



Plenary sitting

A9-0168/2021

18.5.2021

REPORT

on competition policy – annual report 2020
(2020/2223(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Johan Van Overtveldt

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION.....	22
INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE.....	29
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	30

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on competition policy – annual report 2020 (2020/2223(INI))

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Articles 101 to 109 thereof,
- having regard to the relevant Commission rules, guidelines, resolutions, public consultations, communications and papers on the subject of competition,
- having regard to the Commission report of 9 July 2020 on Competition Policy 2019 (COM(2020)0302) and to the Commission staff working document published as a supporting document on the same date,
- having regard to its resolution of 18 June 2020 on the Annual Report on EU Competition Policy¹,
- having regard to the Commission communication of 10 March 2020 on a New Industrial Strategy for Europe (COM(2020)0102),
- having regard to the Commission communications of 19 March 2020, 4 April 2020, 13 May 2020, and 2 July 2020 on a Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, and subsequent amendments thereto²,
- having regard to the Commission communication of 21 September 2020 on Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021 (C(2020)6400),
- having regard to the Commission’s White Paper of 17 June 2020 on levelling the playing field as regards foreign subsidies³,
- having regard to the Commission’s decision of 17 December 2020 to clear the acquisition of Fitbit by Google, subject to conditions,
- having regard to the European Court of Auditors’ (ECA) Special Report 24/2020 entitled ‘The Commission’s EU merger control and antitrust proceedings: a need to scale up market oversight’⁴,
- having regard to the State of the Union address by the President of the Commission,

¹ Texts adopted, P9_TA(2020)0158.

² https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html

³ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2020:253:FIN>

⁴ https://www.eca.europa.eu/Lists/ECADocuments/SR20_24/SR_Competition_policy_EN.pdf

Ursula von der Leyen, of 16 September 2020,

- having regard to the written and oral replies given by then Commissioner-designate Margrethe Vestager at the hearing by the European Parliament on 8 October 2019,
- having regard to the joint statement by the European Competition Network (ECN) of 23 March 2020 on the application of competition law during the Corona crisis⁵,
- having regard to the report of 4 April 2019 by high-level Commission experts entitled ‘Competition policy for the digital era’⁶,
- having regard to the Council conclusions of 22 March 2019 on jobs, growth and competitiveness,
- having regard to the conclusions of the Special European Council meeting of 1 and 2 October 2020,
- having regard to the Commission notice to stakeholders of 2 December 2020 on the withdrawal of the United Kingdom and EU rules in the field of competition, and that of 18 January 2021 on the withdrawal of the United Kingdom and EU rules in the field of State aid,
- having regard to the study of December 2020 by the Policy Department for Economic, Scientific and Quality of Life Policies at the European Parliament entitled ‘Impact of state aid on competition and competitiveness during the COVID-19 pandemic: an early assessment’ ,
- having regard to the US House Judiciary Committee’s Antitrust Subcommittee report of 6 October 2020 entitled ‘Investigation of Competition in the Digital Marketplace: Majority Staff Report and Recommendations’⁷,
- having regard to the UK Competition and Markets Authority’s research paper of 19 January 2021 entitled ‘Algorithms: How they can reduce competition and harm consumers’,
- having regard to the EU’s 2030 greenhouse gas emissions target, as endorsed by EU leaders in December 2020,
- having regard to the Commission communication of 11 December 2019 on the European Green Deal (COM(2019)0640),
- having regard to the Commission communication of 20 May 2020 entitled ‘EU Biodiversity Strategy for 2030 – Bringing nature back into our lives’ (COM(2020)0380),
- having regard to the Commission communication of 11 March 2020 on a new Circular

⁵ https://ec.europa.eu/competition/ecn/202003_joint-statement_ecn_corona-crisis.pdf

⁶ <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>

⁷ <https://int.nyt.com/data/documenttools/house-antitrust-report-on-big-tech/b2ec22cf340e1af1/full.pdf>

Economy Action Plan for a cleaner and more competitive Europe (COM(2020)0098),

- having regard to Rule 54 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs (A9-0168/2021),
- A. whereas consumers benefit from competitive markets, especially when they result in fair prices and wider choices of quality products; whereas EU competition policy is designed to maintain an open market economy with free, fair and effective competition favouring an efficient allocation of resources and promoting innovation, thereby paying particular attention to the needs of SMEs and the creation of a level playing field, to the benefit of all EU citizens; whereas this fundamental objective remains relevant even in crisis conditions;
- B. whereas the Commission responded to the outbreak of the COVID-19 crisis promptly by adopting special temporary competition rules to remedy a serious disturbance to the European economy;
- C. whereas exceptional and temporary measures to respond to the pandemic should not be applied in the form of anticompetitive behaviour, nor should they be exploited by financially unhealthy companies to receive additional aid without the necessary and effective restructuring plans;
- D. whereas all State aid should be designed and granted in an economically, socially and environmentally responsible manner; whereas in the long run, competition policy should efficiently address social, digital and environmental challenges, and should be fully in line with the priorities outlined in the European Green Deal and the objectives of the Paris Agreement;
- E. whereas smart reconciliation of the Union's competition rules with its industrial, digital, environmental, social and international trade policies is essential for ensuring a level playing field in all sectors, strengthening resilient value chains and bolstering job creation and global competitiveness, thus contributing to an SME-friendly trade environment;
- F. whereas unfair competition between Member States hinders the proper functioning of the internal market;
- G. whereas the Commission is currently carrying out a general review of the effectiveness of competition policy enforcement, including antitrust regulations, a number of State aid rules and guidance, the evaluation of merger control rules and the review of the Market Definition Notice;
- H. whereas economic boycotts against products from specific geographical areas in the EU constitute a serious violation of competition rules and should be addressed effectively;
- I. whereas the increasing challenges of competing with a deeply subsidised major economy like that of China require measures to strengthen EU companies in the face of non-EU competitors;

- J. whereas an open market architecture in trading and clearing allowing for genuine competition among market infrastructures is key for preserving and strengthening the resilience of EU capital markets, incentivising market-led innovations, and thus delivering better outcomes for pensioners, businesses and investors;
- K. whereas most consumers' gateways to the Internet are restricted to a strikingly small number of digital ecosystems and large platforms; whereas the COVID-19 pandemic has accelerated the pace of digitalisation, posing new challenges to the effectiveness of competition policy, especially in the field of antitrust rules where, to date, *ex ante* interventions are not allowed;
- L. whereas data scandals, investigations and evidence have shown how personal data is being collected and stored, often in an excessive manner, as well as being used and sold to third parties by platforms, and how dominant technology players and platforms have been systematically tracking consumers online;
- M. whereas some undertakings, which benefit from a dual status as both platforms and suppliers, abuse their position to impose unfair terms and conditions on competitors;
- N. whereas analysts predict⁸ that Amazon, Facebook and Alphabet Inc. (Google) will collectively capture 61 % of all digital advertising in 2021, representing a doubling of their market share since 2015; whereas Facebook and Alphabet Inc. (Google) earn 98.53 % and 83.3 % of their respective revenues from digital advertising⁹;
- O. whereas fines issued by competition authorities have often failed to have a deterring effect for large technology companies as they are merely considered as costs of doing business;
- P. whereas antitrust tools should be made adequate to face the new realities of rapidly changing digital and technology markets;
- Q. whereas a level playing field between financial services firms and technology firms is needed to ensure competition on an equal footing, following the principle of 'same risk, same activity, same regulation';
- R. whereas algorithms can greatly enhance efficiency and allow firms to deliver better products and services to consumers; whereas, however, intentional or unintentional misuse of algorithms can cause harm to consumers and competition;
- S. whereas EU competition and State aid rules should be coherent with and could significantly contribute to the European Green Deal, the EU's digital strategy, the European Pillar of Social Rights and the UN Sustainable Development Goals; whereas EU State aid cases hardly refer to such overall EU policy objectives;

