Topic A: Competitiveness and resilience

A description and technical background for this topic is included below. The same text can also be found here. Questions on this topic are included after the text.

Topic Description

9. **Competition stimulates productivity, investment, and innovation**. Since its inception, the purpose of EU merger control has been linked to the proper functioning of the Single Market and the productivity of its operators. As explained in recitals 4 and 5 and Article 2 of the EU Merger Regulation, mergers are to be welcomed *"to the extent that they are in line with the requirements of dynamic competition and capable of increasing the competitiveness of European industry, improving the conditions of growth and raising the standard of living in the [Union]"*. Accordingly, the Commission reviews concentrations considering *"the development of technical and economic progress"*, provided that it is to *"consumers' advantage"* and does not "*result in lasting damage to competition*".

10. One of the **Commission's key priorities** is spurring productivity and competitiveness in the EU. Productivity concerns the efficiency in producing goods and services. The ability of firms to invest, innovate, and grow are among the key drivers of productivity growth. By protecting competition, merger control protects the incentives to increase firms productive and dynamic efficiency (investment and innovation). The **Competitiveness Compass** emphasises that rigorous and effective merger enforcement in the Single Market is crucial to enhance the EU's competitiveness by ensuring fair competition and incentivising companies to innovate and become more efficient. At the same time, the **Competitiveness Compass** also underlines that *"in the global race to develop deep technologies and breakthrough innovations, competition policy must keep pace with evolving markets and tech innovation. This needs a fresh approach, better geared to common goals and allowing companies to scale up in global markets – while always ensuring a level playing field in the Single Market."*

11. Mergers are a way to restructure markets, and according to the 2024 EU Industrial R&D Investment Scoreboard it appears that companies based in the EU are more likely to engage in mergers than elsewhere in the world, also thanks to a predictable framework for merger control. A reflection is nevertheless warranted on whether, in order to keep pace with global technological advancements, competition policy – notably merger control – must adapt its approach with a view to support start-ups, scale-ups, and medium-sized companies **to scale up in global markets, while safeguarding a level-playing field in the Single Market**.

Scaling up

12. **Productivity tends to increase scale**: in competitive markets, productive firms grow organically and gain scale at the expense of less productive ones, if not prevented by distortive subsidies, regulation (which may constitute barriers to the Single Market) or anticompetitive behaviour by rivals. Vice versa, productivity in the EU economy grows when **productive companies grow or innovate** and less productive or innovative firms lose market share and exit the market.

13. **Scale achieved through mergers and acquisitions may in some cases help firms become more productive**. Larger companies may benefit from economies of scale or scope for example because of network effects, the ability to spread the cost of intangibles over a larger

cost base, or better access to financial markets. The acquisition of existing businesses may also be a means for a company to expand into other Member States or increase its global outreach to compete with large global rivals. A fast-paced merger control system that approves the vast majority of cases under the simplified and super-simplified procedures helps firms in the EU to gain scale when they do not attain market power.

14. At the same time, **the productivity of the EU economy may be hindered if companies accumulate market power**, damaging other companies active in their value chains. Market power resulting from mergers can lead to price increases, diminished quality or innovation, and a reduced number of suitable suppliers, all of which can negatively impact the competitiveness of other businesses. These negative effects may be particularly substantial in the case of small and medium-sized companies ("SMEs"), which are not necessarily publicly listed but may nevertheless have global leadership positions in their respective sectors. All these companies depend on a well-functioning Single Market for sourcing their inputs and distributing their products.

Resilience and value chains

15. Europe's competitiveness also depends on the **resilience of its economy and of its value chains**. Effective competition does not only improve an economy's potential to grow, but also contributes to its resilience to shocks. Having a variety of businesses active in the Single Market is a way to support the ability of firms to multi-source and to be dynamic and resilient to shocks. By contrast, less competition risks making an economy 'brittle' and thus less resilient.

16. As many markets are becoming more globalised, events like the Covid-19 pandemic, the Russian war of aggression in Ukraine and the subsequent energy crisis have highlighted the **importance of robust, reliable and diversified (in other words, resilient) supply sources** to businesses active in the Single Market. Likewise, the green and digital transitions involve an unprecedented demand for certain critical raw materials and other inputs (e.g., chips). A diverse, competitive supply base ensures not only that those businesses active in the Single Market benefit from competitive prices and innovation, but also that they have sufficient alternative sources of supply to overcome challenges and seize new opportunities. This is why resilience is one of the points of attention in the **Competitiveness Compass**, in particular for certain strategic sectors.

