

Response to call for contribution

Recipient: The European Commission
Sender: Dansk Erhverv / The Danish Chamber of Commerce

12 November 2020

Contribution on the Commissions Competition Policy supporting the Green Deal

The Commission has published an open call for contributions for the purpose of gathering ideas and proposals on how competition may contribute to the European Green Deal.

General remarks

The Danish Chamber of Commerce (Dansk Erhverv) strongly supports the Commission's objective and the aim of the European Green Deal, to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy.

We furthermore strongly support the Commissions focus on addressing new challenges and facilitating change by amending and adjusting existing legislation, rather than introducing new legislation.

While we acknowledge that special care must be taken to ensure the green transition is supported by regulatory measures, we are however concerned by the apparent notion, that the European Green Deal and the green transition necessitates specific amendments to existing competition rules.

It is the general position of the Danish Chamber of Commerce, that legislation targeting general issues – in this case facilitating a green transition – must be general in nature, to ensure that it may apply regardless of industry, sector or technology. The primary focus must be on creating a level playing field, so that all may be both encouraged and obligated to contribute, and so that no one industry, sector or technology is given a competitive advantage in the name of facilitating a green transition.

The Commissions initiative of competition contributing to the European Green Deal furthermore coincides with the Commissions ongoing consultations on the existing competition law tools. For the purpose of ensure coherence, we expect that the replies to all the ongoing consultations, specifically the ongoing consultations on the horizontal and vertical block exemptions and guidelines, foreign subsidies, market definition notice and merger regulations rules, are included by the Commission when reviewing the contributions on this initiative as well.

Specific remarks re. state aid control

It is the general position of the Danish Chamber of Commerce, that the current state aid rules are flexible enough to facilitate green investments within Europe and the greening of the European economy, while at the same time limiting the negative and distortive effects of state aid.

The Danish Chamber of Commerce are very sceptical of any initiative which extends the current reach or criteria of what may constitute legal state aid. To single out or define specific projects or initiatives as specially environmentally beneficial or worthy of state aid and allowing for easier assess or reduced criteria to such projects or initiatives, is a slippery slope which we do not support.

Similarly, we are very concerned by any amendments or changes to the current state aid rules, which may widen the scope for what member states may legally provide to national companies in state aid. Any state aid given within the scope of the Green Deal, must fulfil the general requirements for legal state aid, and be decided by EU-organisation on fair and equal terms, to ensure that the state aid rules are not misused or exploited for national goals and protectionist purposes.

Specific remarks re. antitrust rules

It is the general position of the Danish Chamber of Commerce, that the current competition rules in article 101 and 102 of the Treaty of the Functioning of the European Union are generally flexible enough to contribute to the Green Deal objectives, while at the same time preventing competitive restrictive behaviour by companies.

The Danish Chamber of Commerce does however acknowledge, that in certain situations innovation, the development of new ideas and the production of new solutions, may benefit from companies working together and collaborate across members states, industries and sectors. To the extent such collaboration should be allowed or encouraged, it should be addressed in the existing block exemption regulation and be applicable on a sector neutral basis.

A possible solution could be to include further clarification or guidance in the already existing guidelines on the horizontal and vertical block exemptions, or include additional examples, explaining how the guidelines should be applied in such situations.

Specific remarks re. merger control

It is the general position of the Danish Chamber of Commerce, that the current EU Merger Regulation are generally flexible enough to contribute to the Green Deal objectives, while at the same time preventing the foreclosing of the single market and the development of artificial European Champions.

The Danish Chamber of Commerce are acutely aware of the increased pressure that globalisation, digitalisation and climate change are putting on European companies. It is tempting to say, that the solution is to have or establish large European companies (so-called “European Champions”), which are able to compete with international players, especially when it comes to developing new and innovative environmental solution to combated climate change.

However, we believe that a healthy and strong competition together with good framework conditions within the internal market, is imperative for European companies' ability to compete globally and to be in the forefront of green innovation and development. We are consequently very critical of the concept of European Champions, as such companies in our view, will not improve the competition in the internal market, but instead distort competition and restrict innovation.

We furthermore share the Commissions concern that mergers between rivals may result in reduced innovation between companies, and encourages the Commission to look into the issues of the so-called "killer acquisitions" to the extent that such may result in a lack of innovation and development of new technology, as a result of a buy-out by a competing company.

Finally, we support the Commissions initiative to investigate possibilities of preventing distortion in the single market by foreign subsidies – as suggested by the Commission on the White Paper on Foreign Subsidies. In our view it is more beneficial to the European economy to achieve a level playing field on at well-functioning internal market – meaning good framework conditions - than to create distortions through increased state aid, picking winners or hollowing out merger rules.

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The Danish Chamber of Commerce will of course be available for further consultations as the need may arise and will also be happy to elaborate on the points made in the contribution, as well as engage in further discussion if needed.

Best regards,

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Danish Chamber of Commerce