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Report on Competition Policy 2022

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1. Introduction

The Annual Competition Report of 2022 is addressed by the European Commission ('Commission') to the European Parliament, the Council of the European Union, the European Economic and Social Committee and the Committee of the Regions. It describes key developments in EU competition policy and enforcement during 2022.

Europe experiences disruptive and unpredictable times. As the year 2022 began, the COVID-19 pandemic receded, and the EU was on a path towards economic recovery. The Recovery and Resilience Plans ('RRPs') of most EU countries became operational and the first funds were disbursed to Member States, boosting the recovery of the EU with well-targeted investments. Russia's war of aggression against Ukraine led to immediate and major disturbances in the EU economy and a call for coordinated action to secure adequate and affordable energy supplies, safeguard economic and financial stability, food security and protect vulnerable households and companies. While addressing these challenges, the obligations to deliver on the green and digital transitions remained.

Under the leadership of President von der Leyen, the Commission used the policy instruments at its disposal to create and implement a policy mix designed to mitigate the negative effects of Russia's war against Ukraine on the overall EU economy, its businesses and its population, while at the same time phasing out EU emergency measures implemented to address the COVID-19 pandemic.

In March 2022, the Commission adopted a Temporary Crisis Framework allowing Member States to support companies and sectors severely impacted by the geopolitical developments in compliance with EU State aid rules. In response to the disruptions in global energy markets, the Commission adopted in May 2022 the REPowerEU plan[1] (outline published in March 2022[2]). The plan sets out ways forward for adjusting the EU's energy sector, tackling high energy prices and reducing dependence on imported fossil fuels. In October 2022, the Commission proposed a new emergency regulation to mitigate the impact of high gas prices in the EU, including through joint purchasing[3].

In 2022, the Commission continued its extensive evaluation of the EU competition policy framework to ensure that all enforcement instruments are fit for current and future challenges[4]. Furthermore, new legislative tools which complement the competition policy tools were adopted.

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[1] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: REPowerEU Plan, COM(2022) 230, 18.5.2022.

[2] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM(2022) 108, 8.3.2022.

[3] Proposal for a Council Regulation: Enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks, COM/2022/549 final, 18.10 2022.

[4] Commission Communication of 18 November 2021: 'A competition policy fit for new challenges', COM(2021) 713 final.

The Digital Markets Act ('DMA')[5] entered into force in November 2022 and will apply as of May 2023. Its aim is to keep digital markets contestable and put an end to unfair practices by companies that act as gatekeepers in the online platform economy. Moreover, the Foreign Subsidies Regulation was adopted in November 2022 and will enter into force in 2023. The Regulation will close a regulatory gap in the Single Market, where market distortive subsidies granted by non-EU governments currently go largely unchecked, while subsidies granted by Member States are subject to close scrutiny under EU State aid rules.

The Single Market Programme[6] and its competition policy component provides stable funding for policy and enforcement projects increasing, international cooperation and competition policy advocacy.

In times of crisis, effective enforcement of the EU competition rules is more important than ever. In 2022, the Commission continued to enforce the EU competition rules in the areas of antitrust, merger control and State aid control to the benefit of citizens and businesses of all sizes. EU competition policy, in particular State aid policy, remained a crucial component of the EU's multifaceted crisis response.

2. The Commission's role in mitigating external economic shocks in times of disruption was crucial

2.1. Adoption of the Temporary Crisis Framework to support the economy following Russia's invasion of Ukraine and Emergency Energy Communication

To reduce the negative social and economic impact on the EU caused by Russia's war of aggression against Ukraine – among other policy instruments - the Commission again used the flexibility of the State aid rules. The Commission adopted the Temporary Crisis Framework[7] making it possible for Member States to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance in the economy created by the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed by the Union and its international partners and the counter-measures taken by Russia. During the year, the Commission closely followed and assessed developments to see if further temporary changes of the State aid rules were called for.

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[5] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), OJ L 265, 12.10.2022, p. 1.

[6] Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (Text with EEA relevance), OJ L 153, 3.5.2021, p. 1. The Regulation applies retroactively, from 1 January 2021.

[7] Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 28. 10.2022, p. 1). This Temporary Crisis Framework replaced the Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131I, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1).

The EU needs to expedite the rollout of renewable energy sources and speed up the decarbonisation of its energy supply in line with the REPowerEU objectives[8]. This is why the Commission amended the Temporary Crisis Framework in July 2022 to facilitate for Member States to set up schemes for renewable energy and the decarbonisation of industry. In October 2022, the Commission prolonged the Framework[9] until 31 December 2023, and amended it to address the evolving needs of Member States to support the economy following Russia's continued aggression against Ukraine. The amendment simplified the rules for compensating firms for rising energy costs, introduced new measures aimed at supporting electricity demand reduction and set the main principles for potential recapitalisations, especially for energy companies. Moreover, the amended Temporary Crisis Framework increased the maximum aid levels for small aid amounts and provided additional flexibility for guarantees for energy companies to cover their liquidity needs.

Due to the crisis in Ukraine, a particular need for solvency support has emerged in the energy sector, in particular an increased need for financial collaterals for trading activities on the energy market. Therefore, the Temporary Crisis Framework contains an amended regime for this type of solvency support. The Commission has accepted sector-specific schemes in Denmark, Belgium and Finland[10]. In December 2022, the Commission approved, taking account of the commitments provided by Germany, aid measures to *Uniper*[11] and *SEFE GmbH*[12] providing capital injections, notably to cover losses occurred by purchasing gas at higher market prices replacing gas which Russian suppliers did not supply under existing long-term contracts.

In 2022, several Member States notified umbrella schemes namely crosscutting support to economic sectors where companies have been negatively impacted by the war in Ukraine. These umbrella schemes[13] were approved under the Temporary Crisis Framework, in accordance with Article 107(3)(b) of the Treaty on the Functioning of the European Union ('TFEU').

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[8] REPowerEU is the Commission's plan to make Europe independent from Russian fossil fuels before 2030, in light of Russia's invasion of Ukraine. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: REPowerEU Plan, COM(2022) 230, 18.5.2022.

[9] Communication from the Commission Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ, C 426, 9.11.2022, p. 1

[10] Case SA.104273, *Belgium – TCF - State aid scheme in the context of the economic crisis caused by Russia's aggression against Ukraine*; Case SA.104602, *Denmark – TCF - Guarantee scheme for financial collaterals for electricity and gas companies*; Case SA.104224, *Finland – TCF - State Aid liquidity support in the energy sector*; Case SA.104267, *Finland - TCF - Subsidised loans in energy sector*.

