



Committee on the Internal Market and Consumer Protection

2017/2191(INI)

22.11.2017

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Economic and Monetary Affairs

on the Annual Report on Competition Policy 2016
(2017/2191(INI))

Rapporteur: Christel Schaldemose

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SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that competition policy is interlinked with taxation policy, and that fair tax treatment between undertakings is essential for the integrity of the internal market and a level playing field; encourages the Commission to strengthen its efforts to tackle all types of illegal state aid that distort competition in the internal market; notes the importance of compliance with precise and effective competition rules;
2. Supports the Commission's investigations into anti-competitive practices such as fiscal state aids incompatible with the competition rules; emphasises that it is crucial for a well-functioning internal market to ensure that all entities are treated equally and that all players contribute with a sufficient share of tax payments; considers it necessary to have a solid regulatory framework with transparent rules that will guarantee access to the market for all companies, including SMEs;
3. Calls on the Commission to explain further how unfair trading practices can be addressed under current competition policy;
4. Welcomes the Commission's efforts to combat unfair competition in high-profile cases against well-known companies; considers that SMEs could stand to benefit from the rigorous application of the competition rules, particularly in the digital sphere; asks the Commission, in this context, to examine the dominant role of certain on-line platforms in relation to SMEs, and any unfair terms and conditions imposed; stresses that the enforcement of competition rules is of the utmost importance for all market participants in order to ensure fair economic competition and to boost jobs and growth in important sectors of the economy, in particular, the energy, telecoms, digital and transport sectors;
5. Calls on the Commission to ensure the fairness of the terms and conditions imposed by certain dominant on-line platforms on suppliers, particularly SMEs, for example with regard to price parity and conditional parity clauses which may undermine free competition, especially in the Digital Single Market; asks the Commission to further analyse such clauses and, if needed, to propose restrictions on their use;
6. Encourages the Commission to strengthen cooperation with national authorities responsible for implementing competition law in order to guarantee equal and fair competitive conditions as well as legal certainty for undertakings; is concerned that uneven enforcement of EU competition law by national authorities can result in varying outcomes, thus distorting competition in the internal market; stresses the need for national competition authorities to be independent and to have adequate financial and human resources to perform their tasks effectively; reiterates, furthermore, that an effective toolbox within the Commission for the independent investigation of suspected cases of unfair competition and suspected breaches of competition law is essential;
7. Welcomes, therefore, the Commission's proposal on the European Competition Network (ECN+), including the importance of deterrent fines to competition policy; stresses, furthermore, that the refusal of the requested authority to enforce a decision

imposing fines should always be duly justified, and that a system should be set up whereby potential disputes between authorities in such cases could be resolved;

8. Takes note of the e-commerce sector inquiry and its final report, which shows that in the e-commerce sector there are some business practices which negatively affect fair competition and limit consumer choice; believes that, within the context of the Digital Single Market Strategy, the inquiry should be part of a greater enforcement effort by the Commission to apply competition policy in full to online retailers;
9. Supports the Commission's intention to target enforcement of the EU competition rules at widespread business practices that have emerged or evolved as a result of the growth of e-commerce, and stresses that the Commission must put increased effort into ensuring the consistent application of the EU competition rules in all Member States, also with regard to e-commerce-related business practices; underlines that, given the asymmetrical relationship between large online retailers and their suppliers, the Commission and national competition authorities should actively enforce the competition rules as suppliers, especially SMEs, may not always have cost-effective access to means of redress;
10. Calls for the strengthening of the freedom of choice for consumers in the Digital Single Market; considers that the enshrined right to data portability in the General Data Protection Regulation (GDPR) is a good approach to strengthening the rights of consumers and competition;
11. Is of the view that effective competition policy can complement regulatory initiatives in the area of the Digital Single Market, and considers that where the impetus for regulatory action is primarily in response to market actions by some players, harm could be addressed through competition measures to tackle anti-competitive practices, without holding back those who seek to compete;
12. Is concerned by the increased use of contractual restrictions by manufacturers on online sales, as confirmed by the e-commerce inquiry, and calls on the Commission to further review such clauses to ensure that they do not create unjustified restrictions of competition; at the same time, asks the Commission to review the Guidelines on Vertical Restraints and Commission Regulation (EU) No 330/2010 in light of these changes;
13. Takes note of the Opinion of Advocate-General Wahl of 26 July 2017 in case C-230/16 *Coty Germany GmbH v Parfümerie Akzente GmbH* that a restriction on online marketplace sales contained in a distribution agreement should not be considered as a hardcore restriction under Commission Regulation (EU) No 330/2010;
14. Stresses that access to justice, which may also include the availability of collective redress, is essential for the achievement of the objectives of EU competition policy ; underlines that the absence of such opportunities weakens competition, the functioning of the internal market and consumer rights;
15. Stresses that efforts to foster competition through the development of the Digital Single Market must at all times work in the interests of consumers, and that the rights enshrined in the EU Charter for Fundamental Rights must be fully protected in the

digital domain;

