KLM for the Dutch measures. The General Court considered on the contrary that all measures granted by France and the Netherlands benefitted the whole Air France KLM Group[486].

In a judgement of May 2023 in *Condor*[487], the General Court annulled the decision by which the Commission had approved, under the COVID Temporary Framework, a German aid measure in the form

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[479] Cases SA.113202 – Slovakia – *State aid scheme to enhance air connectivity*; SA.111720 – Italy – *Start-up aid for the establishment of new air routes to/from airports in Sardinia*; SA.112780 – France – *Réintroduction du régime d'aide à l'exploitation des petits et moyens aéroports*; SA.112782 – France – *Réintroduction du régime d'aide à l'investissement des petits et moyens aéroports français*; SA.112783 – France – *Réintroduction du régime d'aide au démarrage des compagnies aériennes au départ des petits et moyens aéroports français*; SA.109677 – Italy – COVID-19 – *Amendment of the compensation scheme for airlines with an EU operating license delivered by Italy*; SA.109677 – Italy – COVID-19 – *Amendment of the compensation scheme for airlines with an EU operating license delivered by Italy*; SA.62482 – Greece – COVID-19 – *Damage compensation to Sky express*; SA.108978 – Italy – *Start-up aid for the establishment of new air routes from/to airports in Calabria*.

[480] Communication from the Commission, Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014, p.3.

[481] Case SA.43260 – Germany – *Measures implemented by Germany in favour of Flughafen Frankfurt-Hahn GmbH and Ryanair DAC.*

[482] Case SA.115160 – Germany – *Measures concerning Haitec AG, Flughafen Frankfurt Hahn GmbH, and Ryanair.*

[483] See ft 111.

[484] Case SA.57082 – France – COVID-19 – *State loan guarantee and State loan for Air France*; Case SA.57116 – The Netherlands – COVID-19 – *State loan guarantee and State loan for KLM*.

[485] Judgment of the General Court of 20.10.2023, *Ryanair and Air Malta* v *Commission*, T-216/21, EU:T:2023:822; Judgment of the General Court of 19.5.2021, *Ryanair* v *Commission*, T-643/20, EU:T:2021:286.

[486] Cases SA.57082 – France – COVID-19 – Temporary Framework 107(3)(b) – *Guarantee and shareholder loan for Air France* and SA.57116 - The Netherlands – COVID-19 – *State loan guarantee and State loan for KLM*.

[487] Judgment of the General Court of 10.5.2023, *Ryanair DAC and Condor Flugdienst GmbH v Commission*, Joined Cases T-34/21 and T-87/21, EU:T:2023:248.

of a recapitalisation of *Deutsche Lufthansa AG*[488]. The General Court held that that decision had infringed several provisions of the COVID Temporary Framework. Following that judgment, the Commission adopted a decision on 8 July 2024 in which it opened the formal investigation procedure and expressed doubts that the measure satified the conditions of the Temporary Framework. The Commission will assess the compatibility of the measure under the COVID Temporary Framework.

8.2.1.2. Revision of the 2014 Aviation Guidelines ongoing

Air transport is one of the fastest-growing sources of greenhouse gas emissions and the sector faces increasing pressure to reduce its carbon footprint. The 2014 Aviation Guidelines[489] offer guidance on the notion of aid in the aviation sector and set out the conditions under which State aid to airports and airlines can be deemed compatible with the internal market. In parallel, the aviation sector may also benefit from support under the CEEAG.

Following the conclusions of the Fitness Check that the 2014 Aviation Guidelines should be amended in the medium term to ensure their full alignment with the Green Deal Objectives and the Sustainable and Smart Mobility Strategy[490], the Commission launched their revision in August 2023.