[11] Case SA.103791, *Germany – Recapitalisation of Uniper SE*. See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_7830

[12] Case SA.105001, *Germany – Recapitalisation of SEFE GmbH*. See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_7828

[13] For example, Germany notified an umbrella scheme with a EUR 11 billion budget. The German scheme included State guarantees for loans and subsidised loans, ensuring capital liquidity for companies in need. Case SA.102631, *Germany TCF: Umbrella schemes for guarantees on loans and subsidised loans*, OJ C 337, 2.9.2022, p. 18. Spain notified a EUR 1.3 billion umbrella scheme. The Spanish umbrella scheme included liquidity support in the form of loan guarantees and loans with subsidised interest rates. Case SA. 102771 *Spain TCF: Umbrella Scheme*, OJ C 348, 9.9.2022, p. 9. Italy notified an umbrella scheme amounting to EUR 1.2 billion. The support was targeted to the agricultural, forestry, fishery and aquaculture sectors, including direct grants, tax or payment advantages, repayable advances and reduction or exemption from making social security and welfare contributions. Case SA. 102896, *Italy – TCF – Umbrella scheme for the measures to support undertakings active in the agricultural, forestry, fishery, and aquaculture sectors in compliance with the Temporary Crisis Framework*, OJ C 337, 2.9.2022, p. 17.

In 2022, the Commission adopted 195 decisions, approving 182 national measures notified by 27 Member States. The overall budget that Member States notified to the Commission for such State aid measures amounted to around EUR 670 billion. Some 53% of the approved aid had been notified by Germany, 24% by France and 7% by Italy[14], which however do not represent the amounts paid out.

2.2. Phasing out the State Aid Covid Temporary Framework supporting the economy in the context of the coronavirus outbreak

The Commission continued to assess aid measures directly under Article 107(3)(b) TFEU, Article 107(3)(c) TFEU as well as under the Temporary Framework supporting the economy in the context of the coronavirus outbreak ('Temporary Framework for State aid measures')[15]. By the end of 2022, the Commission had adopted 217 COVID-19-related decisions in all Member States, including decisions under the Temporary Framework for State aid measures[16]. This is a significant decrease compared to 2021, when 1180 COVID-19-related decisions were adopted.

As the public health measures taken in light of Covid-19 health crisis situation were eased, the Commission decided not to prolong the Temporary Framework for State aid measures beyond 30 June 2022 except for investment support and solvency support measures, which are allowed until 31 December 2023[17]. The Temporary Framework for State aid measures allows until 30 June 2023 a flexible transition under clear safeguards for converting and restructuring debt instruments such as loans and guarantees into other forms of aid, for example direct grants.

2.3. Implementing the Recovery and Resilience Facility

Implementation of the Recovery and Resilience Facility ('RRF')[18] - the centrepiece of the NextGenerationEU initiative - continued in 2022[19]. It aims to promote cohesion among Member States by mitigating the social and economic fallout of the COVID-19 pandemic and to better prepare the EU for future challenges, notably by supporting the green and digital transitions. Most of the measures financed by the RRF do not constitute State aid. Out of those that do qualify as State aid, the majority can be implemented directly by the Member States, either under a block-exemption

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[14] Source: DG Competition internal database.

[15] Communication from the Commission: Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

[16] See Staff Working Document, Annex 1 and Annex 2 for a complete list of COVID-related Commission decisions.

[17] Communication from the Commission: Amendment to the Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 423, 7.11.2022, p. 9.

[18] See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3131

[19] See the Recovery and Resilience Scoreboard, which gives an overview of how the implementation of the Recovery and Resilience Facility (RRF) and the national recovery and resilience plans is progressing: https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/index.html?lang=en

regulation[20] or under a *de minimis* regulation[21]. However, a number of measures have been notified for the Commission's prior authorisation. During 2022, the Commission adopted State aid decisions on nearly 80 RRF-funded measures.

3. Ensuring that competition rules remain fit for the future – Progress on an extensive policy agenda

3.1. Legislative initiatives to strengthen the competition policy toolbox

The Digital Markets Act ('DMA'),[22] which entered into force in November 2022, is now in the implementation phase. The DMA is an *ex-ante* regulation that aims to make the digital sector fairer and more contestable. Companies designated as 'gatekeepers' will have to comply with a pre-defined set of obligations and prohibitions. Enforcement of the DMA combined with the *ex-post* enforcement of the EU competition rules will result in fairer and more competitive market conditions for businesses and for consumers of digital services in the Single Market. As the central enforcer of the DMA, the Commission will work in close cooperation with authorities in EU Member States. The new rules are without prejudice to the enforcement of the EU competition rules and national competition rules for unilateral conduct.

The Digital Markets Act[23]

The DMA addresses systemic practices that may arise in digital markets. A firm with a gatekeeper position in a digital market may be able to act as a *de-facto* private rule-maker, creating bottlenecks between businesses and between businesses and end-users. The DMA defines a set of criteria for identifying gatekeepers falling under the Regulation. When an online digital platform meets the quantitative thresholds it will be presumed to be a gatekeeper. The quantitative criteria include for example the number of yearly active business users and the number of monthly active end users. Firms exceeding the thresholds set by the Regulation are considered as gatekeepers with an entrenched market position. This typically allows them to influence market dynamics negatively. The Commission will be able to designate gatekeepers individually by making qualitative assessments. Designated gatekeepers will have to comply with a set of harmonised rules designed to keep core platform services markets contestable and restrict unfair conduct. To address potential non-compliance with the obligations, fines of up to 10% of the undertaking's worldwide turnover may be imposed. Moreover, in case of systematic non-compliance, proportionate behavioural or structural remedies may be imposed on such firms.

In November 2022, the European Parliament and the Council adopted the Regulation on foreign subsidies distorting the internal market[24] (FSR). The Regulation closes a regulatory gap, tackling

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[20] Mainly Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1, as last amended by Commission Regulation (EU) 2021/1237, OJ L 270, 29.7.2021, p. 39.

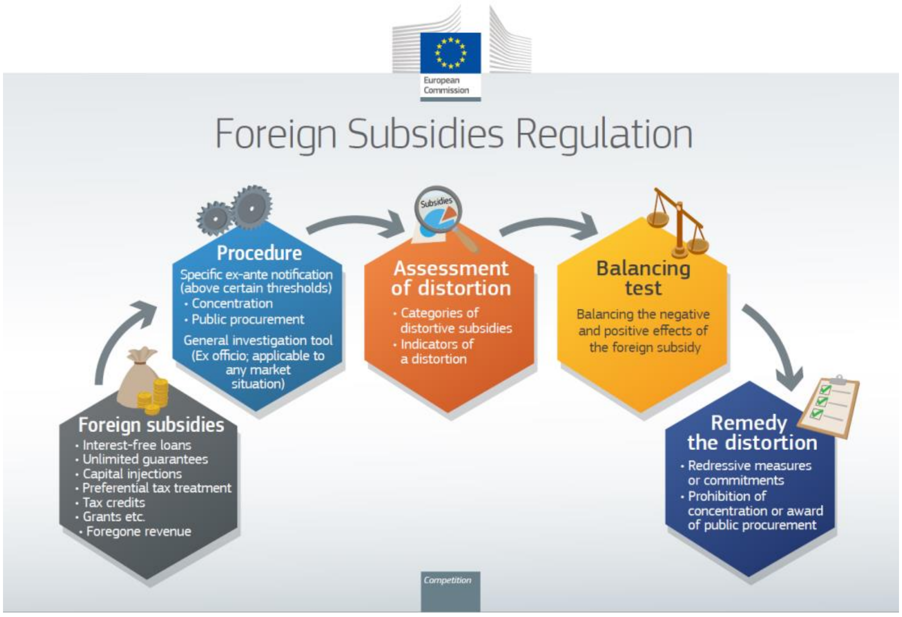
[21] Mainly Commission Regulation (EU) No1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, OJ L 352, 24.12.2013, p. 1.