17. Mergers may have a negative or positive impact on resilience. On the one hand, **mergers can secure the access of companies to inputs they need to compete**, including through the integration of activities at different levels of the value chain. A **diversity of competitive suppliers integrated in the Single Market**, which can be achieved also through acquisitions, **may reduce dependencies from external sources**. Mergers may also enable companies to **enhance certain capabilities**, including leading to increased security or capacity, or relocation of assets, that may make them less prone to external shocks and risks and benefit their customers. On the other hand, mergers may result in less competitively priced inputs, less innovative or lower quality products or reduced number of suitable suppliers. These **harmful effects may trickle down the value chain**, with negative effects on the competitiveness and resilience of these companies not only in Europe but also in global

markets. Market power at one level of the value chain can thus have negative impact on an entire industrial ecosystem.

Enhancing investment and innovation

18. **Scale might provide companies with benefits** such as lower costs, better access to capital markets or R&D&I capabilities that increase their ability to invest and innovate. As identified in the Draghi Report, **the EU must make substantial investments** in essential infrastructure, including for telecommunications, connectivity, and the energy grid. These investments are crucial for enhancing the EU's competitiveness. At the same time, **company size does not typically reflect the ability to invest and innovate**, as many of the most innovative firms in sectors such as pharma, biotechnology, digital or high-tech are SMEs. While the scaling up of companies with disruptive technologies can help disseminate important innovations across the economy, the acquisition of nascent competitors by large established players to protect their market power (so-called "killer acquisitions") might harm innovation. Moreover, as explained in Topic C on Innovation and other dynamic elements in merger control, mergers may reduce the **incentives to invest and innovate** absent efficiencies (e.g. in the form of R&D complementarities or spill-overs).

19. **Competitive markets play a crucial role in driving investment and innovation**. This is important also in digital and high-tech markets, which generate significant spillovers across all economic sectors. A dynamic and innovative digital economy ensures that businesses active in the Single Market remain competitive at a global scale, particularly at a moment in time when AI and other high-tech solutions including cloud and quantum computing, and the Internet of Things, become major drivers of the economy.

Merger control and globalisation

20. **In some markets, competition takes place at the global level** or, at least, imports into Europe from other parts of the world are significant and constitute real alternatives, constraining companies active in the Single Market, as explained in the Market Definition Notice. Moreover, some players may benefit from subsidies by third countries or other competitive advantages.

21. **In other cases, there are (still) too many barriers for competition to take place at a global or even European level.** For some goods this is to a certain extent inevitable, for example products with high transport costs or the need to have local infrastructure. But there are also goods and services where competition takes place within regional or national boundaries only due to various reasons such as regulatory differences, continuing geo-blocking, or sticky consumer preferences.

22. The completion of the Single Market and the elimination of regulatory barriers might therefore contribute to expanding the geographic scope of competition across local, regional, and national borders, and support the capability of efficient players to grow in scale, including through acquisitions.

Technical background

Scaling up

23. Merger control does not take issue with scale as such, rather it focuses on market power. Market power is defined in the Horizontal Merger Guidelines ("**HMG**") and the Non-Horizontal Merger Guidelines ("**NHMG**") as the "*ability of one or more firms to profitably increase prices, reduce output, choice or quality of goods and services, diminish innovation, or otherwise influence parameters of competition*".[3] The conditions to assess whether a transaction may lead to market power are discussed, in particular, in Topic B on Assessing market power using structural features and other market indicators and Topic C on Innovation and other dynamic elements in merger control.

24. Merger control, more specifically, should not prevent companies from acquiring scale by combining complementary products, offers or technologies that result in positive synergies or from seeking access to new geographies. For example, the Commission approved the four cross-border mergers that it has reviewed in the telecom sector since 2015.[4] It approved mergers allowing the merged entity to expand its presence and gain scale globally for instance on services and products for semiconductor manufacturers.[5] It also reviewed and approved transactions between companies active through different technologies in the supply of inputs such as aluminium, a significant lever for industrial sectors to reduce their carbon emissions, while factoring in non-price sustainability-related considerations.[6]

25. Even in situations where a merger leads to a significant loss of competition, increased scale may generate merger efficiencies that offset the competitive harm, such as enabling start-ups or SMEs to scale up and bring new products to the market or generate economies of scale and scope, as discussed in Topic F on efficiencies. The EU Merger Regulation states that "*[i]n order to determine the impact of a concentration on competition in the common market, it is appropriate to take account of any substantiated and likely efficiencies put forward by the undertakings concerned*".[7] The NHMG also recognise that the integration of complementary activities or products may be pro-competitive, as these mergers *"may produce cost savings in the form of economies of scope (either on the production or the consumption side)"*.[8] Examples of cases where cost savings related to economies of scale were assessed can be found in Topic F on efficiencies. Other potential efficiencies linked to scale, such as better access to equity or network effects to compete in global markets may also be relevant.