The revision will assess if there is a need for additional State aid tools to promote the decarbonisation of the aviation sector under revised Aviation Guidelines and if so, which gaps would need to be filled in. It will also look into whether a long-term solution is needed in relation to operating aid to regional airports and if it is the case, which solution would be appropriate. Although the transitional period for operating aid to regional airports under the 2014 Aviation Guidelines was extended until 2027, it is possible that at the end of that period some regional airports may still remain unprofitable.

In order to make the Aviation Guidelines fit for the future, the Commission is widely consulting the public and stakeholders. A call for evidence was held between 27 August and 8 October 2024, followed by a detailed questionnaire sent as part of a public consultation[491]. At the same time, the Commission has commissioned a study to support the revision with the necessary data and quantitative analysis.

8.2.1.3. Selected Court Judgments in aviation aid cases

In 2024, the EU Courts rendered several judgements on decisions approving, under the COVID Temporary Framework and under Article 107(2)(b) TFEU, State aid to support airlines affected by the COVID pandemic.

In particular, the Court of Justice upheld in May[492], July 2024[493] and November 2024[494] three Commission decisions approving respectively a 540 million EUR State guarantee on a loan granted by Finland to the airline *Finnair* (under the COVID Temporary Framework), a 150 million EUR loan granted by Austria to *Austrian Airlines* under Article 107(2)(b) TFEU, and a further 500 million EUR recapitalisation granted by Finland to Finnair under the COVID Temporary Framework (Finnair II). The Court of Justice considered in those cases that the Commission correctly assessed the necessity,

[488] Case SA.57153 – Germany – COVID-19 – *Aid to Lufthansa*.
[489] Comunication from the Commission, Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014.
[490] Communication from the Commission – Sustainable and Smart Mobility Strategy – putting European transport on track for the future, SWD(2020) 331 final
[491] See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13915-State-aid-in-the-aviation-sector-Commission-guidelines-on-airports-and-airlines-revision-_en
[492] Judgment of the Court of Justice of 30.5.2024 in case C-353/21 P, Ryanair/Commission, ECLI:EU:C:2024:437.
[493] Judgment of the Court of Justice of 29.7.2024 in Case C-591/21 P, Ryanair and Laudamotion v Commission, ECLI:EU:C:2024:635.
[494] Judgment of the Court of Justice of 7.11.2024 in Case C-588/22 P, Ryanair v Commission, ECLI:EU:C:2024:935.

proportionality and appropriateness of the measures granted to those airlines in the context of the COVID-19 pandemic. In the *Finnair II* judgment, the Court of Justice endorsed the Commission's approach according to which it was entitled to depart from certain aspects of the COVID Temporary Framework, in view of the exceptional context in which that framework was adopted and the very particular characteristics of the measure in question. The Court of Justice also found that the Commission used the correct methodology to assess that Finnair did not hold significant market power in the relevant markets in which it operated.

8.2.2. *Merger enforcement in the aviation sector*

On 3 July 2024, the Commission approved the proposed acquisition of joint control over the previously 100% state-owned Italian network carrier *Italia Trasporto Aereo (ITA)* by the German network carrier *Deutsche Lufthansa AG* and the Italian government, subject to conditions[495]. Following an in depth investigation, the Commission had concerns that the transaction would have reduced competition on a certain number of short-haul routes connecting Italy with countries in Central Europe as well as on a limited number of long-haul routes between Italy and the US and Canada. The Commission also had concerns that the transaction would have created or strengthened ITA's dominant position at the Milan-Linate airport. Lufthansa and the MEF submitted a remedy package to address those concerns, and, on 29 November 2024, the Commission approved IAG, Air France KLM and easyJet as suitable remedy takers.

Following a notification at the end of 2023, in 2024 the Commission also took a closer look at the proposed acquition by *International Airlines Group* (IAG) which includes the Spanish network carrier *Iberia*, of its Spanish network carrier rival *Air Europa*[496]. That notification followed an earlier assessment of the same deal by the Commission in 2021 which resulted in an abandonment of the concentration in the light of the competition concerns raised by the Commission and the lack of suitable remedies. The second in-depth assessment again indicated that the merger would have negatively affected competition on a large number of routes and adversely affected passengers in terms of increased prices or decreased quality of services. The remedies offered were deemed insufficient and IAG decided to abandon the transaction.