General considerations

⁸ GroupMWorldwide, Inc., This Year Next Year: The End-Of-Year Forecasts December 2020. <https://www.groupm.com/this-year-next-year-global-end-of-year-forecast-2020/>

⁹ Statista dossier on Google, Amazon, Facebook, Apple, and Microsoft (GAFAM), Article (2020), <https://www.statista.com/study/47704/google-apple-facebook-amazon-microsoft-gafam/>

1. Highlights that a competition policy aiming to ensure a level playing field in all sectors, drive innovation and give consumers more and higher quality choices, is crucial for guaranteeing the proper functioning of the single market;
2. Expresses its concern regarding the increase in industry concentration in Europe; observes in this regard that between 2001 and 2012 the average industry across 10 European economies saw a 2-3 percentage point increase in the share of sales of the largest 10 % of companies; warns that this increase is observed for both manufacturing and non-financial services and is not driven by digital-intensive sectors; notes that increases in industry concentrations lead to higher mark-ups associated with higher profits at the expense of European consumers;
3. Believes that a strict and impartial enforcement of EU competition rules by independent competition authorities is crucial for European companies active in the internal market and at international level, especially for SMEs, and can make a significant contribution to key political priorities such as a deeper and fairer internal market, a connected digital single market, the Union's global competitiveness, the fight against social inequalities and the climate crisis, as well as to European values regarding environmental standards, social affairs, climate policy and consumer protection; emphasises, however, the importance of well-dosed flexibility in crisis conditions;
4. Welcomes the consultation on competition law and the European Green Deal as a step towards greater policy coherence; calls on the Commission to present a comprehensive and forward-looking action plan on how competition rules and State aid should be revised;
5. Considers that ensuring a level playing field for undertakings in the single market and in global markets, which is key for especially SMEs and for the creation of decent and sustainable jobs within and outside the EU, also depends on decisively and effectively combating social, environmental and fiscal dumping; calls on the Commission, in this regard, to step up its efforts to establish a legal framework for a mandatory human rights and environmental due diligence instrument;
6. Highlights that aggressive tax practices by multinationals, harmful tax practices and tax advantages targeted at large companies may stifle innovation and jeopardise the contestability of markets, especially for SMEs, which are the backbone of the European economy;
7. Underlines the importance of the European Competition Network (ECN) in supporting cooperation between national competition authorities (NCAs) and the Commission with a view to promoting fair competition within the single market through strengthened enforcement and the sharing of best practices ;
8. Encourages the structured dialogues with the Executive Vice-President of the Commission for Competition and the efforts of the Commission to maintain close cooperation with the members of Parliament's competent committee; considers the Commission's annual report on competition policy to be an indispensable exercise in terms of democratic scrutiny; recalls that in recent years, Parliament has been involved through the ordinary legislative procedure in shaping the framework for competition rules; insists on Parliament's co-decision powers to shape the framework for

competition rules;

9. Asks the Commission to use its advocacy powers to highlight the risks of price control measures implemented by governments, including those related to distorting price signals that may encourage production and undermine incentives for new entrants to address shortages;
10. Notes with concern that some Member States have not effectively implemented Council Directive 93/13/EEC on unfair terms in consumer contracts¹⁰, based on the Commission's assessment, with tremendous detrimental effects for consumers and fair competition; calls on the Commission to scrutinise the unfair clauses and practices employed, especially by the banking sector, in consumer contracts and to ensure the effective and swift implementation of this directive using all means available;
11. Recognises that resources for the Commission's Directorate General for Competition (DG COMP) should be adequate to match its workload and range of tasks; considers the need to ensure specific expertise on digital issues and the practices of online platforms with behavioural economists, algorithms specialists, engineers and data scientist; calls on the Commission to inform Parliament of the allocation of resources between State aid control, merger control, and antitrust;

Policy responses to COVID-19

12. Welcomes the adoption of a Temporary Framework for State aid measures, and amendments to prolong and expand it, established in response to unexpected developments related to the unprecedented COVID-19 crisis to enable Member States to support companies during the pandemic; supports the maintenance of exceptional measures for as long as the recovery is ongoing, but underlines that the Framework is a temporary tool; stresses that restoring effective competition in the medium to long term is key to ensuring that the recovery is rapid and consistent; notes substantial differences between Member States regarding their available fiscal space for the provision of State aid;
13. Welcomes the Commission communication on a Temporary Framework for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak; considers that guidance and support on antitrust rules facilitates the cooperation required to overcome the COVID-19 crisis, and thus benefits consumers;
14. Notes that the Temporary Framework includes certain conditions for certain types of State aid measures such as recapitalisation; welcomes in this regard conditions such as a ban on dividend distribution, bonus payments and share buybacks; regrets, however, that such conditions were not imposed on other State aid measures; calls on the Commission to impose such conditions on all State aid measures in the Temporary Framework, including, in particular, recapitalisation measures, which should be considered only as a solution of last resort by Member States, due to the major

¹⁰ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29.

distortive impact they can have on the internal market;

15. Calls on the Commission to adopt a legislative proposal in relation to the ban on protecting intellectual property rights for inventions or discoveries concerning vaccines designed to treat endemic or pandemic infectious diseases in the world population;
16. Underlines that the actions of the Commission aimed at eliminating the conditions that lead to monopolies and dominant positions and at limiting public funding to companies which could lead to such conditions does not provide any solution to the issue of systemic and structural disadvantages that affects the competitiveness of businesses based in and operating from European insular territories and outermost regions;
17. Highlights the importance of policy coherence and of any aid granted being issued only to companies enduring direct financial consequences of the pandemic; urges, furthermore, that companies using tax havens outside the EU for tax avoidance be banned from accessing State aid or financial support if they do not commit to changing their behaviour;
18. Calls on the Commission and the Member States to launch a post COVID-19 roadmap for better targeted State aid in order to promote competitiveness and safeguard jobs; suggests that such a roadmap could include measures to tackle market fragmentation and distortions due to an uneven playing field, an analysis of the impact of State aid on the internal market, and clear guidance on how best to use competition policy tools to foster the recovery; urges the Commission, furthermore, to mainstream industrial, digital and green strategies in setting the future conditions for State aid;
19. Reiterates the priority of ensuring that State aid rules and European banking regulation are strictly and impartially enforced, including when dealing with future banking crises; calls on the Commission to examine swiftly the discrepancies between the rules on State aid in the area of liquidation aid and the resolution regime under the Bank Recovery and Resolution Directive¹¹ (BRR Directive), and to review its Banking Communication of 30 July 2013¹² in the context of the review of the crisis management framework, including in the light of recent cases, taking into account the need to protect taxpayers and savers against the burden of bank rescues;
20. Notes that EU competition and State aid rules should not be seen in isolation of monetary, trade and fiscal policies; calls for reflection on possible distortions of competition arising from the European Central Bank's corporate bond purchases; emphasises in this regard the notion of selectivity in State aid and Article 4(3) of the Treaty on European Union (TEU) which contains the so-called principle of loyalty;
21. Calls on the Commission to ensure and monitor the proper use and distribution of the different EU funding measures in response to the COVID-19 crisis, including through Member States' National Recovery and Resilience Plans (NRRPs) of the Recovery and