Resilience and value chains

26. In recent years, resilience has been a concern of particular relevance in the areas of security and defence, as well as other critical industries (e.g., chips manufacturing), critical inputs (e.g., certain raw materials) and critical infrastructure (e.g., broadband submarine cables).

27. Merger control can take resilience into consideration as long as it is relevant for competition on the markets concerned. Mergers can for example help companies secure access to inputs from outside the Single Market they need to compete effectively, which may be considered if it translates to benefits in the market at large. The Commission traditionally also assessed to what extent a merger may reduce dependable sources of supply, thereby exposing customers to more dependencies. In markets characterised by imports, the assessment has also considered whether sources of supply located outside the Single Market may be less dependable and expose businesses located in the Single Market to shocks

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3 HMG, paragraph 8 and NHMG, paragraph 10.

4 Cases M.9963 – *Iliad / Play Communications,* M.9370 – *Telenor / DNA*, M.8883 – *PPF Group / Telenor Target Companies*, and M.8736 – *Toohil Telecom / Eircom*.

5 Case M.11559 – *Exyte / Kinetics*.

6 Cases M.10702 – *KPS Capital Partners / Real Alloy Europe* and M.10658 – *Norsk Hydro / Alumetal*. For more details, see Topic D on Sustainability & clean technologies.

7 EU Merger Regulation, recital 29.

8 NHMG, paragraphs 13 and 118.

and uncertainties, overall reducing their resilience. This can result from, e.g., currency risks, lead times, just-in-time supply chains, quality considerations, or general geopolitical and trade uncertainty.[9]

28. Mergers of companies that produce critical inputs or have access to critical raw materials can increase the dependency of the industrial ecosystem in Europe on a few companies, potentially concentrated in a certain region or country outside the Single Market. Such interdependencies can expose the industrial ecosystem in Europe to systemic risks, such as supply shocks in other jurisdictions resulting from natural events or geopolitical developments. In addition, there may be vertical mergers in which a company based outside the Single Market acquires critical infrastructure located in Europe (e.g., terminals in a port) and plans to continue using this infrastructure at preferential terms following the merger to the detriment of other companies that need access to this infrastructure. Potential effects of this nature may be relevant for merger control and may have an impact on the EU strategic autonomy.

29. Mergers may also enable companies to build on their joint capabilities (e.g. in terms of security, capacity, assets location) to reduce their exposure to external shocks and risks, that may also translate into benefits for the market.

30. A resilience risk assessment can, at least in principle, be undertaken using qualitative and quantitative tools analogous to those used to assess market power of suppliers, possibilities of switching suppliers, foreclosure risks, or coordination risks resulting from a merger. A resilience efficiency assessment may rely on similar tools as the assessment of non-price merger efficiencies (see more details in Topic F on efficiencies). There may be merit in further exploring how qualitative and quantitative competition assessments and tools can be usefully applied or extended to incorporate analyses of strategic resilience, and resistance to external shocks.

Enhancing investment and innovation

31. Increased scale may bring some benefits like better access to equity, finance or scarce talent in specific sectors. This may include a decreasing average cost curve, network effects, intangible capital, access to equity investment, increased ability and incentives to invest (e.g., in network infrastructure) or to innovate (i.e., R&D). In some markets, network effects and access to data that can be achieved with increased scale are also important to develop new products. At the same time, market power typically reduces the incentives to invest and innovate in the long term. The interplay between mergers and innovation is discussed in more detail in Topic C on Innovation and other dynamic elements in merger control and Topic F on efficiencies.

Merger control and globalisation

32. In past decisions, the Commission has taken account of changing geographic market dynamics in the context of a global economy that has become increasingly interdependent over the last decades. In *Siemens/Alstom*,[10] the Commission considered that competition for the supply of high-speed trains could take place at the global level and therefore considered a potential worldwide market, excluding China, Japan, and South Korea. In many manufacturing cases, the Commission has defined EEA-wide markets, while it has also taken account of competitive pressure from outside the EEA (e.g., in the form of imports) in its competitive assessment. For example, in *Tata Steel/Thyssenkrupp/JV*,[11] the Commission found that competitive conditions for the production and supply of several steel products across the EEA were sufficiently similar when considering an EEA-wide market. In the competitive assessment, the Commission considered in detail the role of imports from outside the EEA. Finally, markets in some industries, notably telecoms, have so far been considered by the Commission as national in scope, but this is due to existing regulatory barriers.