In the first quarter of 2024, the Commission also completed its review of the proposed acquisition of *Asiana Airlines* (Asiana) by *Korean Air Lines* (Korean Air)[497]. The Commission found that Korean Air and Asiana compete head-to-head in carrying cargo and passengers between the EEA and South Korea. On 13 February 2024, the transaction was conditionally approved after Korean Air offered commitments that fully addressed the competition concerns identified by the Commission.

8.2.3. *Antitrust enforcement in the aviation sector*

The Commission actively and closely monitored throughout 2024 the evolution of the market conditions at European hubs used by the joint ventures (JVs) between EU and North American airlines for their transatlantic flights.

In particular, these monitoring activities concerned the degree of congestion of Amsterdam airport and the operations of the Blue Skies JV between Air France-KLM Group, Delta and Virgin Atlantic, to

[495] Case M.11071, *Deutsche Lufthansa/MEF/ITA.*
[496] Case M.11109, *IAG/AIR EUROPA.*
[497] Case M.10149, *Korean Air Lines/Asiana Airlines.*

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identify any risk of serious and irreparable damage to competition for transatlantic traffic, in particular on the Amsterdam-New York route where the US carrier JetBlue had recently entered[498].

In addition, on 7 August 2024, the Commission initiated proceedings to investigate a potential restriction of competition by the *A++ JV between Lufthansa, United and Air Canada* on transatlantic routes to/from several EEA airports. On the same day, the Commission sent a statement of objections to Lufthansa where it preliminarily concluded that interim measures might be required to ensure the effectiveness of any final decision taken by the Commission in the future[499].

8.2.4. State aid enforcement in the maritime transport sector

On 24 May 2024, the Commission adopted a decision in which it concluded that the *tonnage tax scheme of the province of Gipuzkoa, Spain*, complies with the Maritime Guidelines and is therefore compatible with the internal market on the basis of Article 107(3)(c) TFEU[500].

Moreover, on 8 July 2024, the Commission closed a formal investigation procedure concerning the grant of several *public service compensations to Caremar*, an Italian ferry operator[501]. The procedure concerned *inter alia* the grant of public service compensation for the operation of ferry services connecting mainland Italy with: i) the islands of the Gulf of Naples from 1 January 2009 to 31 July 2012 and from 16 July 2015 to 15 July 2024; and ii) the islands of the Pontino Archipelago from 1 January 2009 to 31 May 2011. As regards the period 2009 – 2012, the Commission considered that the measure was aid compatible with the internal market, as it addressed a real public service need by ensuring connections on a regular basis throughout the year, and the aid granted did not result in overcompensation for Caremar. For the period 2015-2024, the Commission concluded that the public service contract did not entail State aid. Other measures granted to Caremar (the possibility to use certain funds earmarked to upgrade ships to meet safety requirements for liquidity purposes; fiscal exemptions granted to Caremar in the context of its privatisation; privatisation of Caremar; possibility to use resources from a national fund to meet the liquidity needs) did not constitute State aid.

On 25 July 2024, the Commission approved an *amendment to the Swedish tonnage tax scheme*, on the basis of its compatibility with the internal market under Article 107(3)(c) TFEU and the Maritime Guidelines[502].

On 6 November 2024, the Commission adopted a decision amending the 2015 appropriate measures decision regarding the *Greek tonnage tax scheme*[503]. Following the adoption of the 2015 decision, the Commission services and the Greek authorities entered into continuous discussions with a view to resolving all 16 issues identified. With its decision of 6 November 2024, the Commission amended three of the appropriate measures proposed in the 2015 decision. On 25 November 2024, following the acceptance of the appropriate measures by the Greek authorities, the Commission adopted a decision recording the agreement of Greece to implement the appropriate measures.