¹¹ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, OJ L 173, 12.6.2014, p. 190.

¹² Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 216, 30.7.2013, p. 1.

Resilience Facility, which should be in accordance with EU competition and State aid rules, must not lead to any distortions of competition, and must be applied equally to all companies, in particular in critical sectors such as telecommunications, energy and transport; urges the Commission to oversee any such potential distortions of competition; stresses that State aid should not be granted to companies that were inefficient and structurally loss-making before the COVID-19 crisis, nor encourage the formation of monopolistic structures;

Global dimension

22. Emphasises the importance of an increasingly intense structured global dialogue and cooperation on competition policy enforcement and reform for a common approach towards fair competition;
23. Supports an active participation of the Commission and the NCAs in the International Competition Network (ICN) and urges for closer involvement of Parliament in the activity of the relevant working parties and expert groups of the ICN and the OECD;
24. Supports the Commission's strategy to eliminate the negative effects caused by the unlawful extra-territorial application of unilateral sanctions by non-EU countries against EU operators; welcomes, in this regard, the Commission communication of 19 January 2021 entitled 'European economic and financial system: fostering openness, strength and resilience' (COM(2021)0032);
25. Stresses that dedicated cooperation agreements with non-EU countries in the area of competition policy can meaningfully contribute to the effectiveness of competition policy and invites the Commission to pursue more of such dedicated competition agreements in order to allow for a more effective exchange of information between competition authorities; recalls, furthermore, that the EU must ensure a level playing field and reciprocity with its international partners in terms of State aid, public procurement and investment policy; calls on the Commission to reinforce State aid chapters in future trade and investments agreements;
26. Calls on the Commission to pay attention to the role of foreign-based state-owned enterprises that are supported and subsidised by their governments in ways that the EU single market rules prohibit for EU entities; expresses its concern about distortive state-funded competition caused by foreign undertakings acquiring European undertakings, especially those active in innovative or strategic sectors and technologies, those aligning with the European Green Deal, and those weakened by the COVID-19 pandemic;
27. Welcomes as a preliminary step the entry into force of Regulation 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union¹³ as well as the Commission's White Paper on levelling the playing field as regards foreign subsidies; observes the continued foreign takeover pressure on European companies and warns that urgent action is needed; looks forward, therefore, to the Commission's upcoming legislative proposal aimed at addressing the distortive effects of foreign subsidies on the internal

¹³ OJ L 79I, 21.3.2019, p. 1.

market;

28. Is of the view that EU undertakings should be able to compete in global markets on an equal footing; calls on the Commission, therefore, to adapt its competition and State aid policy in order to promote serious industrial development; highlights that a smart industrial policy can help to reallocate resources to certain key sectors without distorting competition, and thus lay the groundwork for a resilient and sustainable economy in the long term; is of the opinion that the Union and the Member States need to enhance synergies between targeted EU policies, investments and competition policy to foster jobs and resilient value chains in order to achieve EU autonomy in certain strategic industries while preserving an open economy;
29. Calls for strong investment in research and development by European industry, with a view to ensuring a level playing field between producers inside and outside the EU, achieving the objectives of the European Green Deal, including the transition to low-carbon modes of production, and supporting the competitiveness of EU undertakings vis-à-vis non-EU competitors whose production processes are not subject to the same criteria as those determined at EU level; further calls on the Commission, in this regard, to consider increasing aid for research and innovation as well as for technologies generating positive externalities for the environment or for the overall energy system;
30. Invites the Commission to identify strategic dependencies, particularly in sensitive industrial ecosystems, and to propose measures to reduce these, including by diversifying production and supply chains, fostering production and investment in Europe, and ensuring strategic stockpiling; highlights in this regard the importance of Important Projects of Common European Interest (IPCEI) for investments in disruptive technologies; calls on the Commission, with regard to the upcoming revision of the IPCEI communication, to further promote IPCEIs, to clarify selection rules for IPCEIs, to revise and simplify some implementation criteria and requirements, and to consider allowing for easier co-financing by the EU, in order to facilitate the participation of partners from smaller Member States and to ensure that smaller industrial research projects can more easily benefit from support;
31. Supports the inclusion in EU competition rules of a thorough State aid check on undertakings from non-EU countries, while stressing that the Union should remain open to foreign direct investments complying with its legal framework, respecting European social and environmental standards and not distorting competition; reiterates in this regard its call on the Commission and the Member States, pending consideration of the proposal on the carbon border adjustment mechanism (CBAM), to adopt reinforced trade defence instruments to combat unfair trading practices and protect in particular the competitiveness of the industrial sectors; stresses at the same time that competition policy decisions should not be used as a protectionist measure and calls in this regard for a spill-over analysis of EU State aid rules on the competitiveness of low and middle-income countries;
32. Notes with concern that compared to other trade agreements, such as the one with Switzerland, the EU-UK Trade and Cooperation Agreement (TCA) is weaker; regrets in particular that the EU-UK TCA does not provide for a full level playing field as regards State aid and competition; calls for the EU and the UK to find common ground to

continuously cooperate and strive towards fair competition and a level playing field;