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9 See, e.g., cases M.8713 – *Tata Steel / Thyssenkrupp / JV* and M.8444 – *ArcelorMittal / Ilva*.

10 Case M.8677 – *Siemens / Alstom*.

11 Case M.8713 – *Tata Steel / Thyssenkrupp / JV*.

Questions

General

A.1. In your/your client's view, do the current Guidelines provide clear, correct and comprehensive guidance on how merger control reflects the objective of having a productive and competitive economy?

a. Yes, fully
b. Yes, to some extent
c. No, to an insufficient extent
d. Not at all
e. I do not know

A.1.a. [If 'Yes, to some extent' or 'No, to an insufficient extent' or 'Not at all'] Please explain and mention in particular which provisions of the current Guidelines (if any) are not clear or correctly reflecting the objective of having a productive and competitive economy, or what you consider is missing from the Guidelines to address this objective.

A.2. In your/your client's view, should the revised Guidelines better reflect the objective of having a productive and competitive economy in relation to the following aspects? Please select the areas that you believe the revised Guidelines should better address [Multiple options possible]

a. Ability and incentives of SMEs and mid-sized companies to scale up
b. Benefits of companies' gaining scale
c. Companies' resilience
d. Ability and incentives of companies to invest and innovate
e. Ability and incentives of companies to compete at global level
f. The revised Guidelines should not better reflect any of these areas

Scaling up

A.3. How should the Commission take into account situations where absent the merger the target company would not have the ability or incentives to scale-up? Please explain in particular:

A.3.a How should the Commission assess the counterfactual scenario, i.e. what would the situation be absent the merger, in particular when it comes to alternative buyers or sources of financing. [Free text]

A.3.b Should the Commission in such cases assess whether the criteria of a failing-firm defence are met, including the exit of the company's assets from the market, and why/ why not. If so, how should the Commission assess this. [Free text]

A.4. What are the characteristics of markets where scale is necessary to compete effectively? Please be as specific as possible on the level of scale needed and why.

A.5 What are the benefits that merged companies' increased scale might bring to competitiveness:

A.5.1 <u>In a scenario where the increased scale does *not* create or strengthen market power</u> (e.g. a merger between complementary players in terms of products or geography)? Please select the benefits that you believe are relevant for increased competitiveness of the merged entity [Multiple options possible] For each selected benefit, please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Network effects (i.e., whereby a product or service gains additional value as more people use it)

b. Intangible capital (assets lacking physical substance, e.g. patents, copyrights, goodwill, know-how)
c. Access to equity investment
d. Ability and incentives to invest (e.g. in network infrastructure)
e. Ability and incentives to innovate (i.e. R&D, including high-risk innovation)
f. Ability and incentives to derive value from aggregation of data
g. Improves access to market (i.e. ability to reach new customers or geographies in the internal market or outside the internal market)
h. Ability to procure products more competitively from large suppliers?
i. Ability to compete in global markets outside the EU
j. Ability to use countervailing market power vis-à-vis infrastructure providers
k. Other factors (please list)
l. No benefits are relevant

A.5.2 <u>In a scenario where the increased scale creates or strengthens market power</u>, please indicate which of the benefits identified in the previous question are still relevant for increased competitiveness of the merged entity, and comment on whether it may damage the competitiveness of other companies or the economy [Multiple options possible] For each selected benefit, please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Network effects (i.e., whereby a product or service gains additional value as more people use it)
b. Intangible capital (assets lacking physical substance, e.g. patents, copyrights, goodwill, know-how)
c. Access to equity investment
d. Ability and incentives to invest (e.g. in network infrastructure)
e. Ability and incentives to innovate (i.e. R&D, including high-risk innovation)
f. Ability and incentives to derive value from aggregation of data
g. Improves access to market (i.e. ability to reach new customers or geographies in the internal market or outside the internal market)
h. Ability to procure products more competitively from large suppliers?
i. Ability to compete in global markets outside the EU
j. Ability to use countervailing market power vis-à-vis infrastructure providers
k. Other factors (please list)
l. No benefits are relevant anymore

A.6. How should the Commission assess the benefits of companies' gaining scale through mergers when they create or strengthen market power? Please explain in particular:

A.6.a. Under which conditions could such benefits be sufficient to outweigh competitive harm? Please illustrate with the specific benefits you considered relevant. [Free text]

A.6.b. Under which conditions would such benefits be passed on to business customers/consumers? Please illustrate with the specific benefits you considered relevant. [Free text]

A.6.c. What are the elements (including evidence and metrics) that the Commission could use to assess whether the benefits of scale outweigh competitive harm, and whether they will likely be passed on to business customers/consumers? [Free text]

A.6.d. How can productivity improvements of a firm be balanced appropriately against price increases that can harm productivity of other firms? [Free text]

A.7. Under which conditions can scale that brings benefits but creates or strengthens market power be achieved only through a merger, as opposed to other means, i.e. organic growth or cooperation? Please be as specific as possible, also pointing to potential differences between markets/sectors with different characteristics as relevant.

A.8. To what extent can scale that brings benefits be achieved through expansion into new geographic or product markets, rather than consolidation within the same product and geographic market? Please explain your answer being as specific as possible.

Resilience and value chains

A.9. How should the Commission take into account the negative effects of a merger on competitors', suppliers' or business customers' resilience when assessing its impact on competition? Please explain in particular:

A.9.a. What theory/theories of harm could the Commission consider? [Free text]

A.9.b. Under which conditions could this theory/these theories of harm occur? Please explain in particular whether the number of remaining suppliers, supply concentrated in a certain region or country outside the Single Market or other metrics would be relevant. [Free text]

A.9.c. What are the elements, including evidence and metrics, that the Commission could use to assess the negative impact on competitors' resilience post-merger? [Free text]

A.10. From your/your client's perspective, how can the revised Guidelines contribute to the security of supply and resilience of the EU economy against outside shocks and dependency on third country input?

A.10.1 <u>In a scenario where the merger does *not* create or strengthen market power</u> (e.g. a merger between complementary players in terms of products or geography)? Please select the benefits that you believe are relevant for the companies' increased resilience [Multiple options possible]. Please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Vertical integration
b. Better access to input through new contracts
c. Diversification of sources of supply
d. Better conditions of purchase of inputs
e. Access to critical infrastructure
f. Other (please list)
g. No benefits are relevant

A.10.2 <u>In a scenario where the merger creates or strengthens market power</u>, please indicate which of the benefits identified in the previous question are still relevant for increased security of supply and resilience of the merged entity [Multiple options possible], and comment on whether it may damage the security of supply and resilience of other companies or the economy against outside shocks and dependency on third country input. Please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Vertical integration
b. Better access to input through new contracts
c. Diversification of sources of supply
d. Better conditions of purchase of inputs
e. Access to critical infrastructure

f. Other (please list)
g. No benefits are relevant anymore

A.11. How should the Commission take into account the benefits of a merger on companies' resilience in situations where such merger also creates or strengthens market power? Please explain in particular:

A.11.a Under which conditions could such benefits be sufficient to outweigh competitive harm? Please illustrate with the specific benefits you considered relevant.[Free text]
A.11.b Under which conditions would such benefits be passed on to business customers/consumers, and how? Please illustrate with the specific benefits you considered relevant. .[Free text]
A.11.c What are the elements (including evidence and metrics), whether at firm or industry level, that the Commission could use to assess whether the increased resilience outweigh competitive harm, and will likely be passed on to business customers/consumers? .[Free text]

A.12. From your/your client's perspective, what are the characteristics of markets or sectors where resilience is particularly important to compete effectively? Please be as specific as possible e.g. on the number of suppliers needed or on the gravity of the impact in case of shocks or shortage and why.

Enhancing investment and innovation

A.13. What are the benefits that mergers might bring to competition in terms of <u>increased innovation</u>:

A.13.1 <u>In a scenario where the merger does *not* create or strengthen market power</u> (e.g. a merger between complementary players in terms of products or geography)? Please select the benefits that you believe are relevant for increased innovation [Multiple options possible]. For each selected benefit, please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Network effects (i.e., whereby a product or service gains additional value as more people use it)
b. Intangible capital (assets lacking physical substance, e.g. patents, copyrights, goodwill, know-how)
c. Access to equity or debt capital
d. Integration of complementary R&D capabilities
e. Integration of complementary R&D staff
f. Access to new know-how, data and patents
g. Access to infrastructure or other critical input
h. Other factors (please list)
i. No benefits are relevant