On 26 November 2024, the Commission approved the *award of five public service contracts by France to the maritime operators Corsica Linea and La Méridionale for the provision of maritime transport*

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[498] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_623
[499] Case AT.40940, *A++ transatlantic joint venture*.
[500] Case SA.106028 – Spain – *Gipuzkoa Tonnage tax scheme*.
[501] Case SA.32014 – Italy – *measures implemented by Italy and the Region of Campania for Caremar and its acquier SNAV/Rifim.*
[502] Case SA.114303 – Sweden – *Amendment to the Swedish tonnage tax scheme.*
[503] Case SA.33828 – Greece – *Greek tonnage tax scheme and other State measures in favour of shipping companies.*

services of freight and passengers between the port of Marseille and the island of Corsica between 2023 and 2030[504]. The total amount of compensation granted amounts approximately to EUR 850 million. Following an in depth investigation, the Commission closed its formal investigation opened in February 2024. It concluded, that the five public service contracts were compatible with EU State aid rules on the financing of services of general economic interest (SGEI). In particular, the Commission found that the five public service contracts corresponded to a genuine public service need not addressed by market forces alone and that the compensation granted to the public service operators did not exceed what was necessary to cover the net costs of the public services. It also concluded that the measures did not infringe any provision of EU law on public procurements and on internal market in the field of maritime services.

On 13 December 2024, the Commission approved a prolongation of a *Belgian seafarers scheme* under Article 107(3)(c) TFEU and the Maritime Guidelines. The scheme, which will apply from 1 July 2025 until 30 June 2035, provides for tax benefits in favour of seafarers active in the merchant shipping, dredging and towing sectors[505]. That same day, the Commission concluded that the *Italian tonnage tax scheme* complies with the conditions of the Maritime Guidelines and is therefore compatible with the internal market on the basis of Article 107(3)(c) TFEU[506].

8.2.5. Merger enforcement in the maritime sector

On 3 October 2024, the Commission unconditionally cleared the acquisition of joint control over *Hamburger Hafen und Logistik Aktiengesellschaft*, a port and transport logistics company based in Hamburg, by a shipping company, *MSC*, and *HGV Hamburger Gesellschaft für Vermögens- und Beteiligungsmanagement mbH* (HGV), which manages the commercial activities of the City of Hamburg[507]. The Commission concluded that the transaction did not give rise to competition concerns due to the presence of sufficient competitors to ensure access to the services concerned and to the North European ports.

8.2.6. Antitrust enforcement in the maritime sector

The EU legal framework which exempted liner shipping consortia from EU antitrust rules (Consortia Block Exemption Regulation - CBER)[508] expired on 25 April 2024. The Commission continued to closely monitor the sector, which, in 2024, was impacted by the Red Sea crisis.

8.2.7. State aid enforcement in the rail and intermodal transport sector

8.2.7.1 Commission's decisional practice

In 2024, the Commission continued to enforce State aid rules in the rail and intermodal transport sector.

The Commission adopted 16 decisions approving *aid measures for the coordination of transport* for an amount of approximately EUR 2.7 billion. In ten cases[509] the Commission approved the measures on the

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[504] Case SA.101557 – France – *Desserte maritime de la Corse (2023-2030).*
[505] Case SA.113920 – Belgium – *Prolongation of Belgian seafarers scheme*.
[506] Case SA.109641 – Italy – *Reintroduction of Italian tonnage tax scheme*.
[507] Case M.11302, *MSC/HGV/HHLA*.
[508] Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia), OJ L 256, 29.9.2009, p. 31.
[509] Cases SA.110055 – Germany – *Amendment of the CHP and Offshore electricity surcharges reductions for railway undertakings*; SA.104413 – Denmark – *Reintroduction of a State aid scheme for rail freight transport*; SA.108800 – Germany – *Support for rail freight transport (single wagon load and wagon group transport trains)*; SA.112932 – Italy – *Reintroduction*

basis of the 2008 State aid Railway Guidelines[510], in four cases, the Commission approved the measures directly under Article 93 TFEU[511] and in two cases, the Commission approved the measures both under Article 93 TFEU and the 2008 Railway Guidelines[512]. Those decisions covered aid for the rail infrastructure, aid for the reduction of external costs or aid for interoperability, in particular to support the deployment of the European Rail Traffic Management System (ERTMS) as well as aid to promote the renewal of freight rolling stock.

