

Communication on Competition policy - Fit for New Challenges

Joint non-paper by Denmark, Finland, Ireland, Latvia, Malta, the Netherlands, Poland, Portugal, Slovakia and Sweden

In the forthcoming communication on competition policy, the European Commission is expected to take stock on the ongoing review of the competition framework in light of the efforts to boost Europe's economic recovery and resilience as well as the global developments stemming from unfair practices and lack of contestability in the digital sector. Unprecedented efforts have been made in order to adapt the competition toolbox to the Union's green and digital transition priorities. The co-signatories warmly welcome these efforts and the targeted approach of the Commission to find solutions to the identified gaps while preserving the fundamental principles on which the competition rules rest. Furthermore, the co-signing Member States support the Commission's intention to await the full effect of these efforts before proceeding with new initiatives.

Promoting fair competition and level-playing field both globally and within the Single Market is essential. The EU needs to remain a competitive and attractive environment to do business, to innovate and to invest. Effective and functioning competition enables the EU also to respond to the future opportunities and challenges. Efforts to strengthen EU resilience, for example through IPCEIs, must not undermine the effectiveness of EU competition and state aid control.

In the following, the co-signing Member States reaffirm the guiding principles for competition policy and some of the initiatives that have been launched as well outline our priorities for the ongoing work:

- **Call to continue strong evidence based and independent enforcement.** Effective competition has served us well in the past and is a prerequisite for the recovery of EU's economy. It is further a key ingredient in the work to strengthen the Union's resilience, as resilience assumes markets characterized by efficient price-setting, choice and innovation. Therefore, it is vital to preserve evidence-based and unbiased enforcement of the competition rules. We strongly believe that the policy alignments as well as individual decisions should be based on (economic) facts that reflect the actual functioning of the market. In this regard, it is especially important not to introduce new enforcement principles, which would weaken this approach. Consistency and stability is important in recovery times to foster and maintain innovation, legal certainty and competitiveness both on the Single Market and in relation to competition from third countries.

- **Emphasize the importance of the current framework for EU merger control rules and Commission’s current practice of interpreting the rules.** On this background, the co-signing Member States recall that the evaluation of the guidelines of the Merger Regulation undertaken by the Commission will address the issue of “killer or predatory” acquisitions. The co-signing Member States encourage the Commission to await the full effect of this exercise taking duly into account that changing the current principles, on which the Merger Regulation is based, would risk leading to negative effects on competition, markets and growth on the Single Market.
- **Support the Commission’s efforts to address regulatory gaps** in relation to foreign subsidies distorting the Single Market, ensuring that the EU actions are WTO compatible and do not unduly restrict trade, as well as proposals concerning digital platforms. The Member States recall, in particular: the ECN+ directive, the Regulation to address distortions caused by foreign subsidies in the Single Market and the Digital Market Act (DMA).
- **Support that the ongoing review of (horizontal and vertical) block exemption regulation and guidelines** is based on evidence and sound economic analysis.
- **The ongoing review of EU’s State aid rules** should lead to a modernisation of the guidelines allowing them to better support the Union’s common goals of a green and digital transition. This should, however, not entail a permanent relaxation of GBER leading to distortion and harming the competition on the Single Market.