

Foreword to the Annual Competition Report 2019
by Executive Vice-President Margrethe Vestager

As the year 2019 drew to a close, few would have predicted that events in early 2020 would dramatically change the world and the world economy. The covid-19 outbreak was a paradigm shift in many respects and we had to quickly adapt and rethink the way we operated. I think it is fair to say that in the field of competition policy, the Commission met expectations.

Under EU State aid rules Member States can give support to companies to remedy a serious disturbance in their economies. In March 2020, the Commission adopted a Temporary Framework enabling Member States to ensure that sufficient liquidity remains available to businesses and to help to preserve jobs and the continuity of economic activity during the covid-19 pandemic. In the first half of 2020, as the crisis evolved, the Commission extended the Temporary Framework three times to meet the needs of Member States and businesses, including further support to the development and production of covid-19 relevant products, wage subsidies, and recapitalisations. The adoption of the Temporary Framework and the subsequent amendments show how the Commission was able to react to, adapt to and deal with quickly developing circumstances, whilst keeping in mind the need for a level playing field in the Single Market. Because we will need our Single Market to bounce back strongly.

Inevitably, the covid-19 pandemic also affected other fields of competition policy.

In March 2020, within the European Competition Network, the Commission and the national competition authorities published a joint statement setting out how they intended to apply the antitrust rules during the crisis. The Commission and the national competition authorities stated that they would facilitate necessary and temporary measures aimed at tackling supply shortages caused by the pandemic. But, at the same time, they warned that they would not hesitate to intervene if the crisis were to be used as a disguise for anti-competitive practices.

In the field of antitrust, in April 2020, the Commission published a Temporary Framework Communication that provided guidance to companies. In the Communication, the Commission determined how it would proceed when assessing cooperation projects necessitated by the covid-19 pandemic such as the supply of medicines and medical equipment.

In the field of mergers, after an initial period during which DG Competition published a Notice asking firms to delay notifications, work continued with very little disruption in relation to both simplified and more complex cases.

I am proud to say that the Commission services were up to the challenge posed by this unprecedented crisis. A very large number of State aid notifications were assessed under extreme time pressure. EU merger control continued to function, with the Commission meeting the legal deadlines while complying with its legal obligations. Antitrust enforcement continued without significant delays.

But let us not forget the achievements of 2019.

The Commission's action in 2019 covered a wide range of sectors promoting open and efficient markets in the EU. EU competition policy continued to support key political priorities of the Commission linked to the internal market, such as digitisation, fair taxation, energy and climate.

The Commission demonstrated its ability to strictly enforce the competition rules sanctioning anti-competitive agreements between companies and firms abusing their dominant positions to the detriment of consumers. In 2019, the Commission adopted 15 decisions sanctioning anti-competitive conduct. The Commission also finalised four antitrust cases based on the voluntary cooperation procedure.

In 2019, 382 mergers were notified to the Commission. Despite a small decrease in absolute numbers compared to 2018, the number of notifications in 2019 remained at a very high level. Most mergers notified in 2019 did not raise competition concerns. The Commission adopted 362 merger decisions in 2019 and intervened in 19 cases. Three mergers were prohibited, ten mergers were cleared subject to commitments in first phase and six were cleared with remedies after the second phase. Most remedies accepted by the Commission in 2019 consisted of divestitures of tangible or intangible assets, confirming the Commission's preference for structural remedies.

The Commission adopted 308 State aid decisions in 2019. The Commission approved State aid schemes that allow Member States for example to meet environmental targets, to deploy very high capacity broadband networks and to fund research in key industries. A second Important Project of Common European Interest (IPCEI) for the development of batteries and involving seven Member States was authorised in 2019. Moreover, the Commission continued its efforts to make sure that Member States do not grant undue tax benefits to selected companies allowing them to avoid paying their fair share of tax.

To ensure that they remain fit for purpose, the evaluation of the competition rules continued in 2019 in line with the Commission's Better Regulation guidelines. In antitrust, the evaluations of the Horizontal Block Exemption Regulation (BER), the Vertical BER, the Motor Vehicle BER, and the Consortia BER continued. In mergers, the Commission advanced its evaluation selected procedural and jurisdictional aspects of EU merger control. In State aid, the fitness check of the rules included in the State Aid Modernisation and certain other rules continued. An evaluation of the Market Definition Notice was initiated in January 2020.

Most markets are currently subject to disruptive change, in particular the fundamental transformations brought about by the ongoing digitisation of society. We must all adapt, that is to say producers, consumers, policymakers and, not least, us competition policy enforcers. To stay relevant, we must not be complacent but always question the way we act, to learn from experience and, if needed, revise our enforcement tools. This is why I commissioned the three Special Advisers' report "Competition Policy for the Digital Era" published in April 2019. The Special Advisers concluded that the basic competition law framework is sound and sufficiently flexible to protect competition in the digital era. However, the Special Advisers cautioned that particular attention should be paid to the market power of digital platforms. After in-depth analysis based on the Special Advisers' report and other recent reports, in June 2020 the Commission launched a public consultation exploring the need for a new competition tool that would allow addressing structural competition problems in a timely and efficient manner.

To ensure that markets work well across the economy, it is sometimes not enough to enforce the existing competition rules rigorously. Complementing such enforcement with sector-specific regulation may be necessary to avoid market failures. This could be the case for markets dominated by digital platforms acting as gatekeepers. Being competitive requires competition, both at home and in the world. Competition policy alone does not ensure competitiveness. It needs to be complemented by an effective industrial policy creating conditions for entrepreneurs to realise their ideas and allowing companies of all sizes to thrive and grow. In its Communication "A New Industrial

Strategy for Europe” of March 2020, the Commission laid out its vision what it wants the EU to achieve by 2030 and beyond.

The EU economy is open and closely interlinked to the rest of the world. However, our openness can be used to distort competition in the single market, for instance by foreign firms benefiting from State support. We need the right tools to address adverse effects caused by foreign subsidies. This is why the Commission launched the debate by publishing a White Paper on levelling the playing field as regards foreign subsidies in June 2020.

To conclude, the basic EU competition rules remain as relevant today as when they were laid down in the Treaty more than 60 years ago. Together with the EU national competition authorities, the Commission will continue to enforce the rules in fair manner based on facts, evidence and thorough analysis while respecting due process. Effective competition in the internal market fosters innovation, dynamism and economic growth for the benefit of all. Competition policy will contribute to fulfilling the headline ambitions of this Commission mandate, such as the greening of the economy, shaping the EU’s digital future and strengthening an economy that works for people.