All these measures support the modal shift from road to rail, inland waterways or short sea shipping as safer and more environmentally-friendly transport modes. Modal shift constitutes a priority to implement the European Green Deal and is in line with the Commission's Sustainable and Smart Mobility Strategy.

Furthermore, on 29 November 2024, the Commission *approved under the R&R Guidelines*, *EUR 1.9 million State aid for DB Cargo*[513]. DB Cargo is the biggest EU rail freight operator by size and turnover and a fully-owned subsidiary of State-owned Deutsche Bahn (DB). The case concerned mainly intra-group transactions between DB and DB Cargo, including an open-ended profit and loss transfer agreement, the provision by DB to DB Cargo of intra-group services at favorable prices and advantageous group financing conditions for loans. The Commission found that, among the intra-group measures investigated, only the profit and loss transfer agreement eventually involved State aid at the end of the period investigated and at present. In addition to discontinuation of the agreement on 1 January 2025, the approval of the aid is conditional on implementation of various commitments that reduce market presence of DB Cargo, improve its efficiency and profitability and open opportunities for competition available to railway freight operators in the internal market.

8.2.7.2 Work on State aid Guidelines for land and multimodal transport and Transport Block-Exemption Regulation ongoing

On 18 June 2024, the Commission published for consultation the draft Land and Multimodal Transport Guidelines (LMTG) and Transport Block Exemption Regulation (TBER)[514].The consultation period ended on 20 September 2024. The review process of these two instruments is ongoing.

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of an aid scheme in support of integrated transport in the province of Trento; SA.107166 – Portugal – *Scheme to support rail freight transport*; SA.106980 – Spain – *Spanish aid scheme to support rail freight undertakings affected by network disruptions*; SA.110308 – Italy – *Amendment of a State aid scheme in support of combined transport in the Province of Bolzano*; SA.111020 – Belgique – *Régime d'aides au transport ferroviaire de marchandises par wagons isolés*; SA.103323 – Italy – *Réintroduction de l'aide au service transitoire d'autoroute ferroviaire alpine*; SA.114259 – Poland – RRF *Support for the installation of ERTMS on rolling stock under the national recovery and resilience plan*.

[510] Communication from the Commission, Community guidelines on State aid for railway undertakings, OJ C 184, 22.7.2008, p. 13.

[511] Cases SA.109124 – Poland – RRF – *Investment aid to intermodal transport facilities, equipment and rolling stocks;* SA.63990 – France – *Aide à un terminal d'autoroute ferroviaire à Calais;* SA.104936 – France – *Aide à l'investissement pour la création d'une plateforme multimodale au Port de Sète*; SA.114260 – Poland – *Aid for intermodal transport projects under the European Funds for Infrastructure, Climate, Environment 2021-2027 programme.*

[512] Cases SA.110676 – Sweden – *Eco-invest for rail, short sea shipping and inland waterways* and SA.108613 – France – *Aide à l'exploitation de services réguliers de transport combiné de marchandises alternatifs au mode tout routier pour la période 2024-2028.*

[513] Case SA.50952 – Germany – *Alleged State aid measures in favour of DB Cargo*.

