



Bundesministerium
für Wirtschaft
und Energie



Ministero dello Sviluppo Economico



MINISTERSTWO
ROZWOJU

Paris, le **04 FEV. 2020**

Dear Madam Vice-President,

We would like to congratulate you on your appointment as Executive Vice-President for a Europe fit for the Digital Age in charge of competition policy.

Europe's competition policy has been essential for the development of the European single market. An efficient competition framework is crucial for companies to innovate, to become more productive, to offer better products to consumers, and to conquer new markets abroad.

However the ever-changing field in which competition policy is enforced may require some adaptations over time, in order for such policy to remain relevant and effective. To that end, France, Germany and Poland made proposals on July 4th to modernise the EU competition rulebook.

The same countries, along with Italy wish to convey to the new Commission the following points/messages.

First, the nature of global competition has changed. European companies now have to compete with foreign companies that sometimes benefit from substantial state support or from protected domestic markets, in some instances to a very high degree. This situation calls for an evaluation¹ and modernisation of the current European Commission's guidelines on the assessment of horizontal mergers and on the definition of the relevant market in order to ensure fair and undistorted competition and introduce more justified and reasonable flexibility, to take better account of third countries' state intervention as well as potential competition and to consider, on a case by case approach, the effectiveness and viability of behavioural remedies, especially if competition conditions may change in the short run, ensuring fair competition within the internal market.

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¹ It seems that the various reports submitted under competition law (rep. Crémer et. al, Furman et. al., Perrot et. al., Commission "Competition Law 4.0") could be sufficient to form the basis for the review. In addition, as far as the European interest is concerned, some inquiries could be carried out on the basis of Article 17 of Council Regulation (EU) 1/2003 of 16 December 2002, in order to better understand how competition may be stifled in certain sectors of the European economy exposed to unfair international competition.

Mrs Margrethe VESTAGER
Executive Vice-President
and Commissioner for Competition
European Commission

The overall objective is thus to level the playing field by making our competition toolbox more efficient and effective in tackling potential abusive behaviour in the single market of economic operators from outside the EU, including state-backed or subsidised companies and thus strengthening the competitiveness of EU industry and European value chains, without distorting competition on relevant European markets that would allow negative effects to arise for our consumers and enterprises. This requires a very pragmatic approach acknowledging the differences that may exist in the level of accountability and transparency we can realistically obtain from European and non-EU companies regarding their market behaviours.

The Commission should also provide greater clarity to the stakeholders on the efficiencies brought about by a merger and on the evaluation of the competitiveness of industry in the appraisal of mergers: specific guidelines, drafted in the forthcoming weeks, could develop the range of efficiencies taken into account in the competitive analysis.

We therefore call on the Commission to propose a revised version of the guidelines of merger control aimed at addressing the above-mentioned issues.

Second, the emergence of large players of the digital economy relying on the accumulation of data and unparalleled network effects resulting in very strong market footprint and excessive market power in neighbouring or emerging markets constitutes another challenge for competition policy. It is now essential to adequately address the critical issue of tackling digital companies and platforms' market power in an unbiased manner and without unnecessary delay, in order to avoid irreversible distortions in competition on digital markets, to this end, interim measures should be encouraged. We believe that the Commission should identify systemic actors against objective criteria taking into account specificities of digital markets, such as emergence of digital platforms with paramount importance for competition, that should be subject to specific scrutiny and, if relevant, to a specific regulatory framework, in accordance with the particular responsibilities of these players.

To this end, we suggest that the European Commission gives the highest priority to the drafting of proposals aimed at putting in place a framework for the definition and the regulation of “digital platform with paramount importance for competition” at European level. We also stress the importance of an ambitious timetable regarding this, given the utmost importance of the matter. In our view, the Commission's proposals ought to be issued ideally by the end of the second quarter of 2020. Therefore, the priority work to be carried out in close cooperation with the Member States for this purpose must be set out swiftly, i.e. in the forthcoming weeks.

Third, European firms and entrepreneurs need greater clarity on what cooperation is permitted between undertakings. The Commission should give firms of all sizes guidance on cooperation to strengthen their clout on foreign markets and reinforce cross-border European participation in global value chains. In this regard, guidelines on the creation of European joint ventures which target markets could provide clarity for EU firms, in particular SMEs and start-ups – similar to the idea of an IPCEI in the field of state aid rules.

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Fourth, the Commission should extend its capacities in regard to digital markets and the challenges of the digital economy. Therefore it should be explored and determined whether establishing a specialised Commission unit or an independent scientific expert body would support DG COMP and provide expertise which would permit a more holistic and comprehensive approach towards ever more complex challenges. We suggest that the role of the Advisory Committee in merger control should be reinforced to allow for broader competition policy discussions with the Member States. It could conduct independent assessments of efficiency gains linked to mergers and of the economic relevance of remedies in order to strengthen the Commission's decision in this field.

Fifth, the Commission should also extend the expertise of DG COMP by drawing upon expertise of sector specialists from the other DGs in order to develop a more detailed and comprehensive approach to markets affected by mergers.

We therefore call on the Commission to adopt a work plan in the forthcoming weeks with practical proposals and rules to address these specific challenges.

Your appointment as Executive Vice-President for a Europe fit for the Digital Age in charge of European competition policy paves the way for modernising competition policy to ensure that it continues to promote pro-consumer and pro-competitive innovation in our new digital era. Similarly, we are confident that your involvement in the long-term strategy for the future of European industry will lead to greater collegiality in the assessment of the EU's long-term industrial challenges in the evaluation of competition rules, merger control and state aid rules.

We are confident that the Commission will do its utmost to adapt competition policy to these market trends. We will provide full political support to meet these challenges.

Sincerely,

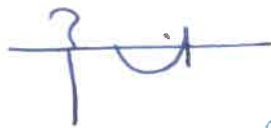
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