[22] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), OJ L 265, 12.10.2022, p. 1.

[23] The DMA will apply as of 2 May 2023. In 2022, the Commission prepared for enforcing the DMA, for example by drafting implementing acts, developing decision templates and setting up internal procedures for the operation of registries and IT systems.

foreign subsidies that distort competition in the Single Market. The Commission will soon be able to investigate and redress, when appropriate, the distortive effects caused by such foreign State support. The Regulation includes three tools: (i.) proposed concentrations where at least one of the merging undertakings, the joint venture or the acquired undertaking have an EU turnover of at least EUR 500 million and the foreign financial contribution exceeds EUR 50 million, will have to be notified to the Commission; (ii.) bids in EU public procurement procedures involving foreign financial contributions where the value of the procurement is at least EUR 250 million will have to be notified to the Commission; and (iii.) the Commission will be empowered to investigate ex-officio other market situations. The Commission will have the exclusive competence to enforce the FSR. When the negative effects of the foreign subsidy outweigh its positive effects, the Commission will have the power to impose redressive measures or accept commitments to remedy the distortion. Such measures and commitments may include a range of structural or behavioural remedies, such as the divestment of certain assets or the prohibition of a certain market behaviour. The Commission will also have the power to prohibit a subsidised concentration or the award of a public procurement contract to a subsidised bidder.

The regulation will apply from 12 July 2023 and the notifications will become mandatory from 12 October 2023.



[24] Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, OJ L330, 23.12.2022, p. 1.

3.2. Updating antitrust and merger rules and guidance to make them fit for new challenges

New Vertical Block Exemption Regulation and Vertical Guidelines adopted

Article 101(1) TFEU prohibits vertical agreements between two or more undertakings operating at different levels of the production or distribution chain, if these agreements restrict competition. However, under Article 101(3) TFEU, such agreements are compatible with the Single Market, provided they contribute to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits and without eliminating competition. In May 2022, the Commission adopted the new Vertical Block Exemption Regulation ('VBER')[25], accompanied by the new Vertical Guidelines[26], which will help businesses to assess the compatibility of their supply and distribution agreements with EU competition rules. The new rules take into account market developments such as the increase in online sales and emergence of new actors such as platforms. Increased clarity and greater transparency can help businesses achieve compliance at lower cost - this is especially beneficial to small and medium-sized enterprises (SMEs).

Draft rules on horizontal cooperation agreements published

Horizontal cooperation between competing firms can bring about important efficiency gains in certain circumstances. For example, such cooperation can benefit consumers or reduce a sector's impact on the environment. This is why the Commission provides safe harbours for certain types of horizontal cooperation agreements. To ensure that the rules on horizontal cooperation agreements remain fit for purpose, in particular to address the challenges of digitalisation and the green transition, the Commission launched, in March 2022, a stakeholder consultation on the draft revised Horizontal Block Exemption Regulations on Research & Development and Specialisation agreements and on the draft revised Horizontal Guidelines[27]. The proposed rules include new guidance aimed to make it easier for companies to cooperate to pursue sustainability objectives. The proposed rules also provide additional guidance and legal certainty to companies in areas such as data sharing, mobile infrastructure sharing agreements and bidding consortia. In December 2022, the Commission adopted two regulations extending the validity of horizontal block exemption regulations regarding research and development and specialisation agreements[28]. The block exemption regulations were due to expire on 31 December 2022 and the Commission extended them until 30 June 2023.

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[25] Commission Regulation (EU) No 2022/720 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (VBER), OJ L 134, 11.5.2022, p. 4.

[26] Commission Notice: Guidelines on vertical restraints, OJ C 248, 30.6.2022, p. 1.

[27] Public consultation on the draft revised Horizontal Block Exemption Regulations and Horizontal Guidelines, from 1.3.2022 to 26.4.2022. See: https://competition-policy.ec.europa.eu/public-consultations/2022-hbers_en

[28] Commission Regulation (EU) 2022/2455 of 8 December 2022 amending Regulation (EU) No 1217/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements, OJ L 321, 15.12.2022, p. 1; and Commission Regulation (EU) 2022/2456 of 8 December 2022 amending Regulation (EU) No 1218/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements, OJ L 321, 15.12.2022, p. 3.

Draft Motor Vehicle Block Exemption Regulation and Supplementary Guidelines published

Vehicle-generated data is becoming an increasingly important factor of competition for repair and maintenance operators. The Commission has a specific regime for vertical agreements in the sector[29], which is currently under review. In July 2022, the Commission consulted stakeholders on a draft Regulation extending the period of validity of Regulation 461/2010 ('Motor Vehicle Block Exemption Regulation')[30], together with a draft Communication amending the Commission Notice containing the Supplementary Guidelines[31] to address the data issue. The proposed changes will provide clarity for companies concerning the way the Commission views issues related to access to data generated by the cars' sensors when assessing vertical agreements between vehicle manufacturers and their authorised networks under EU competition rules. The aim is to keep the framework in place for five additional years until 31 May 2028, and extend the existing principles for the provision of technical information, tools and training necessary for the provision of repair and maintenance services to explicitly cover vehicle-generated data.

Guidelines on collective agreements to improve working conditions of solo self-employed people adopted

The number of solo self-employed people in the EU is relatively high and some face difficult working conditions. Collective negotiations can be a powerful tool to improve such working conditions. In September 2022, the Commission adopted Guidelines on the application of EU competition law to collective agreements regarding the working conditions of the solo self-employed people[32]. The purpose of the Guidelines is to explain in which circumstances EU competition law does not stand in the way of collective agreements to improve working conditions.

Based on established case-law of the Court of Justice of the European Union[33], the Guidelines describe situations where solo self-employed persons may be comparable to workers and clarify that their collective agreements then fall outside the scope of Article 101 TFEU. This covers economically dependent solo self-employed persons, those working side-by-side with workers and those providing their services through digital labour platforms. Furthermore, the Guidelines clarify that in certain cases, where self-employed persons who are not in a situation comparable to that of workers have difficulties in influencing their working conditions because of a weak negotiating position, the Commission will not intervene against certain categories of collective agreements.