16. Stresses that competition that is both free and fair is ultimately for the benefit of consumers;
17. Recalls that if anti-competitive practices are to be fought effectively, Member States must adopt an economic policy that is consistent with the principles of an open market economy based on fair competition, as purely protectionist measures harm the functioning of the single market; underlines that all aspects of unfair competition must be eliminated, including unregistered work and circumventing rules on the posting of workers, without prejudice to the free movement of labour as one of the fundamental freedoms of the internal market;
18. Considers the consultation carried out by the Commission on the possible improvement of EU merger control to be very important; believes that steps must be taken to ensure, in particular in the digital sphere, that mergers do not restrict competition in the internal market; calls again on the Commission, therefore, to examine carefully whether current assessment procedures take sufficient account of the circumstances of digital markets and of the internationalisation of markets; calls, furthermore, on the Commission to take into account the role of access to data and information when assessing market power, whether merging data and customer information during a merger distorts competition, and to what extent an enterprise's access to exclusive analytical methods and patents excludes competitors; reiterates its request to the Commission to explain how it defines the minimum number of market players necessary for fair competition, and how it retains the possibility for new companies, in particular start-ups, to enter highly concentrated markets;
19. Calls on Member States to ensure the proper enforcement of EU public procurement rules in order to tackle distortions of competition, including by means of social, environmental and consumer protection criteria where appropriate, and to promote good practice in public authorities' processes; considers that the development of electronic public procurement procedures will make it easier for SMEs to access public procurement, will increase transparency, and will ensure more effective monitoring of infringements of the competition rules; calls, furthermore, on the Commission to promote market access opportunities for SMEs through smaller contracts where compatible with key procurement objectives, and to carefully monitor the enforcement of rules as regards centralisation of purchases in public procurement markets;
20. Welcomes the adoption of rules on the portability of pre-paid services under the Single Digital Market Strategy that will improve competition in the internal market and ensure greater consumer rights;
21. Welcomes the gradual liberalisation of sectors such as telecoms, postal services and public transport with a view to creating a competitive environment from which consumers will also benefit;
22. Believes that criteria to join a selective distribution or franchising network should be transparent in order to ensure that such criteria do not violate competition policy and the free functioning of the single market; underlines that such criteria must be objective, qualitative and non-discriminatory, and must not go beyond what is strictly necessary;

calls on the Commission to take measures to ensure this transparency;

23. Notes the increased risk of collusion between competitors due to, among other things, price monitoring software; considers that concerted practices may emerge despite contact between competitors being weaker than required under current norms, perhaps even automated, as algorithms interact with each other independent of the direction of one or more market players; asks the Commission to be vigilant about such new challenges to free competition;
24. Emphasises the relationship between the internal market and competition policy; encourages strong cooperation between Parliament's Committee on Internal Market and Consumer Protection and the Commission in order to ensure that the interests of consumers are protected and promoted in any and all efforts to encourage a competitive EU;
25. Welcomes the Commission's efforts to connect with its international partners and multilateral fora in the area of competition policy; believes that international cooperation is increasingly essential where companies subject to enforcement operate across multiple jurisdictions;
26. Believes that increasing the network of free trade agreements involving the European Union will benefit the enforcement of competition law globally; encourages the Commission in this regard to seek further trade agreement opportunities, and to include strong antitrust and State aid rules in any such future agreements.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	21.11.2017
Result of final vote	+: 33 -: 1 0: 0
Members present for the final vote	John Stuart Agnew, Pascal Arimont, Dita Charanzová, Carlos Coelho, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, Daniel Dalton, Nicola Danti, Dennis de Jong, Maria Grapini, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Philippe Juvin, Antonio López-Istúriz White, Eva Maydell, Marlene Mizzi, Nosheena Mobarik, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Jasenko Selimovic, Igor Šoltes, Ivan Štefanec, Catherine Stihler, Richard Sulík, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Mihai Țurcanu, Anneleen Van Bossuyt, Marco Zullo
Substitutes present for the final vote	Arndt Kohn
Substitutes under Rule 200(2) present for the final vote	Heidi Hautala, Jaromír Štětina

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

33	+
ALDE	Dita Charanzová, Jasenko Selimovic
ECR	Daniel Dalton, Nosheena Mobarik, Richard Sulík, Anneleen Van Bossuyt
EFDD	Marco Zullo
ENF	Mylène Troszczynski
GUE/NGL	Dennis de Jong
PPE	Pascal Arimont, Carlos Coelho, Lara Comi, Anna Maria Corazza Bildt, Philippe Juvin, Antonio López-Istúriz White, Eva Maydell, Róza Gräfin von Thun und Hohenstein, Ivan Štefanec, Jaromír Štětina, Mihai Țurcanu
S&D	Sergio Gaetano Cofferati, Nicola Danti, Maria Grapini, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Arndt Kohn, Marlene Mizzi, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler
Verts/ALE	Heidi Hautala, Igor Šoltes

1	-
EFDD	John Stuart Agnew

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-	-

Key to symbols:

+ : in favour

- : against

0 : abstention