Stakeholder consultation

WORKING DOCUMENT

Commission for Economic Policy

Report on Competition Policy 2022

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This document will be discussed at the stakeholder consultation on 4 July 2023.
Reference document

Report on Competition Policy 2022 and Commission Staff Working Document
I. European competition policy in the current international context

The new international context that has emerged since the war in Ukraine has once again shaken the European political and economic paradigms that the COVID-19 crisis had already called into question. In addition to adopting a set of individual and economic measures since February 2022, the European Commission has implemented a joint response from the early days of the war by deciding to gradually phase out the EU's dependence on fossil fuel imports from Russia. This involves diversifying the gas supply, as well as boosting alternative energy sources and accelerating the green transition to clean energy, one of the pillars of EU industrial policy. The changes on the domestic and international scene have had a major impact on the application of competition policy. Competition policy is a necessary safeguard for the functioning of the internal market, and helps to ensure a level playing field for European businesses and the Member States. Nevertheless, given the significant economic, industrial, social and public health challenges, competition policy has had to be balanced against the need to support the productive fabric and the need to make strategic investments in the context of the twin green and digital transitions.

Specifically, State aid policy was the first instrument used by the European Commission to respond to the severe economic crisis caused by the COVID-19 pandemic in Europe, through the implementation of the State Aid Temporary Framework\(^1\) in March 2020, which simplified and sped up the rules on aid to support European businesses. This framework, which expired in June 2022, was swiftly replaced by another temporary crisis framework for State aid\(^2\) following the war in Ukraine, and this is expected to expire in December 2025. In February 2023 however, the Commission implemented an additional temporary crisis and transition framework for State aid\(^3\), which is more explicitly linked to the EU's industrial objectives. While the use of the temporary state aid frameworks has enabled governments to provide rapid and effective support to European businesses affected first by the pandemic and lockdowns and then by Russia's invasion of Ukraine, the relaxation of the aid rules has led to territorial imbalances between the Member States. This is because governments with a greater financial capacity have been able to provide more support to their national companies than countries with less capacity\(^4\). After amending the aid regime, the Commission also developed Next Generation EU as a recovery and industrial policy instrument. The Recovery and Resilience Facility (RRF)\(^5\) Regulation, the centrepiece of Next Generation EU, has helped to strengthen cohesion between European regions by providing direct support to the parts of the EU that suffered the most as a result of the pandemic while, at the same time, preparing them to face the current challenges involved in the green and digital transition.

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2 Communication from the Commission “Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia”, OJ C 131 I, 24.3.2022, p. 1.
3 Communication from the Commission, “Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia”, OJ C 101, 17.3.2023, p.3.
II. Main competition policy topics for analysis, from a local and regional perspective

The Committee of the Regions' opinion on the Commission's Report on Competition Policy 2022 aims to highlight the local and regional perspective on competition policy. Competition policy is essential, both for economic growth and for preserving cohesion between the EU regions. In particular, the distribution of State aid has become highly uneven due to the relaxation of the normal aid regime to implement the temporary frameworks. Some Member States with a much larger fiscal capacity than others can provide much more State aid than Member States whose budgetary situation does not allow it. The Member States that have spent more resources on State aid over the last few years have given their national businesses an advantage in the single market, creating competition distortions and negative effects on trade between the Member States, which the Commission is obliged to prevent through its oversight of State aid pursuant to Article 107 TFEU.

It is therefore necessary to point out that a prolonged relaxation of competition rules could continue to widen the disparity between Europe's regions, leaving behind those that, because of natural or demographic characteristics, or because they are rural areas or areas experiencing industrial transition, risk missing out on public support.

In this regard, the new guidelines on regional State aid to help the poorest regions, refer directly to coordination with cohesion policy, and seek to boost the level of support for local and regional authorities, especially when it is related to EU Green Deal and EU Digital Strategy objectives. The guidelines therefore seek to strike a balance between the goal of cohesion and raising investment levels, particularly in the context of the green transition. The guidelines on State aid to promote important projects of European interest also aim to guide Member States in implementing strategic cross-border projects, such as those on microelectronics, batteries and hydrogen. The European Committee of the Regions should recommend that the Commission strengthen local and regional initiative and coordination to carry out these important projects.

The opinion should also address the proposal for a "Strategic Technologies for Europe Platform", which was recently published by the Commission in the context of the MFF review, in order to increase Europe's strategic autonomy in response to growing competition on international markets, particularly from the US (Inflation Reduction Act) and China. The Committee of the Regions should analyse whether the Platform will comply with cohesion policy and balance the need for industrial investment with the safeguarding of the integrity of the internal market and maintaining a sound level of competition.

Another aspect of international geopolitical competition that could have an impact at local level concerns the digitalisation and technical development of the economy and the related EU policy action aimed at establishing digital sovereignty understood as a country's leadership and strategic autonomy in the digital sphere, with a view to safeguarding the EU's principles and values and ultimately EU citizens from the mounting risks of the digitalised world. In this regard, the European legislator has focused on enforcing the competition rules and principles against the technology and digital giants, through Article 102 TFEU and the new legislation on digital markets (Digital Markets Act - DMA). The latter in particular aims to build a fair and competitive digital environment for core platform services, both for final consumers and business users, who are often SMEs operating in the European industrial and business fabric. The digitalisation process, which is extremely important for SMEs, and which could be further incentivised under the State aid framework, could be blocked by the unfair and anti-competitive operation of digital gatekeepers for core platform services, including in relation to data management. The ability to fully benefit from digitalisation also requires SMEs to learn, like large European businesses, the potential of the data economy, which is an equally key aspect to digital economy expansion.

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7 Communication from the Commission "Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest", OJ C 528, 30.12.2021, p. 10.
8 COM_2023_335_1_EN_ACT_part1_v11.pdf (europa.eu)
III. Questions on specific topics

In order to foster the discussion, stakeholders are asked to answer the following questions:

- Is the State aid crisis response package satisfactory in terms of competition, from a local and regional perspective?

- Are there any changes or improvements to competition policy that regional and local authorities could recommend to the Commission in the light of the recent crises?

- How will the uneven increase in State aid affect local and regional authorities?

- What will the medium and long-term consequences be of the uneven geographical distribution of State aid with regard to the single market?

- Is the current State aid regime compatible with the objectives set out in European cohesion policy?

- What potential economic and social effects could the Strategic Technologies for Europe Platform have on local and regional authorities in Europe? Will it deliver on its goal to strengthen the Single Market and counter unequal availability of State aid?

- Will the Foreign Subsidies Regulation be enough to protect local and regional economies from unfair competition from international competitors that receive foreign subsidies?

- How will the Digital Markets Act impact the business fabric at regional and local level? How can the implementation of the Regulation be steered by the Commission so as to maximise the positive effects of these impacts?

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