

Foreword to the Annual Competition Report 2022

by Margrethe Vestager, Executive Vice-President and Commissioner for Competition

In 2023, the Single Market celebrates its 30th anniversary. By bringing EU citizens and businesses closer together, it is one of the Union's greatest achievements and one of its best tools for promoting peace, defending our values and ensuring the well-being of our people.

This celebration comes at an uncertain time. Our world is undergoing profound changes. Our rules-based economic order is shifting to one that is less stable and less predictable. Russia's aggression against Ukraine is the worst and most deadly face of that shift, but changing geo-politics are impacting the Single Market in various ways, be it through strained supply chains or effects on trade. We must also act to drastically reduce carbon dioxide emissions and attain a Net Zero world economy, for which – thankfully – there is now acceptance also outside the European Union. And then there is the digital shift. Our economy, along with our lives, have taken a leap into the digital space. However, in some instances, such space is not as open and contestable as it should be.

All these changes have profound implications, creating new risks but also opportunities. EU competition policy plays a significant role in mitigating the negative effects of economic transitions, while maximising the potential for their benefit.

The shift to a digital economy has created enormous opportunities for economic growth and efficiencies and it will continue to do so. Enforcement of the competition rules will be key to keep digital markets open and contestable. Such enforcement will go hand in hand with the enforcement of the Digital Markets Act, which entered into force in November 2022 and will apply as of May 2023. Its aim is to keep digital markets contestable and put an end to unfair practices by companies that act as gatekeepers for businesses operating online. The Commission aims to designate the first gatekeepers in 2023 and to ensure full compliance with the obligations and prohibitions by 2024.

The Commission adopted the State Aid Temporary Crisis Framework in March 2022 - only a month after Russia's unprovoked invasion of Ukraine - so that Member States could support viable firms hit hard by the effects of this war. In March 2023, this Framework evolved into the Temporary Crisis and Transition Framework, which allows Member States to move beyond immediate responses to the weaponising of energy and to tackle wider challenges, by accelerating the green transition. This improved Framework's wider scope enables Member States, amongst other things, to support productive investments for a selection of technologies and raw materials essential for this transition, in particular where there is risk of investment leakage outside the EU. And we made sure that our response to these challenges stayed true to our principles: to preserve the integrity of the Single Market, this new Framework is targeted and is temporary, with the new "transition" provisions applying until 2025.

With the adoption of the Foreign Subsidies Regulation in November 2022, the EU is correcting an imbalance - while we have long scrutinised State aid granted within the EU, third country subsidies to companies doing business in the EU remained unchecked. The EU is levelling the playing field and, in 2023, the Commission will start implementing and enforcing the Regulation. The Commission will aim for well-targeted enforcement, providing clarity and predictability as the decisional practice develops. This will preserve an open Single Market; one in which all businesses compete on fair and equal terms, wherever they come from.

Despite these transformative events and initiatives, ordinary competition enforcement continued unabated across the board. In antitrust, the Commission adopted decisions in two cartel cases in the markets for metal packaging and styrene monomer. Its action extended to the digital sphere, where the Commission made legally binding the commitments offered by Amazon – addressing competition concerns related to sellers’ access to its Buy Box and Prime programme. The Commission also sent Apple a Statement of Objections – containing preliminary findings that this company may have restricted competition to the benefit of Apple Pay, its own payment solution. In the pharmaceutical sector, a Statement of Objections was addressed to Teva, preliminarily finding that the company misused the patent system and abusively disparaged competing medicines.

For merger control, in 2022, the Commission adopted 368 merger decisions and intervened in 18 cases. 12 of those were approved with conditions and two were prohibited (the proposed acquisition of Daewoo Shipbuilding & Marine Engineering CO., Ltd by Hyundai Heavy Industries Holdings and Illumina's acquisition of GRAIL). Four notified transactions were abandoned by the parties in Phase II.

As regards State aid control, the Commission adopted 195 decisions under the Temporary Crisis Framework in 2022, approving 182 national measures notified by all 27 Member States, amounting to approximately EUR 670 billion in aid. Implementation of the Recovery and Resilience Facility continued in 2022: the Commission adopted decisions on nearly 80 RRF-funded measures. Further, the Commission approved two Important Projects of Common European Interest in the hydrogen technology value chain.

Finally, the Commission remained committed to ensuring that our rules remain fit for purpose, which is arguably more important than ever in times of change. To this end, it continued its extensive review of the EU competition policy framework in 2022, by adopting its new Guidelines on State aid for climate, environmental protection and energy, its new Broadband State aid Guidelines, its new rules on vertical agreements and by consulting stakeholders on revised rules on horizontal cooperation between companies.

The goal is to be as ready as possible for whatever challenges might lie ahead in the next 30 years.