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[29] The Motor Vehicle Block Exemption Regulation ('MVBER') regime consists of: (i) the Vertical Block Exemption Regulation ('VBER') and the Guidelines on Vertical Restraints ('VGL'); and (ii) the sector-specific block exemption provisions, as provided for in the MVBER and the Supplementary Guidelines ('SGL'), applicable to the distribution of spare parts and repair and maintenance services for motor vehicles.

[30] Commission Regulation (EU) No 461/2010 of 27 May 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector, OJ L 129, 28.5.2010, p. 52.

[31] Commission Notice: Supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles, OJ C 138, 28.5.2010, p. 16.

[32] Communication from the Commission: Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons, OJ C 374, 30.9.2022, p. 2.

[33] Judgment of the Court of Justice of 4.12.2014, Case C-413/13, *FNV Kunsten Informatie en Media v Staat der Nederlanden*, EU:C:2014:2411; judgment of the Court of Justice of 21.12.1999, Case C-67/96, *Albany International BV v Stichting Bedrijfspensioenfonds Textielindustrie,* EU:C:1999:430.

Revised Informal Guidance Notice adopted

In order to allow businesses to seek informal guidance on the application of EU competition rules to novel or unresolved questions, the Commission adopted, in October 2022, a revised Informal Guidance Notice[34]. This is another important step towards greater transparency and easier compliance for businesses that want to make sure they abide by competition rules.

Draft Market Definition Notice published

In November 2022, the Commission published a draft revised Market Definition Notice for public consultation.[35] The draft revised Market Definition Notice builds on the conclusions of the evaluation published in July 2021. The revised draft Notice is the outcome of a thorough review process first launched in April 2020. The draft updates the 1997 Notice currently in force taking into account the significant developments of the intervening years, in particular digitalisation and new ways of offering goods and services, and also reflecting the interconnected and globalised nature of commercial exchanges. On the basis of the evidence gathered during the consultation, the Commission will revise and finalise the draft with a view to adopt a new Market Definition Notice in 2023.

Draft Merger Implementing Regulation and the draft revised Notice on Simplified Procedure published

The evaluation[36] of procedural and jurisdictional aspects of EU merger control showed that the 2013 Simplification Package[37] had been effective in increasing the application of simplified procedures to unproblematic mergers and in reducing the administrative burden for both businesses and the Commission. The results of the evaluation indicated that there is merit in considering further targeting of EU merger control, by expanding and clarifying the scope of the Notice on Simplified Procedure[38] and by revising the Merger Implementing Regulation[39], to further ease the administrative burden on both businesses and the Commission. Following the evaluation, the Commission launched a public consultation on a revised Notice and Merger Implementing Regulation in May 2022.[40] On 28 October 2022, the Commission's Regulatory Scrutiny Board adopted a positive opinion on the

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[34] Commission Notice on informal guidance relating to novel or unresolved questions concerning Articles 101 and 102 of the Treaty on the Functioning of the European Union that arise in individual cases (guidance letters) of 3 October 2022, SWD(2022) 326, 3.10.2022. See: https://competition-policy.ec.europa.eu/system/files/2022-10/coronavirus_informal_guidance_notice_antitrust_2022.pdf

[35] See European Commission Communication from the Commission, draft Commission Notice on the definition of the relevant market for the purposes of union competition law. See: https://competition-policy.ec.europa.eu/public-consultations/2022-market-definition-notice_en

[36] Commission Staff Working Document, Executive summary of the evaluation of procedural and jurisdictional aspects of EU merger control of 26 March 2021, SWD(2021) 66, 26.3.2021. See: https://competition-policy.ec.europa.eu/system/files/2021-04/SWD_findings_of_evaluation_summary.pdf

[37] Commission Implementing Regulation (EU) No 1269/2013 of 5 December 2013 amending Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 336, 14.12.2013, p. 1.

[38] Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004, OJ C 366, 14.12.2013, p. 5.

[39] Commission Implementing Regulation (EU) No 1269/2013 of 5 December 2013 amending Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 336, 14.12.2013, p. 1.

[40] Public consultation on the Merger control in the EU – further simplification of procedures, from 6.5.2022 to 3.6.2022. See: https://competition-policy.ec.europa.eu/public-consultations/2022-merger-simplification_en

impact assessment report. Once adopted, the revised Implementing Regulation and Notice will allow for further simplification through the introduction of new categories of simplified cases, the streamlining of the Commission's merger procedures, as well as the introduction of electronic notification as the default way of notifying merger transactions.

Preparation of new Guidelines on sustainability agreements in agriculture

The reform of the Common Agricultural Policy ('CAP') for the period 2023-2027 introduced a new exclusion to Article 101 TFEU,[41] allowing agricultural producers and other operators in the agri-food supply chain to agree on certain restrictions on prices, output and other elements of competition provided that those restrictions are indispensable to attain sustainability standards going beyond mandatory standards in existing EU and national legislation. This possibility concerns certain environmental, health or animal welfare standards. In 2022, the Commission carried out a public consultation[42] to prepare the draft guidelines to explain this exclusion. The aim is to have the Guidelines in place by the end of December 2023.

Evaluation of the Consortia Block Exemption Regulation continued

The Consortia Block Exemption Regulation ('CBER')[43] allows, under certain conditions, liner shipping companies (also known as carriers) to cooperate and provide joint services. As the CBER is due to expire on 25 April 2024, the Commission launched an evaluation process to assess whether the Regulation is still fit-for-purpose. The evaluation will inform the Commission's decision whether to further extend the CBER, extend it with changes or repeal it.

Evaluation of the Regulation 1/2003 launched

Regulation 1/2003[44] and its implementing act, Regulation 773/2004[45] establish a procedural framework aimed at ensuring the effective and uniform application of Articles 101 and 102 TFEU in the EU. New challenges for the enforcement of competition rules have emerged over time, for example the digitalisation of the economy and the increasing complexity of antitrust investigations. The Commission announced in June 2022 the launch of a public consultation seeking feedback on

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[41] Article 210(a) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulation (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) 1234/2007, OJ L 347, 20.12.2013, p. 671.

[42] Public consultation on sustainability agreements in agriculture – guidelines on antitrust derogation – evaluation, from 28.2.2022 to 23.5.2022. See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13305-Sustainability-agreements-in-agriculture-guidelines-on-antitrust-derogation_en

[43] Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia), OJ L 256, 29.9.2009, p. 31.

[44] Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Text with EEA relevance), OJ L 1, 4.1.2003, p. 1.

[45] Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (Text with EEA relevance), OJ L 123, 27.4.2004, p. 18.

how the Regulations have performed since their entry into force[46]. The aim of the consultation is to collect evidence and views on the procedures applied in the antitrust investigations.