[514] See: https://competition-policy.ec.europa.eu/public-consultations/2024-lmtg-and-tber_en#:~:text=The%20Commission%20is%20publishing%20for%20consultation%20the%20draft,the%20rail%2C%20inland%20waterways%20and%20multimodal%20transport%20sector

The TBER intends to exempt from prior notification certain categories of aid in the rail, inland waterways and multimodal transport sector. It will complement the LMTG, which will replace the 2008 Railway Guidelines, and set out the conditions to assess the compatibility with the Single Market of aid to sustainable land transport that is not block-exempted. These two sets of rules will form a comprehensive and up-to-date rulebook for aid to sustainable land transport.

The proposals follow the conclusions of the Fitness Check on the existing State aid rules in the field of land transport sector that showed that adjustments were needed to reflect market developments and the current EU's strategic priorities, including the Green Deal.

8.2.7.3 Selected Court judgments in rail cases

In the field of *land transport*, on 24 January 2024 the Court of Justice delivered its judgment in response to a reference for a preliminary ruling from a regional Court in Bulgaria[515]. The Court of Justice clarified that, under Regulation 1370/2007[516] Member States must ensure that the compensation put in place enables the public service operator concerned to determine with all the necessary precision, when concluding the public service contract, the compensation which it is entitled to receive from the competent authority in return for the discharge of its public service obligations. A national legislation which does not define, *ex ante* and precisely, the calculation of the compensation and the amount of compensation to be paid (for example, a national legislation making the grant of compensation conditional upon the availability of funds provided for by the law on the budget of the Member State) would fail to meet the criteria of that regulation.

8.2.8. Antitrust enforcement in the rail sector

On 17 January 2024, the Commission adopted a decision in which it made legally binding the commitments by *Renfe-Operadora*, *E.P.E.* and its subsidiary *Renfe Viajeros, S.M.E., S.A*. (together 'Renfe'), the Spanish state-owned rail incumbent operator[517]. The Commission concluded that the commitments addressed its preliminary concerns that Renfe may have infringed Article 102 TFEU by refusing to supply all its content and real-time data (RTD) to third-party ticketing platforms (TPTPs)[518]. Renfe's commitments open up competition in online rail ticketing in Spain, contributing to more affordable rail services and promoting environmentally-friendly means of transport.

On 24 October 2024, the Commission fined *České dráhy* (ČD) and *Österreichische Bundesbahnen* (ÖBB), the Czech and Austrian rail incumbents, a total of EUR 48.7 million for infringing EU antitrust rules[519]. (See also I. legislation and Policy developments, section 1.4 above).

8.2.9. State aid enforcement in the road transport sector

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[515] Judgment of the Court of Justice of 25.1.2024 in Case C-390/22, *Obshtina Pomorie* v *'Anhialo auto'*, ECLI:EU:C:2024:75.
[516] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, OJ L 315, 3.12.2007, p. 1.
[517] Case AT.40735, *Online rail ticket distribution in Spain*.
[518] TPTPs are companies that display offers from different rail carriers and provide online ticketing services to customers (for example, searching, comparison, booking and payment services) through apps or websites. To provide their services in a competitive manner, TPTPs need to have access to Renfe's full content (tickets, discounts and features) and RTD (pre-journey, on-journey, and post-journey).
[519] Case AT.40401, *Second-hand Rolling Stock*.

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By enforcing State aid rules in the road transport sector, the Commission ensures that the compensation granted to companies entrusted with public passenger transport services does not go beyond what is necessary for the performance of these obligations.

On 4 April 2024, the Commission approved the *re-introduction of an aid scheme to the benefit of local public transport in Germany* under Article 93 TFEU[520]. The objective of the scheme is to support the coordination of local public transport, and to further improve the distribution of transport over different transport modes towards a sustainable mobility transition.

In 2024, the Commission also adopted a number of decisions concerning support to road transport operators under the TCTF. On 22 January 2024, the Commission approved an *Italian scheme to support road haulage transport operators*[521], as well as an *Italian scheme to support undertakings performing own-account road haulage transport of goods*[522]. The Commission approved an amendment to the latter scheme on 12 September 2024[523]. Moreover, on 26 March 2024, the Commission approved a *Bulgarian scheme to support undertakings active in the road freight transport sector* [524].