Competition policy in the digital age

33. Welcomes the Commission's determination to address unfair terms and practices of platforms acting as gatekeepers, act decisively, and eliminate illegitimate obstacles to online competition in the European digital single market; regrets the slowness of antitrust investigations compared to fast-moving digital markets; underlines in this regard that 10 years after the opening of an investigation into Google search bias practices, the Commission has still not completed its investigation; considers that in the digital economy, the concentration of data in the hands of a small number of companies leads to market failures, excessive rent extraction and blocking of new entrants;
34. Considers, while acknowledging efforts made, that problems linked to large technology undertakings' excessive market dominance have so far been insufficiently addressed and need to be resolved urgently;
35. Recognises the challenges ahead for competition policy-making and enforcement related to, inter alia, network effects, the concentration, aggregation and use of data in zero-priced markets, pricing algorithms, the structuring of big platforms and market intervention;
36. Calls on the Commission to give due attention and careful consideration to structural competition problems relating to gatekeeping positions of incumbent payment networks, which have only grown during the COVID-19 pandemic;
37. Welcomes the Commission's appeal of the Apple ruling¹⁴; is of the opinion that the Apple case shows once again the need for sound State aid rules, taking into account beneficial tax regimes;
38. Notes that traditional instruments used by competition authorities such as investigations into the possible abuse of a dominant market position take a very long time, which has proven to be a problem in fast-moving digital markets; welcomes, therefore, the Commission's assessment regarding the need for new competition tools that might be needed to deal with structural competition problems across different markets which current rules cannot address in the most effective manner and calls for careful Commission surveillance of these markets so as to be able to quickly and efficiently detect and intervene on major issues and legal loopholes; notes that fines issued by competition authorities have often failed to have a deterring effect for large technology companies as these are merely considered costs of doing business;
39. Welcomes the Commission proposal for a Digital Markets Act (DMA) to prohibit platforms from engaging in self-preferencing business practices (including mandatory bundling/pre-installation), or operating in lines of business that depend on or interoperate with the platform, as well as to require platforms to make their services compatible with competing networks to allow for interoperability, including of core services, data portability and multi-vendor integration; calls on the Commission to address cases where remedies offered have clearly been ineffective at restoring

¹⁴ Judgment of 15 July 2020, *Ireland and Others v Commission*, T-778/16 and T-892/16, EU:T:2020:338.

competition to the comparison-shopping market;

40. Recalls that data-driven advantages linked to data sharing and data selling, but also services set as default settings, risk conferring on some companies the position of ‘gatekeeper’ in digital markets, and that this needs to be addressed effectively by the DMA; takes the view that the Commission should have the ability to force a gatekeeping platform to substitute certain default settings by an effective and objective consumer choice architecture;
41. Considers that the structural unbundling of Big Tech monopolies may be desirable for restoring competition in digital markets given the limits of fines and the failure of past behavioural remedies in certain antitrust cases; stresses that targeted and effective behavioural remedies offer a time-efficient solution; suggests implementing a participative antitrust framework in order to foster continuous dialogue with all undertakings, increase legal certainty, transparency and consumer protection, and ensure effective remedies;
42. Urges the Commission to speed up procedures, in particular with regard to antitrust and in rapidly growing digital markets; and asks for cooperation in this regard also from the companies under investigation; condemns the practice by some companies under investigation of artificially prolonging investigations by systematically requesting prolongations of deadlines and by replying to requests for information only with substantial delays or submitting ineffective proposals for commitments they would take;
43. Notes, furthermore, that while it is important to ensure due process and the right of defence of undertakings under investigation, there is a need to make administrative procedures faster and more efficient; stresses the need to look into the possibility of making more systematic use of specific measures such as interim measures, as well as other structural and behavioural remedies, in order to prevent irreversible distortions of competition; recalls, in this regard, that in the annex of the ECN+ Directive¹⁵, the Commission identified ‘interim measures’ as ‘a key tool for competition authorities to ensure that competition is not harmed while an investigation is on-going’; regrets and is concerned that interim measures have been used only once in 20 years; calls on the Commission to revise the Notice on Remedies¹⁶ by taking into account the developments and evolution of the digital sector over recent years;
44. Welcomes the fact that the Commission’s proposals for a Digital Services Act and a Digital Markets Act take a distinct approach towards all digital services, very large digital services, and gatekeepers; notes in particular that the aim of the DMA proposal is to ensure the proper functioning of the internal market by promoting effective competition, a level playing field in digital markets and a fair and contestable online platform environment; regrets the absence of adequate measures against advertising intermediaries in the draft proposals; notes that the first enforcement action under the new DMA regulation will only be possible in five years; urges the Commission,

¹⁵ Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 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.

¹⁶ Commission notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004. OJ C 267, 22.10.2008, p. 1.

therefore, to pursue its antitrust enforcement in new and pending cases involving gatekeepers in the digital environment;

45. Highlights the importance of an adequate enforcement framework in the future DMA; considers that the supervisory function of the Commission should be sufficiently resourced and that the supervisory process should allow the participation of all actors, including NCAs, national sectoral regulators, the European Data Protection Board, the European Data Protection Supervisor and consumer organisations; stresses that the design of remedies should not be left to the sole appreciation of the incriminated company, but should instead be subject to a strict compliance mechanism;
46. Considers that the DMA proposal is a complementary tool to competition rules that aims to ensure fair and contestable online markets; stresses that it should not jeopardise the proper enforcement of competition law already in force, including existing national laws, nor prevent the Commission from making full use of its existing tools in competition enforcement; refers in this regard to pending concerns related to the Android decision¹⁷ and insufficient competition in online search;
47. Notes that the remedies proposed by Google have been rejected as insufficient by market players and consumer organisations across Europe; calls on the Commission to file antitrust charges against Google for abuse of dominance in other specialised search services, including local search;
48. Calls on the Commission to make full use of its competition policy instruments to guarantee a fair level playing field and to address potential gatekeeper effects with regard to access to key enabling technologies for artificial intelligence and data;
49. Considers that Parliament should play an active role in the political debate on competition policy, including through organising a public hearing with the CEOs of GAFA (Google, Amazon, Facebook, Apple) on their corporate strategies in the field of competition and taxation practices;
50. Underlines the importance of the transparency register to ensure public scrutiny of lobbying efforts with the aim of preventing distortion of competition; calls for an enhanced EU transparency register with information related to funding of companies or associations in order to prevent stakeholders from acting on behalf of other companies without specifying that they are doing so;
51. Stresses the importance of helping consumers and users to gain greater control over, and take responsibility for, their own data and identity, and calls for a high level of protection of personal data while increasing the levels of transparency and accountability of digital services; recalls that consumers have no other choice than giving their consent if they do not want to lose access to some services offered by online platforms; calls in this regard for a mandatory data sharing framework providing consumers with tools to rightfully take ownership of and manage their own data in a simpler and more effective manner;
52. Calls on the Commission to review its merger and acquisition rules when it comes to

¹⁷ Judgment of 23 September 2019, *Google v Commission*, T-604/18, EU:T:2019:743.

assessing personal data; calls on the Commission to fully consider and assess personal data assets in the same way as all other traditional physical assets when deciding on digital mergers and acquisitions; urges the Commission to take a broader view when evaluating digital mergers and to also assess the impact of data consolidation, including of advertising technology at the heart of big tech companies' business models;