3.3. Updating State aid rules and guidance to make them fit for new challenges

Guidelines on State aid for climate, environmental protection and energy entered into force

The Climate, Environmental protection and Energy aid Guidelines ('CEEAG')[47], were adopted and became applicable in January 2022. They replace the previously applicable Environmental protection and Energy Aid Guidelines[48], to bring the framework in line with the EU objectives set out in the European Green Deal and with the climate and energy targets for 2030 and 2050. The CEEAG[49] allow Member States to support efforts towards decarbonisation, the circular economy, biodiversity, clean or zero-emission mobility and energy efficiency.

Revised State aid Framework for research, development and innovation adopted

The Commission supports the swift development and deployment of cutting edge and breakthrough technologies, facilitating the green and digital transitions of the EU economy while contributing to the new European Innovation Agenda[50]. In October 2022, the Commission adopted a revised Communication on State aid rules for research, development and innovation[51], which sets out the rules under which Member States can grant State aid to companies for research, development and innovation activities.

State aid rules in the agriculture and forestry sectors and in rural areas fit for the green transition adopted

With the focus on aligning the State aid rules with current EU strategic priorities, in particular the Common Agricultural Policy Strategic Plans[52], the European Green Deal and Farm to Fork Strategy in 2022, the Commission has adopted a new set of State aid rules for the agriculture and forestry sectors and rural areas: the State aid Guidelines in the agricultural and forestry sectors and in rural areas and the Agricultural Block Exemption Regulation. In January 2022, the Commission launched a public consultation on the proposed revision of the rules, which ran until March 2022. The proposed revision would make it easier and faster for Member States to provide funding to

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[46] Public consultation on the EU antitrust procedural rules - evaluation, from 30.6.2022 to 6.10.2022. See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13431-EU-antitrust-procedural-rules-evaluation_en
[47] Communication from the Commission: Guidelines on State aid for climate, environmental protection and energy, OJ C 80, 18.2.2022, p. 1.
[48] Communication from the Commission: Guidelines on State aid for environmental protection and energy 2014-2020, OJ C 200, 28.6.2014, p. 1.
[49] Communication from the Commission: Guidelines on State aid for climate, environmental protection and energy, OJ C 80, 18.2.2022, p. 1.
[50] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A New European Innovation Agenda, COM(2022)332, 5.7.2022.
[51] Communication from the Commission: Framework for State aid for research and development and innovation, OJ C 7388, 19.10.2022, p. 1.
[52] Regulation (EU) 2021/2115 of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund ('EAGF') and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013, OJ L 435, 6.12.2021, p. 1.

agriculture and forestry sectors and in rural areas, without causing undue distortions of competition in the Single Market.

State aid rules in the fishery and aquaculture sectors

In 2022, the Commission adopted a new block exemption regulation for the fishery and aquaculture sectors[53] and issued new Guidelines for State aid in the fishery and aquaculture sectors[54]. The revised Guidelines aim to ensure that the economic development in fisheries and aquaculture takes place in full respect of the Common Fisheries Policy ('CFP'), in particular the protection of fish stocks and the environment. The Guidelines take into account important policy and regulatory developments in these sectors, in particular the entry into force of the Regulation creating a European Maritime, Fisheries and Aquaculture Fund, a component of the CFP[55]. Finally, the Commission prolonged the current Fishery De Minimis Regulation until 31 December 2023[56].

Revision of the State Aid General Block Exemption Regulation continued

The General Block Exemption Regulation ('GBER') for State aid[57] is being prolonged and revised to facilitate the green and digital transition. These amendments will complement the revisions of the Guidelines on regional aid[58], on aid for research and development and innovation, on risk finance aid, on aid for the deployment of broadband networks and on aid for environmental protection and energy. The Commission plans to adopt the amendment to the GBER in 2023.

Commission revised State aid rules for Broadband Networks

Following a public consultation[59], the Commission adopted a revised Communication on State aid for broadband networks[60] ('Broadband Guidelines') in December 2022. The revised Broadband Guidelines describes how the Commission will assess State aid measures notified by Member States to support the deployment and take-up of broadband networks in the EU. The new rules contribute to the EU's strategic objectives of ensuring gigabit connectivity and 5G coverage for everyone[61].

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[53] Commission Regulation (EU) 2022/2473 of 14 December 2022 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 327, 21.12.2022, p. 82.
[54] Communication from the Commission: Guidelines for the examination of State aid to the fishery and aquaculture sector, OJ C 217, 2.7.2015, p. 1.
[55] Regulation (EU) 2021/1139 of the European Parliament and of the Council establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004, OJ L 247, 13.7.2022, p. 1.
[56] Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector, OJ L 190, 28.6.2014, p. 45.
[57] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.
[58] Communication from the Commission Guidelines on regional State aid, OJ C 153, 29.4.2021, p. 1.
[59] Draft Communication from the Commission Guidelines on State aid for broadband networks, 19.11.2021.
[60] Communication from the Commission: Guidelines on State aid for broadband networks, COM(2022) 9343 final, 12.12.2022.
[61] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7595

Commission proposed rules to simplify procedures for State aid to green transport

In July 2022, the Commission adopted a proposal for a new Council Regulation[62]. The Council adopted the Regulation in December 2022. The Regulation enables the Commission to adopt regulations exempting from prior notification aid measures for rail, inland waterway and multimodal transport in line with Article 93 TFEU. The aim of the Commission's initiative is to simplify procedures for State aid supporting green transport modes, such as rail, inland waterway and multimodal transport. It goes hand in hand with the review of the Railway Guidelines on which the Commission continued to work in parallel in 2022. Those Guidelines aim at promoting the modal shift from road to rail transport and thus contribute to achieving the climate objectives.

Roadmap for a possible prolongation of the Aviation Guidelines

In July 2022, the Commission published a Roadmap informing stakeholders and other interested parties about the possibilities to prolong by one to three years the rules on operating aid contained in the Aviation Guidelines[63]. The purpose of such a prolongation would be to avoid potential failure of regional airports due to the impact of the COVID-19 crisis before a complete review of the Aviation Guidelines has been carried out.

3.4. Modernising DG Competition working methods to fit current and future enforcement needs

In 2022, the Directorate General for Competition continued its efforts to make its investigatory processes and other activities more efficient, by using digital tools in line with its Digital Strategy. DG Competition reduced the regulatory burden for parties that continue to use the State Aid Reporting Interactive ('SARI2'), 'eConfidentiality' and 'eRFI' tools. Moreover, DG Competition upgraded its 'eLeniency' platform to provide companies involved in cartel and antitrust proceedings easy and secure access to documents online.

EU competition law enforcement was facilitated further by continued investment in state-of-the-art digital solutions, including the CASE@EC case management system. Given the sensitive and confidential nature of the information it handles, DG Competition continued to update IT security plans for new as well as existing digital solutions. Moreover, DG Competition put in place additional safety and monitoring measures to ensure continued cyber security and cyber resilience in 2022 and beyond. DG Competition's internal Digital Strategy is anchored in the European Commission's Next Generation Digital Strategy adopted in 2022.[64]

In 2022, DG Competition further developed its digital investigation tools by using corporate intelligence, data and machine learning services. A dedicated unit conducting intelligence and investigative analyses as well as providing forensic IT support was renamed 'Data Analysis and

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[62] Proposal for a Council Regulation on the application of Articles 93, 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of State aid in the rail, inland waterway and multimodal transport sector, COM(2022) 327 final, 6.7.2022.