On 13 June 2024, the Commission initiated a formal investigation procedure pursuant to Article 108(2) TFEU regarding financing provided to *WestVerkehr*, a regional public bus operator in the district of Heinsberg, Germany[525].

8.2.10. Merger in the logistics sector

In February 2024, the Commission conditionally approved the proposed acquisition of Bolloré Logistics by CMA CGM[526]. Both companies play substantial roles within the global logistics and transport sectors. The parties offered to divest all of Bolloré Logistics' activities in Guadeloupe, Martinique, Saint Martin, and French Guiana, as well as a number of assets in metropolitan France linked to the divested activities. These remedies were designed to address competition concerns primarily related to the logistics market in the French overseas territories and metropolitan France.

8.2.11. State aid enforcement in the postal services sector

The exercise of State aid control in the postal services sector ensures that incumbent service providers compete fairly with other market participants, that State aid beneficiaries are not shielded from market developments, and that incentives exist to foster innovation, productivity, and efficiency.

On 24 May 2024, the Commission approved *Belgium's plans to compensate bpost for the provision of postal services of general economic interest relating to the transport and distribution of newspapers and periodicals* in 2023 and the first half of 2024[527].

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[520] Case SA.108418 – Germany – *Support scheme for model projects that strengthen local public transport*.
[521] Case SA.110609 – Italy – TCTF – *Emergency Support Scheme for Haulage Operators* (re-introduction of SA.103480, as amended by SA.103966, SA.105007, and SA.108572).
[522] Case SA.110570 – Italy – TCTF – *Aid to undertakings performing own-account road haulage transport of goods* (re-introduction of SA.108573).
[523] Case SA.114811 – Italy – TCTF – *Aid to undertakings performing own-account road haulage transport of goods* (amendment to SA.110570).
[524] Case SA.112501 – Bulgaria – TCTF – *Aid to road freight transport operators*.
[525] Case SA.55744 – Germany – *Alleged aid to WestVerkehr*.
[526] Case M.11143, *Bolloré Logistics/CMA CGM*.
[527] Case SA.105349 – Belgium – *Compensation to bpost for the distribution of newspapers and periodicals over 2023 and the first six months of 2024*.

On 2 July 2024, the Commission approved a *Bulgarian restructuring aid in favour of Bulgarian Posts*, the national postal operator, which consists of the conversion into equity of a previously approved rescue aid loan of approximately BGN 50 million (EUR 25.51 million)[528]. The measure aims at preventing that the company files for bankruptcy, while ensuring the provision of Universal Postal Services (UPS) in Bulgaria.

On 19 July 2024, the Commission concluded that *Czechia's plans to compensate postal operator Czech Post for the operation of the DBIS*[529] in the Czech Republic during the 2023-2027 period were compatible with the internal market under Article 106(2) TFEU and the framework for State aid in the form of public service compensation (the SGEI Framework[530]) [531].

On 23 July 2024, the Commission concluded that the *compensation to Post Danmark A/S for the provision of the universal postal service obligation* in 2021, 2022 and 2023 was compatible with the internal market under Article 106(2) TFEU and the SGEI Framework[532].

Furthermore, on 15 November 2024, the Commission concluded that *Poland's envisaged compensation to Polish Post for the net cost incurred in providing the universal postal service* across the entire Polish territory for the period 2021-2025 complied with the internal market under Article 106(2) TFEU, as it fulfilled all the criteria set out in the SGEI Framework [533].

Similarly, on 18 December 2024, the Commission concluded that the *compensation to Poste Italiane for the provision of the press distribution mission* was compatible with the internal market on the basis of Article 106(2) TFEU and the SGEI Framework [534].