53. Notes that the acquisition of targets with specific data resources can bring about a concentration in control over valuable and non-replicable data resources and result in better data access for the merging parties than for their competitors; stresses that data consolidation via mergers may strengthen a dominant position or allow the acquiring entity to leverage market power, and sometimes raise foreclosure concerns; regrets, therefore, the Commission's decision to approve Google's takeover of the wearable fitness device company Fitbit; is worried about future processing of personal data from Fitbit users, including data concerning health, that may be used for the purposes of digital advertising; stipulates that data concerning health should be seen as a special category of personal data, as laid down in Article 9 of the General Data Protection Regulation¹⁸ (GDPR); notes that the remedies proposed by Google and endorsed by the Commission are insufficient to ensure effective competition in wearables and digital health, which are becoming increasingly important in consumers' lives;
54. Notes that in several specific markets for financial data, there are multiple vendors and, although none of them has a dominant market share, competition remains very low; notes also that some financial market data vendors positioned as data aggregators could act as gatekeepers and as such control access to data and restrict usage for customers; calls on the Commission to assess such situations where companies acquire the position of gatekeepers or oligopolies and to develop measures to restore competition, supporting price transparency and avoiding unfair and unreasonable commercial practices;
55. Regrets and expresses its concern at the acquisition in 2014 of WhatsApp by Facebook; recalls that the Commission was lied to by Facebook during the process of assessing the take-over about its technical capability to use WhatsApp data for the purposes of digital advertising; stipulates that Facebook started in 2016 to use metadata from WhatsApp conversations for the purposes of advertising; recalls that the Commission fined Facebook in 2017 for having lied during its assessment process; reiterates that Article 105 of the TFEU obliges the Commission to propose appropriate measures to bring an end to infringements of Articles 101 and 102 of the TFEU; calls on the Commission to put forward appropriate measures to bring an end to the use of WhatsApp users' data for Facebook's advertising purposes;
56. Calls for the Union's infrastructure and operational resilience capacity in critical digital sectors to be enhanced, including by encouraging fair competition and promoting fair software licensing principles in European cloud markets; considers sustainable competition and the avoidance of monopolistic structures in markets vital for Europe's digital transition, economic recovery and competitiveness;

¹⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. OJ L 119, 4.5.2016, p. 1.

57. Calls on the Commission to review and adapt the methodology used to assess an abuse of dominant position and ensure that the notion of ‘essential facilities’ remains fit for the purpose in the digital age; invites the Commission to consider complementing the concept of ‘dominance’ with concepts such as ‘dependency’ and ‘relative market power’;
58. Notes that some oligopolistic structures have developed in the area of financial services, and also that some large technology undertakings have become important players in the financial services market; calls on the Commission to monitor and investigate how the competitive advantages inherent to these operators may distort competition in the market and harm the interests of consumers and innovation;
59. Considers that the protection of privacy and personal data, the principle of non-discrimination, and the freedom of expression and information need to be ingrained in the core of a successful and durable EU policy on digital services;

State aid control

60. Notes that State aid policy is an integral part of competition policy and that State aid control reflects the need to maintain a level playing field for all undertakings carrying out activities in the single market;
61. Reiterates that Services of General Economic Interest (SGEI) remain essential for the survival of a number of communities across Europe, especially in isolated, remote or peripheral regions in the Union; welcomes the Commission’s open consultation regarding government subsidies for essential services; welcomes the recently adopted new Guidelines on regional State aid; recalls the need for a road map for better targeted State aid, especially for the delivery of SGEI;
62. Calls on the Commission and the Member States to launch a territorial assessment of the socioeconomic impact of the COVID-19 crisis in the context of the application of State aid rules and the relevant ongoing revision process; notes that, in this regard, special attention should be paid to analysing impacts on enterprises based in EU islands and outermost regions, in accordance with the provisions of Articles 174 and 349 of the TFEU;
63. Calls on the Commission to give careful consideration to sectors which are the basis of many other industries, as well as the Union’s sustainable social and economic value chain; reiterates the need to promote technologies and production practices that lead to significantly reduced environmental impacts;
64. Calls for the alignment of all EU competition and State aid rules with long-term societal objectives, in particular the European Green Deal, taking into account the EU’s climate commitments; regrets that while the definition of the energy mix remains a national competence, most Member States do not make State aid conditional to such objectives;
65. Welcomes the consultation launched on how competition policy can support the European Green Deal and better take into account green and sustainable efficiencies when dealing with State aid, merger control and antitrust rules; calls on the Commission, as part of its upcoming revision of the Guidelines on State aid for

environmental protection and energy and on horizontal cooperation agreements, to put in place concrete incentives and conditions to continue on the path of decarbonisation; calls in particular for guidance on repowering, hybrid projects and electricity storage and on investments in energy efficiency and building renovation; reiterates, moreover, that the transition to a climate-neutral economy requires measures to deal with structural change, including the identification of coal regions as assisted areas in accordance with Article 107(3) of the TFEU;

66. Notes with concern that the recovery of illegal State aid remains a lengthy and cumbersome process; highlights, furthermore, that the transparency and traceability of the State aid cases evaluation process should be enhanced, taking into account a non-negligible risk of interconnectedness between cases;

Merger control, antitrust and cartels

67. Urges the Commission to remain vigilant and strictly enforce Article 102 of the TFEU prohibiting the abuse of a dominant position as well as its merger control procedures, enshrined in Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings¹⁹ (Merger Regulation);
68. Welcomes the Commission's commitment to review its 1997 Notice²⁰ on the definition of relevant market in the Commission's merger and antitrust enforcement; encourages the Commission, on a case-by-case basis, to take into account a longer-term vision encompassing the global dimension and potential future competition in its competitive assessments; highlights that in the past, the Commission's definition of the relevant market might have been too narrow to sufficiently take into account dynamic competition in global markets; calls on the Commission to adopt a more dynamic approach to market definition, making innovation criteria a core element of relevant market analysis when it comes to European merger control;
69. Calls on the Commission to revise mergers guidelines to take into account efficiency gains linked to mergers, including the challenge of EU industrial competitiveness; welcomes in this regard the fact that DG COMP's Priorities and Strategic Coordination Unit is able to draw on the expertise of all the Commission's Directorates-General with regard to DG COMP investigations; believes that the expertise behind the Commission's industrial and sectoral strategy could be strengthened in support of DG COMP's investigation teams in order to identify the feasibility and consequences of remedies with regard to the Commission's priorities;
70. Reiterates its call on the Commission to carry out an evaluation of the Damages Directive²¹, once sufficient experience from the application of the new rules has accumulated in all Member States in order to assess the potential need to make some changes for a more effective and harmonised enforcement of damages actions across the

¹⁹ OJ L 24, 29.1.2004, p. 1.

²⁰ OJ C 372, 9.12.1997, p. 5.

²¹ Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union. OJ L 349, 5.12.2014, p. 1.