[63] Communication from the Commission: Guidelines on State aid to airports and airlines, of 4 April 2014, OJ C 99, 4.4.2014, p. 3.

[64] Communication to the Commission: European Commission digital strategy Next generation digital Commission, Brussels, C(2022) 4388, 30.6.2022.

Technology'. The unit will report to the Chief Technology Officer, a newly created post attached to the Director General. The Chief Technology officer will support increasingly data-driven enforcement and market monitoring tasks, working in close collaboration with many other departments within DG Competition. In December 2022, a new Directorate was created which will be responsible for the implementation of the DMA.

In 2022, the Commission continued with its competition policy advocacy and outreach activities at multiple levels to support the effectiveness of EU competition policy, most prominently with Executive Vice-President Vestager participating in events and press conferences. Dedicated outreach activities at Member State level were organised to complement press releases, policy briefs, newsletters and social media communication channels.[65]

4. Competition policy enforcement contributed to the Commission's headline ambitions

EU competition policy enforcement provides substantial benefits for consumers and customers. DG Competition estimates[66] that direct customer savings generated by the Commission's antitrust and merger enforcement over the period 2012-2021 range between EUR 120 billion and EUR 210 billion. On average, antitrust and merger enforcement generated some EUR 12 billion to EUR 21 billion in direct customer benefits per year (see graph below).

In addition to these estimates, overall customer benefits considered to be generated by competition policy enforcement also include:

(1) indirect or deterrent effects generated by enforcement, for example when firms refrain from engaging in anti-competitive conduct or concluding anti-competitive merger agreeements; and

(2) positive effects on innovation and product or service quality.

Indirect deterrent effects are difficult to estimate. However, economists agree that indirect customer savings are likely to exceed by far direct customer savings. Recent modelling of the macro-economic effects[67] of competition policy enforcement suggests that antitrust and merger enforcement savings generated by the Commission during the last ten years is likely to have a positive impact on EU GDP in the range of 0.6% - 1.1% (corresponding to EUR 90-160 billion per year) in the medium to long term[68].

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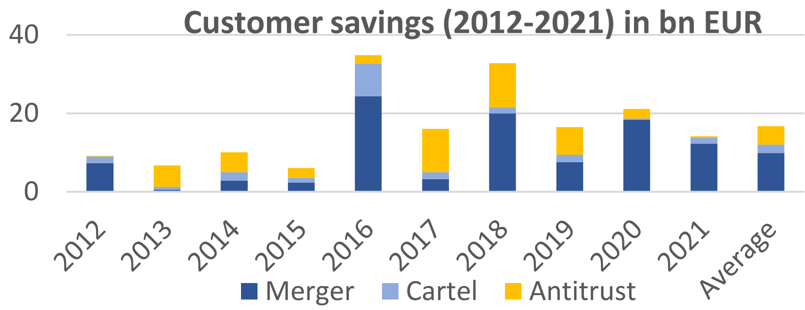
[65] See for example the animation published on YouTube: https://youtu.be/3yQkOwvdl-Q

[66] See Competition Policy Brief 2022/1, Customer savings generated by the Commission's antitrust and merger enforcement: a 10-year perspective. See: https://op.europa.eu/en/publication-detail/-/publication/dbfa0d39-5350-11ed-92ed-01aa75ed71a1/language-en/format-PDF/source-273802603

[67] European Commission (2022), 'Modelling the macroeconomic impact of competition policy: 2021 update and further development', report prepared by the Directorate-General for Competition, the Joint Research Centre and the Directorate-General for Economic and Financial Affairs, Publications Office of the European Union.

[68] See Competition Policy Brief 2022/1, Customer savings generated by the Commission's antitrust and merger enforcement: a 10-year perspective, p. 6-7.



In October 2022, the Commission published the 2022 Eurobarometer survey dedicated to EU competition policy[69]. The results clearly indicate that well-functioning competitive markets improve people's daily lives and that they have a positive impact on SMEs. Competitive markets bring lower prices, more choice and more innovative products and services.

4.1. Competition policy enforcement contributed to the digital transition and a strong and resilient Single Market

Through the headline ambition 'A Europe fit for the digital age', President von der Leyen defined the digital area as one of her key priorities for the Commission. In competitive markets, companies must innovate and be efficient to grow[70]. An effective enforcement of the EU competition rules and regulatory reforms is of vital importance for the digital transformation of the EU economy and for strengthening the resilience of the Single Market.

Enforcement in antitrust contributed to the digital transition and a strong and resilient Single Market

In the telecommunications sector, the Commission accepted in July 2022 a set of commitments offered by *T-Mobile CZ*, *CETIN* and *O2 CZ* in Czechia[71]. These commitments set the framework for the beneficial effects of network sharing, limit the exchange of commercially sensitive information between the network sharers and preserve for each party the technical and financial incentives to deploy additional network capacity on their own.

E-commerce has boosted retail competition and brought wider choice and better prices for consumers. The Commission needs to ensure that large online platforms do not eliminate these benefits through anticompetitive behaviour. In this context, the Commission decided to examine *Amazon's* business practices and its dual role as marketplace and retailer. In July 2022, the

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[69] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_6374

[70] The importance of competition and innovation is also highlighted in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social and the Committee of the Regions, 'An SME Strategy for a sustainable and digital Europe, 10.3.2020, COM(2020) 103 final; and in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social and the Committee of the Regions, 'Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery', 25.5.2021, COM(2021) 350 final.

[71] The commitments are available at https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40305

Commission invited comments[72] on commitments offered by Amazon to address competition concerns over its use of non-public marketplace seller data and over a possible bias in granting sellers' access to its Buy Box and its Prime programme. In December 2022, the Commission concluded that the final commitments offered by Amazon addressed the Commission's competition concerns and made them legally binding under EU antitrust rules.[73]

In December 2022, the Commission informed Meta of its preliminary view that the company breached EU antitrust rules by distorting competition in the markets for online classified ads.[74] The Commission is concerned about Meta tying its online classified ads service, Facebook Marketplace, to its personal social network, Facebook and about Meta imposing unfair trading conditions on Facebook Marketplace's competitors.

Also in December 2022, the Commission closed an investigation[75] opened in March 2022 concerning an agreement known as the 'Jedi Blue' agreement between Google and Meta for online display advertising services.