8.2.12. State aid enforcement in the housing sector

The Commission exercises State aid control in the housing sector to prevent distortions of competition, ensuring that State support does not unduly favour certain market players and that private investment is not deterred, while taking into account the particular characteristics of the sector in Member States. As highlighted in the Letta report, access to affordable housing has become a significant problem in many Member States.

On 8 April 2024, the Commission approved, on the basis of Article 107(3)(c) TFEU, a EUR 476 million *Czech scheme to support the construction, reconstruction, and acquisition of affordable rental flats*[535]. On 12 December 2024, the Commission approved, on the basis of Article 107(3)(c) TFEU, an amendment to the existing Irish *Croí Cónaithe* scheme for residential housing in cities[536].

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[528] Case SA.109026 – Bulgaria – *Restructuring aid for Bulgarian Posts EAD*. See also Case SA.106972, Bulgaria- *Rescue aid to Bulgarian Posts EAD*.
[529] The DBIS is an advanced electronic channel for internal communication within the public administration and for secured communication between the public administration and citizens and companies.
[530] Communication from the Commission – European Union framework for State aid in the form of public service compensation (2011), OJ C 8, 11.1.2012, p. 15.
[531] Case SA.109072 – Czechia – *Czech Post 2023-2027 DBIS Compensation*.
[532] Case SA.111272 – Denmark – *Compensation to Post Danmark A/S for Universal Service Obligations in 2021, 2022 and 2023*.
[533] Case SA.105121 – Poland – *Polish Post USO (2021-2025).*
[534] Case SA.108766 – Italy – *Poste Italiane press distribution 2020-2026*.
[535] Case SA.106249 – Czechia – RRF - *Aid for the construction, reconstruction and acquisition of affordable rental flats*.
[536] Case SA.114554 – Ireland – *Amendment to the aid scheme SA.102927 for residential housing in cities (Croí Cónaithe (Cities) Scheme).*

8.2.13. *State aid enforcement in the cultural sector*

By enforcing State aid control in the cultural sector, the Commission ensures fair competition between private and public service providers, while allowing Member States to support the establishment and development of institutions throughout their territory and to enhance the level of services provided.

On 21 October 2024, the Commission approved an *amendment to an aid measure in favour of the Museum of Polish History for the construction and design of its permanent headquarters* in Warsaw[537].

8.2.14. *State aid enforcement in the gambling sector*

By enforcing State aid control in the gambling sector, the Commission ensures that competition between operators active in that sector is not distorted by State support measures.

On 31 July 2024, the Commission extended the formal investigation procedure launched on 2 September 2020 regarding potential State aid in favour of *Ladbrokes*[538], in view of changes in certain factual circumstances that took place after the opening decision. In particular, following the retroactive annulment of the Belgian Royal Decree of 4 May 2018, which regulated offline virtual betting, the Commission adjusted the duration of the alleged aid under investigation.

On 31 October 2024, following a formal investigation, the Commission adopted a decision finding that the granting of exclusive rights between 2019 and 2044 to *Française des Jeux* by France does not constitute aid in the sense of Article 107(1) TFEU, following the increased remuneration to be paid by the company to the French State[539].

On 22 November 2024, the Commission adopted a decision finding that the loss compensation payments granted by the Land of North Rhine-Westphalia (NRW) to *WestSpiel GmbH*, a casino operator active in the Land of North Rhine-Westphalia, Germany, did not constitute State aid in the sense of Article 107(1) TFEU, while a capital injection made to the same company did constitute State aid and was incompatible with the internal market[540].

[537] Case SA.113458 – Poland – *Aid to Museum of Polish History*.
[538] Case SA.53630 – Belgium – *Alleged illegal state aid related to virtual betting*.
[539] Case SA.56399 – France – *Octroi supposé d'aides d'Etat illégales à la Française des jeux*.
[540] Case SA.48580 – Germany – *Casinos - Alleged State aid to WestSpiel*.

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