Dear Madam, Sir,

Allow me a brief response to the Commission's call for contributions to "Competition Policy supporting the Green Deal". There is a lot to say about this very interesting subject. No doubt are the European green objectives extremely important and the efforts to reach them laudable. Entirely as an independent academic have I followed and contributed to the debate on what role competition policy can play in these efforts. I did so together with co-authors, including Yossi Spiegel and Leonard Treuren (both in cc).

My response here is focused on Part 2: Antitrust rules, and in particular the idea to exempt horizontal agreements with anticompetitive effects from the cartel laws when they promise to generate offsetting sustainability benefits – as proposed to be assessed specifically under Article 101(3) TFEU. My immediate remarks are relevant for all three the questions posed under Part 2, I believe.

The problem we point out is that the incentives are not right – and if there is one thing that economics teaches, it is that incentives matter! When consumers have some willingness to pay for more sustainable products, for-profit firms will typically invest more in more sustainable production when they are in competition than when they are (only) allowed to coordinate those sustainability investments. In essence, the reason for this is that green is a dimension of competition, for customers, that however carries cost to the firms in the form of green investments. Allowed to coordinate on the latter induces the firms to reduce those investments to save the costs, which they can do, since they have been allowed to eliminate competition on the green dimension.

This argument, Yossi Spiegel and I have developed in a basic model published 2017 in IJIO:
https://www.sciencedirect.com/science/article/pii/S0167718716300327

We show that sustainability is lowest in a so-called 'sustainability cartel', which is coordination on sustainability levels, followed by competition on quantities/prices - which exactly characterizes the current policy proposals, the most advanced of which is the ACM's, best.

The concerns that our studies raise are much wider however, and quite immediately apply also to green mergers - in re to Part 3 of the call. The published paper develops a simple duopoly model, but we have extended this also to an n-firms model, in which m-firms coordinate – which also addresses incentives to invest in sustainability in merger cases (typically m=2). See:
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3132323 (work in progress). The bottom line is that also with remaining competition (as a condition under Article 101(3) and of course in mergers) cooperative investments in more sustainable production are less than in competition.

Now one argument that has been put forward by proponents of the green cartel policy – and in part against this result, I believe – is that consumers (i.e. buyers of the product) may not have a willingness to pay at all, so that the firms would have a "first-mover-disadvantage" that only collusion would allow them to overcome. My impression is, after keeping a keen eye out for convincing examples of this phenomenon in the last couple of years, that this supposed hurdle is a rarity. Moreover, if there is indeed no willingness to pay with the consumers at all, it will be impossible to give them any compensation with the green for the price increases they will have to pay under the green cartel, which seems to be very far from a "fair share", even if deluded to less than full compensation, as the ACM, I think dangerously, currently attempts to do.

Bottom line is: The available research, though relatively little, shows quite overwhelmingly that undertakings take more corporate social responsibility in competition than in collusion. Much more research is needed, but until we are confident that restrictions of competition are indeed contributing to the solution (and not instead to the problem) of tensions between competition and sustainability (which are certainly real), I suggest we caution against allowing such restrictions. There is little reason to think that cartels will internalize the kind of externalities that cause environmental damage.

In this lecture (for prospective economics students), I have embedded the paper referenced above in the current debate on exempting sustainability agreements: Professor Schinkel on green cartels https://webcolleges.uva.nl/Mediasite/Play/159da3a84af74230845dc56c42d092141d

I also attach the slide pack to this lecture, as well as to my presentation yesterday at the *Nederlandse Economenweek* that is more advanced (alas mostly in Dutch).

For any questions, debate or further research, I am at your disposal. Please do not hesitate to contact me.

Kind regards,

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