Mobile payments play a rapidly growing role in our digital economy and consumers should benefit from competitive and innovative payment solutions. In 2022, the Commission continued its investigation[76] to assess whether *Apple's* conduct in connection with Apple Pay violates EU

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[72] Case AT.40462, *Amazon Marketplace* and Case AT.40703, *Amazon Buy Box*, Commitment proposal. See: https://ec.europa.eu/competition/antitrust/cases1/202229/AT_40462_8414012_7971_3.pdf
[73] Case AT.40462, *Amazon Marketplace* and Case AT.40703, *Amazon Buy Box*, Commission decision of 20 December 2022. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7777
[74] See https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7728
[75] Case AT.40774, *Google-Facebook (Open Bidding) agreement*; see also the press release of 11.3.2022: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1703
[76] Case AT.40452, *Apple – Mobile payments*. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_AT_40452.

competition rules. In the Statement of Objections[77], issued in May 2022, the Commission preliminarily found that Apple may have restricted competition to the benefit of its own solution, Apple Pay.

In 2022, the General Court rendered several important judgments relating to the Commission antitrust enforcement activities.

Judgment of the General Court in the Google Android Case[78]

In September 2022, the General Court largely confirmed the Commission's 2018 decision[79], concluding that Google had imposed illegal restrictions on Android device manufacturers and mobile network operators to preserve its dominant position in general internet search. The Court decreased the fine from EUR 4.34 billion to EUR 4.125 billion. Specifically, the Court upheld the Commission's finding that Android and iOS belonged in separate relevant product markets. It also upheld the Commission's findings that Google had restricted competition both from competing general search services and browsers via the pre-installation conditions Google imposed on manufacturers of mobile devices and from alternative versions of Android and competing general search services via its anti-fragmentation agreements.

Judgment of the General Court in the Qualcomm Case[80]

In 2018, the Commission imposed a EUR 997 million fine on Qualcomm, finding that the firm had abused its dominant position on the worldwide market for chipsets compatible with the Long Term Evolution (LTE) standard. Qualcomm agreed to make 'significant payments' to Apple on condition that Apple would exclusively use Qualcomm chipsets in its devices. The Commission found these exclusivity payments capable of having anticompetitive effects by reducing Apple's incentives to switch to competing LTE chipset providers. Qualcomm challenged the decision, arguing that the Commission had made procedural errors and that its assessment of anticompetitive effects was insufficient. The General Court annulled the Commission's decision in its entirety, finding a number of procedural irregularities, which - according to the General Court - affected Qualcomm's rights of defence. The General Court also disagreed with the Commission's analysis of the anticompetitive effects of the exclusivity payments.

Judgment of the General Court in the Intel Case[81]

The General Court annulled in part the Commission's decision from 2009 which imposed a EUR 1.06 billion fine on *Intel* for alleged abuse of its dominant position by offering loyalty rebate schemes and other exclusivity payments. The judgment applied the judgment of the Court of Justice on appeal against the General Court's 2014 judgment in *Intel*, which held that the General Court had erred in not taking account of the economic analysis relied on by Intel to show that its rebates were not capable of restricting competition. The General Court found that the 'as efficient competitor test' applied in the Decision to confirm the capability of Intel's rebates to foreclose competition was flawed, and that the Commission had not sufficiently examined other indicators of capability to foreclose. The Commission has appealed the General Court judgment.

[77] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2764
[78] Judgment of the General Court of 14.9.2022, Case T-604/18, *Google LLC and Alphabet, Inc. v European Commission*, EU:T:2022:54.
[79] Case AT.40099, *Google Android.* See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_AT_40099
[80] Judgment of the General Court of 1.8.2022, Case T-235/18, *Qualcomm v Commission*, EU:T:2022:358.
[81] Judgment of the General Court of 26.1.2022, Case T-286/9, *Intel Corporation, Inc. v Commission*, EU:T:2022:19.

Merger control contributed to digital transition and a strong and resilient Single Market

In 2022, the Commission's merger control activities remained at a high level. The Commission adopted 368 merger decisions in various sectors (in 2021 the Commission adopted 396 merger decisions) of which 291 were approved following a simplified procedure. The Commission intervened in 14 proposed acquisitions, of which 12 transactions were approved subject to conditions and two were prohibited. Four notified transactions were abandoned by the parties and withdrawn in Phase II.

In January 2022, the Commission prohibited the acquisition of *Daewoo Shipbuilding & Marine Engineering CO., Ltd* by *Hyundai Heavy Industries Holdings* [82]. According to the Commission, the merger between the two shipbuilders would have created a dominant position by the newly merged company and reduced competition in the worldwide market for the construction of large liquefied gas (LNG) carriers. Given that no remedies were submitted, the merger would have led to fewer suppliers and higher prices.

In January 2022, following an in-depth investigation and subject to conditions, the Commission approved the acquisition of *Kustomer* by *Meta*[83]. To address the competition concerns identified by the Commission, Meta offered comprehensive access commitments to the application programming interfaces for Meta's messaging channels with a ten-year duration[84]. The Commission carefully reviewed the acquisition because transactions such as this one could further strengthen large players that increasingly dominate the digital economy, irrespective of the target company's size. The commitments offered by Meta ensure that its rivals will continue to have free and comparable access to Meta's important messaging channels.

In June 2022, the Commission approved the acquisition of *Welbilt* by *Ali Group* subject to conditions[85]. Ali Group and Welbilt are global suppliers of professional kitchen equipment, including ice-making machines used in the hospitality and industrial sectors. The commitments offered in this case include the divestment of Welbilt's entire ice-making machines business. This will ensure that a new player on the market will continue to exert competitive pressure on the merged entity, while customers will retain a choice of suppliers.

In September 2022, the Commission, prohibited Illumina's prematurely implemented acquisition of GRAIL following an in-depth investigation[86]. Illumina is the dominant supplier of NGS systems for

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[82] Case M.9343, *Hyundai Heavy Industries Holdings/Daewoo Shipbuilding & Marine Engineering*. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_9343

[83] Case M.10262, *Meta (Formerly Facebook)/Kustomer*. See: https://ec.europa.eu/competition/mergers/cases1/202242/M_10262_8559915_3054_3.pdf

[84] A public API access commitment: Meta commits to guarantee non-discriminatory access, without charge to its publicly available APIs for its messaging channels to competing customer service CRM software providers and new entrants. A core API access-parity commitment: To the extent any features or functionalities of Messenger, Instagram messaging or WhatsApp that are used by Kustomer's customers today may be improved or updated, Meta commits to also make available equivalent improvements to Kustomer's rivals and new entrants. This would also hold for any new features or functionalities of Meta messaging channels in the future if used by a sizeable proportion of Kustomer's customers.

[85] Case M.10431, *Ali Group/Welbilt*, OJ C 469, 9.12.2022, p. 16.

[86] Case M.10188, *Illumina/GRAIL*. See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_5364

genetic and genomic analysis. GRAIL is a customer of Illumina, using its NGS systems to develop cancer detection tests. The Commission found that with the transaction, Illumina would have an incentive to cut off GRAIL's rivals from accessing its technology, or otherwise disadvantage them and thereby stifle innovation competition in the nascent market for NGS-based cancer detection tests.