EU;

71. Welcomes the introduction of the ‘eLeniency tool’ by the Commission; recalls that with the swift development of digital markets, new challenges arise for the implementation of competition policy; recommends in this regard that the Commission look into the possibilities of *ex ante* intervention, especially in digital markets, and of providing EU and national competition and regulatory authorities with the necessary means to gather data anonymously so as to be able to better detect market failures in due time;
72. Points out that abuse of market power and related unjust behaviour, such as a degradation in quality or extortive practices, can take place even when products or services are supplied for free; stresses that EU consumers’ interests go beyond low prices and, in line with the principles of the TFEU, also include quality, innovation, productivity, sustainability, environmental protection and the proliferation of fair trading relations; considers that competition policy should better integrate the value of public goods and externalities associated with certain types of production;
73. Recalls that the European Court of Justice’s interpretation of Article 101 of the TFEU takes into account the different aims of the Treaties; points in particular to the *Wouters* judgment²² in which the general interest was predominant and therefore limitations of competition were considered to be justified; calls on the Commission to formulate a ‘theory of harm’, which should transcend price-centric approaches and account for broader considerations, while stressing the importance of the proportionality principle, meaning that limitations of competition cannot go beyond what is necessary for the general interest; calls on the Commission, furthermore, to issue guidance in this regard on the interpretation of ‘significant impediment to effective competition’ under the Merger Regulation;
74. Agrees with the European Court of Auditors (ECA) that, overall, the Commission makes good use of its enforcement powers in merger control and antitrust proceedings, although improvements are necessary in a number of areas; notes in particular that the turnover thresholds might not be suitable to detect all cases that should be reviewed by competition authorities; calls on the Commission, therefore, to consider revising the thresholds in order to include factors such as the number of consumers impacted and the value of the related transactions as part of its ongoing evaluation of the Merger Regulation; calls on the Commission, furthermore, to also assess higher levels of concentration due to horizontal ownership by large asset management companies in its ongoing evaluation of the Merger Regulation and to consider providing guidelines on the use of Articles 101 and 102 of the TFEU in this respect;
75. Notes that while the ECA rightly points out that the amount of fines does not allow conclusions to be drawn on whether they are effective deterrents, the ECA also underlines that, in itself, the ceiling of possible fines can limit the deterrent effect in ‘serious cases’; points out in this regard that, while the level of fines imposed by the Commission is among the highest in the world, nearly two thirds of the fines imposed by the Commission in cartel cases since 2006 stayed below 0.99 % of global annual turnover, thus well below the allowed ceiling of 10 % of a company’s annual worldwide

²² Judgment of 19 February 2002, *J. C. J. Wouters, J. W. Savelbergh and Price Waterhouse Belastingadviseurs BV v Algemene Raad van de Nederlandse Orde van Advocaten*, C-309/99, EU:C:2002:98.

turnover²³; calls on the Commission to evaluate the deterrent effects of its fines and to consider imposing fines of up to 40 % of global annual turnover in serious cartel cases;

76. Recalls that cartels represent some of the most serious violations of competition law and that monopolies are the most concerning form of market concentration; stresses the importance of tracking down illegal cartel behaviour, as such infringements of competition law go against the interests of EU citizens, leading to significantly higher costs for consumers and a risk of stifling innovation and quality;
77. Highlights that in the face of a crisis, some firms may be tempted to reorganise the structure of an industry by entering into so-called ‘crisis cartels’, i.e. agreements among most or all competitors to restrict output and/or reduce capacity in order to increase profitability and prevent market exit in times of crisis;
78. Suggests looking into ‘killer acquisition’ practices that could jeopardise innovation and the flourishing of European start-ups and small enterprises; welcomes in this regard the initiative of the Commission to encourage greater use of the ‘Dutch clause’ of Article 22 of the Merger Regulation and to start accepting referrals from national competition authorities of mergers that are worth reviewing at EU level; calls on the Commission to review and issue guidelines on its referral practice based on the aforementioned Article, in parallel with the obligation to inform about concentrations provided for in the Digital Markets Act;

Sectoral developments

79. Reiterates that it is deeply concerned about the far-reaching concentration in the European agricultural and food supply chain to the detriment of consumers, small-scale farmers, the environment and biodiversity alike; highlights that excessive processor or buyer power downstream in the supply chain leads to an unsustainable downward pressure on farm prices;
80. Welcomes in this regard Directive (EU) 2019/633 of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain²⁴ as an important first step to ensure fairness between operators, combat dual standards in agri-food practices and address imbalances of bargaining power; calls on the Commission to monitor the progress of its transposition closely and to promote the sharing of best practices between Member States;
81. Calls further on the Commission to continue its in-depth analysis of the extent and effect of buying alliances, thereby devoting special attention to guaranteeing fair competition and greater transparency in supermarket and hypermarket chains’ commercial practices, particularly where such practices affect brand value and product choice or limit innovation or price comparability, in order to ensure that farmers receive fair conditions and prices for their products; regrets in this regard the fact that selling at a loss is not prohibited at EU level;

²³ https://www.eca.europa.eu/Lists/ECADocuments/SR20_24/SR_Competition_policy_EN.pdf

²⁴ OJ L 111, 25.4.2019, p. 59.

82. Draws attention to the growing number of farmers' protests and notes that the cumulative impact of free trade agreements on the EU's agri-food sector is one of their participants' concerns; regrets that the Commission continues to negotiate free trade agreements at any cost; calls on the Commission to pay particular attention to any anti-competitive practices by non-EU countries that risk penalising the EU's agriculture sector and farmers, given differences in social, health, labour, environmental and animal welfare standards outside the EU; calls for the application of the principles of reciprocity and compliance for agricultural products in ongoing and future trade negotiations;
83. Notes that taxation is predominantly a national competence, dependent on the political views and actions of governments and parliaments, and is based on fiscal policies and political aspirations regarding public finances; welcomes the Commission's vigilance in enforcing State aid rules in the area of taxation; reiterates that selective fiscal State aid can create an uneven playing field in the internal market and that aggressive tax planning does not solely harm fair competition but also undermines the proper functioning of social systems in general; highlights the importance of reforming the current taxation system in order to ensure that taxes are paid where value is created; calls on the Commission in this regard to review its State aid guidelines with a view to assessing which fiscal State aid measures distort competition;
84. Notes with concern the fragmentation and divergence in telecommunications and ultra-high-speed internet connections both across Member States and between urban and rural areas all over Europe; recalls that healthy competition is needed in order to close the gap;
85. Emphasises the critical moment for the Union's hospitality industry which has been, from an economic and financial perspective, the hardest hit throughout the ongoing crisis; welcomes State aid directed towards the sector in this context;
86. Calls on the Commission, in its review of the Consumer Credit Directive²⁵, to ensure appropriate consumer protection in the field of consumer credit, including by promoting effective conditions of competition between operators, as well as ease of access; calls in this regard for consumers to be enabled to better compare offers through increased transparency, including by distinguishing direct costs related to the repayment of credit from indirect costs such as charges for third-party services and taxes, which are non-refundable;
87. Is concerned about the purchase by a state-run oil company of a leading press group which owns 20 leading regional newspapers, 120 weekly magazines and 500 online portals²⁶ in the Member State concerned; repeats its call on the Commission to carry out a study into the concentration of media ownership in Europe, particularly in the context of multinational corporations buying out European media providers;

o

²⁵ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC. OJ L 133, 22.5.2008, p. 66.

²⁶ <https://www.dw.com/en/poland-state-run-oil-company-buys-leading-media-group/a-55859592>

88. Instructs its President to forward this resolution to the Council, the Commission, the national parliaments of the Member States and the national, and where applicable, regional competition authorities of the Member States.