A.13.2 <u>In a scenario where the merger creates or strengthens market power</u>, please indicate which of the benefits identified in the previous question are still relevant for increased innovation of the merged entity [Multiple options possible], and comment on whether it may damage the ability and incentives to innovate of other companies. Please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Network effects (i.e., whereby a product or service gains additional value as more people use it)

b. Intangible capital (assets lacking physical substance, e.g. patents, copyrights, goodwill, know-how)
c. Access to equity or debt capital
d. Integration of complementary R&D capabilities
e. Integration of complementary R&D staff
f. Access to new know-how, data and patents
g. Access to infrastructure or other critical input
h. Other factors (please list)
i. No benefits are relevant anymore

A.14. What are the benefits that mergers might bring to competition in terms of <u>increased investment</u>:

A.14.1 <u>In a scenario where the merger does *not* create or strengthen market power</u> (e.g. a merger between complementary players in terms of products or geography)? Please select the benefits that you believe are relevant for increased investment [Multiple options possible] and provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Network effects (i.e., whereby a product or service gains additional value as more people use it)
b. Intangible capital (assets lacking physical substance, e.g. patents, copyrights, goodwill, know-how)
c. Access to equity or dept capital
d. Integration of complementary R&D capabilities
e. Integration of complementary R&D staff
f. Access to new know-how, data and patents
g. Access to infrastructure or other critical input
h. Other factors (please list)
i. No benefits are relevant

A.14.2 <u>In a scenario where the merger creates or strengthens market power</u>, please indicate which of the benefits identified in the previous question are still relevant for increased investment of the merged entity [Multiple options possible], and comment on whether it may damage the ability and incentives to invest in other companies. Please provide concrete examples and underlying data. Please also specify which metrics can be used to measure these elements. [Free text]

a. Network effects (i.e., whereby a product or service gains additional value as more people use it)
b. Intangible capital (assets lacking physical substance, e.g. patents, copyrights, goodwill, know-how)
c. Access to equity or dept capital
d. Integration of complementary R&D capabilities
e. Integration of complementary R&D staff
f. Access to new know-how, data and patents
g. Access to infrastructure or other critical input
h. Other factors (please list)
i. No benefits are relevant anymore

A.15. From your/your client's perspective, in which type of markets/sectors are smaller or larger firms typically more innovative? Please provide supporting data and evidence.

A.16. From your/your client's perspective, how do different market structures, such as tight oligopolies or markets with a leading company followed by smaller firms, influence the ability and incentives to innovate and invest?

A.17. How should the Commission factor in that competition to invest and innovate may take place at global level while markets for consumers may be of significantly narrower geographic scope? Please explain in particular:

A.17.a Specifically, in which circumstances may a merger lead to competitive harm due to the reduction of competition at global level, even when pre-merger the companies were not competing in the same narrower geographic markets? How should that be taken into consideration? .[Free text]

A.17.b Vice versa, in which circumstances may a merger lead to competitive harm due to the reduction of competition at the narrower geographic level (e.g. national), while at the same time bringing benefits to competition at global level? How should that be taken into consideration? v

Merger control and globalisation

A.18. What are the benefits companies may enjoy due to their global presence that can give them a competitive advantage in markets (with)in Europe? Please select the advantages that you believe are relevant [Multiple options possible] and provide concrete examples and underlying data. [Free text]

a. Less regulation in markets outside of Europe
b. Less costs in markets outside of Europe
c. Better access to raw materials and/or manufacturing capacity
d. Better access to financing or equity investments
e. Lower standards of environmental protection, social rights or similar
f. Other
g. No benefits are relevant

A.19. How should the Commission factor in that some companies, including merging parties or competitors, benefit from competitive advantages linked to their global presence when assessing the impact of a merger on competition (with)in Europe?

A.19.a In this context, please explain whether such competitive advantages would (not) be reflected already in the level of market shares, and why/why not. .[Free text]

A.19.b In this context, please explain how and in which circumstances benefits linked to e.g. subsidies in other markets can be considered as a competitive advantage in the relevant market. .[Free text]

A.19.c In this context, please explain in which circumstances, and based on which evidence, such benefits can be considered as part of the long term and structural counterfactual, i.e. the situation absent the merger. .[Free text]

A.20. What would be pro-competitive consolidations in global strategic sectors, such as digital and deep-tech markets (e.g., IoT, advanced connectivity, cybersecurity, cloud, quantum, and/or AI), clean and resource efficient technologies or biotechnologies that would benefit competition in the Single Market? Please explain why in particular in terms of harm and benefits to competition.