



Ministry of Economic Affairs
and Employment of Finland

Competition Policy supporting the Green Deal, Commission´s Call for contributions

Comments on Antitrust rules by the Ministry of Economic Affairs and Employment of Finland, 18 November 2020

The Ministry of Economic Affairs and Employment of Finland considers the aims of the European Green Deal important. We also welcome the public consultation on how the competition policy can support achieving objectives of the Green Deal.

Overall, we do agree with EVP Vestager that the competition policy cannot be in the lead when it comes to greening of our economy: environmental regulation and taxation are more effective policy tools to address the issues related to environmental protection and climate change. It should also be highlighted that competitive pressure is as such a powerful incentive to use our planet's resources efficiently, and it complements environmental and climate policies and regulation. As stated in the call for contributions, by helping to achieve efficient and competitive market outcomes, competition policy contributes by itself to the effectiveness of green policies.

However, it is worth exploring whether competition policy could in certain areas do more to promote green objectives. In particular, the ways to enhance the predictability and clarity of the competition rules - without compromising the competition and consumer benefit - should be explored.

Part 2: Antitrust rules

As noted, EU antitrust rules already contribute to the Green Deal objectives by sanctioning restrictive behavior. We also agree that standardization and sustainability agreements play a role when trying to achieve the goals of the Green Deal.

The first question concerns possible problematic cases.

Answer: In Finland we are not aware of actual examples of desirable cooperation between firms to support Green Deal objectives that could not be implemented due to EU antitrust risks.

It has been stated correctly that "Agreements pursuing sustainability objectives may also in principle enjoy the benefit of the Commission's block exemption regulations so long as they do not contain hard-core restrictions and when the joint market shares of the parties to the agreement do not exceed specific thresholds.". However, as far as we know the interpretation of competition law rules is not entirely clear as the sustainability agreements are concerned. The legal uncertainty may hinder companies willingness to co-operate in a manner which could lead to greener outcomes.

In the second question of part 2 it has been asked "Should further clarifications and comfort be given on the characteristics of agreements that serve the objectives of the Green Deal without restricting competition?".

Answer: We find it positive if there would be some clarification on the characteristics of agreements that serve the objectives of the Green Deal without restricting competition. We encourage to present examples of agreements etc. which are beneficial for environment and consumers and acceptable as regards competition. Possible clarification and examples would enhance the predictability of the rules and therefore make it easier for companies to act in favor of the environment. This is something that could be done for example in the context of the Commission's Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements. However, as we know the guidelines are without prejudice to the interpretation the Court of Justice of the European Union may give to the application of Article 101 to horizontal co-operation agreements.