24.2.2021

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on competition policy – annual report 2020
(2020/2223(INI))

Rapporteur for opinion: Andrus Ansip

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:

The single market

1. Recalls that competition policy is vital to strengthening the single market by promoting competition and providing a fair and level playing field for all market participants, including micro, small and medium-sized enterprises (SMEs), enabling the growth of innovative businesses, ensuring the competitiveness of EU companies at global level, and guaranteeing a high level of consumer protection, lower prices, better quality and more choice;
2. Recalls that 73 % of the European Union's GDP is generated by services and that the single market for services is less developed than the single market for goods; considers that competition law mechanisms and *ex ante* regulation can help strengthen the single market for digital services;

Consumer protection

3. Emphasises in particular that competition and consumer policies complement each other, as they both aim to protect consumers, ensure the integrity of the single market and help create a level playing field for businesses;
4. Recalls that consumer welfare and the prevention of consumer harm – both online and offline – must remain essential aspects of competition policy, enforcement practices and any future sectoral legislation to achieve an ever-increasing level of consumer protection and consumer welfare;

5. Stresses that the New Consumer Agenda, presented by the Commission as one of its objectives, envisages the continuation of the fight against consumer scams, unfair marketing practices and fraud;
6. Recalls that the Charter of Fundamental Rights of the European Union states that Union policies must ensure a high level of consumer protection;
7. Stresses that competition rules, consumer welfare and sustainability issues are closely interlinked and that the negative externalities associated with certain types of production must not be ignored; calls, therefore, on the Commission to assess how competition policy can further contribute to the Sustainable Development Goals, the Paris Climate Agreement and the European Green Deal;

Digital transformation

8. Notes the changes both businesses and consumers are facing due to the digital transformation and welcomes the Commission's focus on modernising its competition policy to adequately tackle serious problems and market failures in the digital sector;
9. Notes that the Commission decided not to put forward a proposal for a New Competition Tool, and underlines, in this context, that current merger control rules are not fit for dealing with so-called killer acquisitions by dominant players in digital markets;
10. Underlines that competition policy also plays a significant role in the Union's modern industrial policy, with the aim of rendering European companies more innovative and therefore competitive in the single market, as well as internationally;

Ex ante regulation of gatekeepers

11. Recalls that ensuring the efficient regulation of digital markets constitutes a core responsibility of the Committee on Internal Market and Consumer Protection; in this context, highlights the adoption of the P2B Regulation (Regulation (EU) 2019/1150¹) and notes that *ex ante* regulatory intervention aims to address the gaps in *ex post* competition law enforcement;
12. Highlights the importance of major online operators acting as gatekeepers to the digital economy, including access to e-commerce markets, and the risks and opportunities in terms of freedom of choice for consumers and access to markets for companies;
13. Notes that, of the 10 000 internet platforms participating in the EU digital market, the seven largest generate as much as 69 % of the sector's total revenues;
14. Stresses that the existing competition rules do not adequately meet the needs of a functioning single market and therefore welcomes the Commission's intention to correct irregularities in the digital market, inter alia through the adoption of its proposal for a Digital Markets Act (DMA); stresses the important role of *ex ante* regulation in complementing and strengthening *ex post* enforcement of competition law;

¹ OJ L 186, 11.7.2019, p. 57.

15. Notes that regulatory obligations must be proportionate and must in no way aim to create unjustified administrative barriers that prevent the further strengthening of the single market and fair competition;
16. Notes that the proposed rules and better oversight should ensure that markets characterised by large platforms acting as digital gatekeepers remain fair and competitive for innovators, businesses and new market entrants;
17. Notes that successful growth strategies must not automatically trigger remedies, as they can generate economic growth and consumer benefits;
18. Considers that the fair market players, including SMEs, would benefit from the rigorous application of the competition rules; asks the Commission, in this context, to further examine the abuse of dominant position of certain online platforms in order to ensure fair competition and to boost jobs, innovation and sustainable growth;

Access to data

19. Calls on the Commission to ensure and promote fair and secure access to data for all market participants, both in the DMA and in its competition law enforcement practices, taking into account the issues of confidentiality and protection of trade secrets, as well as relevant EU data protection legislation; notes that it should empower consumers to control their data and provide them with additional rights in terms of data portability and interoperability, as laid down in Union law, in order to ensure that the single market for data is based on the European Union's core values, as well as on fair competition; asks the Commission, furthermore, to take into account the effects of access to personal and financial data when assessing market power, since data is a source of considerable economic power and leverage;

Vertical Block Exemption Regulation

20. Notes that the Vertical Block Exemption Regulation has been inadequately adapted to recent market developments, notably the growth of online sales and online platforms; welcomes the impact assessment recently launched by the Commission and calls for further steps to address the issue; underlines that selective distribution agreements and contractual clauses should not lead to the fragmentation of the single market by creating barriers to cross-border trade and distribution; believes that national market segmentation prevents full and fair competition in the Union;
21. Highlights, in this regard, the existence of the anti-competitive effect of persistent territorial supply constraints (TSCs) which can materialise through different practices such as refusing to supply or threatening to stop supplying a particular distributor, limiting the quantities available for sale, inexplicable differences in product ranges and prices between Member States, or limiting language options for product packaging; underlines that TSCs are hampering the development of the single market and its potential benefits to consumers; calls on the Commission to address the anti-competitive effect of TSCs with a view to achieving a fully functioning single market;

Geo-blocking Regulation

22. Notes the Commission's first short-term review of the Geo-blocking Regulation and

calls on the Commission to continue actively monitoring and removing – with a pro-consumer approach allowing consumers to shop seamlessly across the EU – unjustified geo-blocking and other persistent restrictions on cross-border online sales as identified in the review; encourages the Commission to consider proposing appropriate follow-up measures;

Enforcement and supervision

23. Stresses the importance of a clear, predictable, future-proof and comprehensive EU framework to ensure effective enforcement and supervision of competition law at EU level, especially in the context of fast-moving markets; underlines that the compliance of provisions must be reinforced with effective, proportionate and dissuasive penalties, and that EU law should be enforced equally in all Member States; urges, therefore, the Commission to further strengthen the role of the European Consumers Centres Networks (ECC-Net) and to conduct a study on whether an EU consumer authority is needed;
24. Asks the Commission to establish clear guidance and best practices on enforcement in order to avoid legal uncertainty and arbitrary decisions, and to prevent gaps between the Member States in terms of oversight of the relevant existing and forthcoming legislation;
25. Notes that some digital platforms, in spite of having incurred penalties, have repeatedly violated competition rules; calls, therefore, on the Commission to examine whether the sanctions currently imposed are serving their purpose;

State aid

26. Notes that the Commission responded to the outbreak of the COVID-19 crisis by adopting a Temporary Framework for State Aid with measures to support the economy, and highlights that these measures should remain temporary;
27. Calls on the Commission to undertake a detailed evaluation of the framework's impact on the single market in a timely manner, and to put forward medium- and long-term measures with the aim of bridging the gap and supporting European companies, with a particular focus on SMEs;
28. Recalls, in this context, that the State aid guaranteed in the extraordinary circumstances of the pandemic to air transport companies helps to protect employees, but points out that this must happen without harming the rights of consumers in the single market;
29. Recalls that if market failures occur, EU State aid rules support the competition policy objective of rendering European companies more innovative and competitive internationally;
30. Notes that State aid in the form of financial injections into selective businesses can distort the level playing field in the internal market and be detrimental to consumer welfare unless it strictly complies with EU State aid rules; recalls that these objectives may also be achieved by other means;

The global dimension

31. Highlights that in a global economy, potential distortions of competition within the internal market emanate from companies established outside the EU, particularly from companies benefiting from State aid or other subsidies; calls on the Commission to take appropriate measures and to enhance global cooperation on competition to provide for a level playing field with third countries, particularly when it comes to State aid, and to ensure fair market access in every sector concerned, such as in the aviation sector, for example;
32. Notes with concern the growing interest of external actors in strengthening and consolidating their influence in European companies in the context of the crisis caused by the pandemic; calls on the Commission to closely monitor such trends, and, in particular, foreign direct investments, in order to ensure and preserve the integrity of the single market;
33. Notes the Commission's White Paper on levelling the playing field as regards foreign subsidies; is concerned that EU trade openness based on a level playing field is increasingly being challenged at global level; supports the Commission's intention to avoid retaliation measures at global level;

Transparency

34. Stresses the need to guarantee fair competition in sectors that are essential to the everyday life of citizens, such as the food and health sectors, for the benefit of consumers; calls on the Commission to carefully assess the extent and effect of its plans to clarify competition rules within the Farm to Fork Strategy on the economic functioning of the agricultural and food supply chain, taking particular account of the effects on small-scale suppliers and farmers, in order to make operators more sustainable and competitive so as to enable them to fully benefit from the single market;
35. Calls on the Commission to report to the European Parliament on the effectiveness of the application of structural remedies in EU antitrust competition law cases, and on the challenges posed to them;
36. Calls on the Commission to fully consider the recommendations of the European Court of Auditors, including improving performance reporting of its enforcement decisions, in order to enhance transparency and accountability to the European Parliament and to citizens;
37. Asks the Commission to include summaries of antitrust cases opened and closed in the Member States, and statistics on them, including, where relevant, identified best practices and the total amount of imposed and paid fines for cartels, in the Commission's Annual Report on Competition Policy.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	22.2.2021
Result of final vote	+: 41 -: 0 0: 4
Members present for the final vote	Andrus Ansip, Alessandra Basso, Brando Benifei, Adam Bielan, Biljana Borzan, Vlad-Marius Botoș, Markus Buchheit, Anna Cavazzini, Dita Charanzová, Deirdre Clune, David Cormand, Carlo Fidanza, Evelyne Gebhardt, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Kateřina Konečná, Andrey Kovatchev, Jean-Lin Lacapelle, Morten Løkkegaard, Adriana Maldonado López, Antonius Manders, Beata Mazurek, Leszek Miller, Dan-Ștefan Motreanu, Anne-Sophie Pelletier, Miroslav Radačovský, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Tom Vandenkendelaere, Kim Van Sparrentak, Marco Zullo
Substitutes present for the final vote	Marco Campomenosi, Maria da Graça Carvalho, Krzysztof Hetman, Sven Mikser, Tsvetelina Penkova, Barbara Thaler, Edina Tóth

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

41	+
ECR	Adam Bielan, Carlo Fidanza, Eugen Jurzyca, Beata Mazurek
ID	Alessandra Basso, Markus Buchheit, Marco Campomenosi
NI	Miroslav Radačovský, Marco Zullo
PPE	Maria da Graça Carvalho, Deirdre Clune, Krzysztof Hetman, Arba Kokalari, Andrey Kovatchev, Antonius Manders, Dan-Ștefan Motreanu, Andreas Schwab, Tomislav Sokol, Barbara Thaler, Edina Tóth, Tom Vandenkendelaere
RENEW	Andrus Ansip, Vlad-Marius Botoș, Dita Charanzová, Sandro Gozi, Svenja Hahn, Morten Løkkegaard
S&D	Brando Benifei, Biljana Borzan, Evelyne Gebhardt, Maria Grapini, Adriana Maldonado López, Sven Mikser, Leszek Miller, Tsvetelina Penkova, Christel Schaldemose
Verts/ALE	Anna Cavazzini, David Cormand, Alexandra Geese, Marcel Kolaja, Kim Van Sparrentak

0	-

4	0
ID	Virginie Joron, Jean-Lin Lacapelle
LA GAUCHE	Kateřina Konečná, Anne-Sophie Pelletier

Key to symbols:

+ : in favour

- : against

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	10.5.2021
Result of final vote	+: 46 -: 6 0: 6
Members present for the final vote	Gunnar Beck, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Francesca Donato, Engin Eroglu, Markus Ferber, Jonás Fernández, Raffaele Fitto, Frances Fitzgerald, Luis Garicano, Sven Giegold, Valentino Grant, Claude Gruffat, José Gusmão, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtsos, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Fulvio Martusciello, Costas Mavrides, Jörg Meuthen, Csaba Molnár, Siegfried Mureşan, Caroline Nagtegaal, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Kira Marie Peter-Hansen, Sirpa Pietikäinen, Dragoş Pîslaru, Evelyn Regner, Antonio Maria Rinaldi, Alfred Sant, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtaşun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zīle
Substitutes present for the final vote	Herbert Dorfmann, Christophe Hansen, Eugen Jurzyca, Stéphane Séjourné, Mick Wallace

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

46	+
ECR	Raffaele Fitto, Michiel Hoogeveen, Eugen Jurzyca, Johan Van Overtveldt, Roberts Ziļe
PPE	Isabel Benjumea Benjumea, Stefan Berger, Herbert Dorfmann, Markus Ferber, Frances Fitzgerald, Christophe Hansen, Danuta Maria Hübner, Othmar Karas, Georgios Kyrtzos, Aušra Maldeikienė, Fulvio Martusciello, Siegfried Mureşan, Luděk Niedermayer, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere
Renew	Luis Garicano, Ondřej Kovařík, Caroline Nagtegaal, Dragoş Pişlaru, Stéphane Séjourné, Stéphanie Yon-Courtin
S&D	Marek Belka, Jonás Fernández, Eero Heinäluoma, Aurore Lalucq, Pedro Marques, Costas Mavrides, Csaba Molnár, Evelyn Regner, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli
Verts/ALE	Sven Giegold, Claude Gruffat, Stasys Jakeliūnas, Piernicola Pedicini, Kira Marie Peter-Hansen, Ernest Urtasun

6	-
ID	Gunnar Beck, France Jamet, Jörg Meuthen
NI	Lefteris Nikolaou-Alavanos
The Left	José Gusmão, Mick Wallace

6	0
ID	Francesca Donato, Valentino Grant, Antonio Maria Rinaldi, Marco Zanni
Renew	Engin Eroglu, Billy Kelleher

Key to symbols:

+ : in favour

- : against

0 : abstention