Despite the Commission's pending in-depth investigation, the companies implemented the transaction in August 2021. In reaction to the premature closing, the Commission adopted interim measures to restore and maintain the conditions of effective competition following Illumina's acquisition of GRAIL[87]. In parallel, the Commission opened an investigation to assess whether Illumina breached the 'standstill obligation' imposed on transactions subject to review under the EU Merger Regulation. In this context, the Commission adopted a Statement of Objections in July 2022, alleging that Illumina and GRAIL had breached the EU Merger Regulation by implementing the acquisition prior to obtaining the Commission's merger control approval. If the Commission were to conclude that Illumina and GRAIL did implement the transaction in breach of the EU Merger Regulation, it could impose a fine of up to 10% of each company's annual worldwide turnover[88]. Moreover, in December 2022, the European Commission sent a Statement of Objections to Illumina and GRAIL informing them of the restorative measures it intends to adopt under the EU Merger Regulation, following the Commission's decision to prohibit the implemented acquisition of GRAIL by Illumina[89].

The EU General Court upheld the Commission's Article 22 Review in the Illumina/GRAIL[90] ruling

In the *Illumina/GRAIL* case, the Commission gave Article 22 of the EU Merger Regulation its full effect by accepting the referral of a transaction that fell below national notification thresholds. This followed the announcement by Executive Vice President Vestager that the Commission would no longer discourage Member States from requesting referrals of cases to the Commission which are not notifiable in the referring Member State. Referring such cases to the Commission ensures that mergers involving companies with annual turnovers which do not appropriately reflect their impact on competition can be reviewed by the Commission[91] for the referring Member States. The Commission published guidance on this matter in March 2021[92], followed by practical information on its implementation in December 2022[93].

Illumina and GRAIL challenged the 2021 decisions by the Commission accepting referrals under Article 22 from several Member States/EEA States. In July 2022, the General Court dismissed the application[94]. The General Court confirmed that transactions under Article 22 of the EU Merger Regulation do not need to fall within the scope of the merger control rules in the Member State requesting the referral. The General Court judgment confirms the Commission's right to take jurisdiction through Article 22 over

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[87] Case M.10493, *Illumina/GRAIL (Interim measures under Art. 8(5)a)*. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_5661

[88] Case M.10483, *Illumina/GRAIL (Art. 14 procedure)*. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4604

[89] Case M.10939*, Illumina/GRAIL*. See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_7403

[90] Judgment of the General Court of 13.7.2022, Case T-227/21, *Illumina, Inc. v European Commission*, EU:T:2022:447.

[91] Speech by EVP Vestager of 11.9.2020 on 'The Future of EU Merger Control', https://ec.europa.eu/commission/commissioners/2019-2024/vestager/announcements/future-eu-merger-control_en.

[92] Communication from the Commission: Commission Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases, 26.3.2021 C(2021) 1959 final.

[93] Practical information on implementation of the 'Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases' - Frequently Asked Questions and Answers (Q&A). See: https://competition-policy.ec.europa.eu/system/files/2022-12/article22_recalibrated_approach_QandA.pdf.

[94] Judgment of the General Court of 13.07.2022, T-227/21, *Illumina, Inc. v European Commission,* EU:T:2022:447.

mergers despite the fact that the transaction falls below national merger control thresholds. The judgment is currently under appeal before the Court of Justice[95].

In July 2022, the Commission opened an in-depth investigation to assess the proposed acquisition of *VOO* and *Brutélé* by *Orange*[96]. Orange has been a successful challenger to Voo/Brutele's telecommunication services in parts of Belgium. The Commission is concerned that the proposed transaction may reduce competition in the retail markets for the supply of fixed internet services, audio-visual services and multiple-play bundles in parts of Belgium.

In November 2022, the Commission opened an in-depth investigation to assess the proposed acquisition of *Activision Blizzard* by *Microsoft*[97]. The Commission is concerned that the proposed acquisition may reduce competition in the markets for the distribution of console and personal computers ('PCs') video games and for PC operating systems.

In November 2022, the European Commission opened an in-depth investigation to assess the proposed acquisition of *Lagardère* by *Vivendi*[98]. The parties are the first and second largest companies on most markets in the books value chain in France. The Commission is concerned that the transaction may reduce competition on the markets for (i) the purchasing of authors' rights for French-language books, (ii) the distribution and marketing of French-language books, and (iii) the sales of French-language books to retailers. The Commission also identified competition concerns in relation to the sale of celebrity magazines.

In December 2022, the Commission opened an in-depth investigation to assess the proposed acquisition of *VMware* by *Broadcom*[99]. Broadcom is a supplier of hardware, primarily network interface cards and adapters, whereas VMware offers virtualisation software. The Commission is concerned that the transaction may allow Broadcom to reduce the ability of rival hardware suppliers to compete, primarily by degrading interoperability of VMware's virtualization software with competitors' hardware products.

In February 2022, the Commission found that Hungary infringed Article 21 of the EU Merger Regulation through its decision to veto the acquisition of the Hungarian subsidiaries of the *AEGON Group* by *Vienna Insurance Group AG Wiener Versicherung Gruppe ('VIG')*[100]. Article 21 of the EU Merger Regulation grants the Commission exclusive competence to examine concentrations with a Union dimension. Member States may only take measures to protect legitimate interests under certain conditions, which were not met by Hungary's veto as it was not communicated to the Commission in advance and it was unclear whether it was aimed to protect Hungary's legitimate

[95] Appeal brought by Illumina on 22.09.2022 in case C-611/22 P – *Illumina v Commission* and by GRAIL on 30.09.2022, in case C-625/22 P – *Grail v Commission and Illumina.*
[96] Case M.10663, *Orange/VOO/Brutele*, See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4762
[97] Case M.10646, *Microsoft/Activision Blizzard,* See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6578
[98] Case M.10433, *Vivendi/Lagardere*, See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7243
[99] Case M.10806, *Broadcom/VMware,* See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7835
[100] See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_1258

interest. The decision affirmed the Commission's exclusive competence and that Member States must ensure their actions respect this division of competences so that businesses can invest and make use of the Single Market with confidence.

State aid control contributed to the digital transition and the resilience of the Single Market

State aid projects contribute, among other things, to the roll-out of high performance broadband networks in the EU in areas where there is no or little incentive for commercial operators to provide sufficient broadband coverage. To balance the aid across the EU, the Commission has worked in close cooperation with Member States to ensure that national support measures can be put in place as quickly and effectively as possible.

For example, in January 2022, the Commission approved a EUR 3.8 billion Italian scheme supported by the Recovery and Resilience Facility ('RRF') to deploy high-performing gigabit networks in areas of the country where there is no current or planned network able to provide download speeds of at least 300 megabits per second. The measure is a part of Italy's national digitalisation plan[101].

In October 2022, the Commission approved a EUR 292.5 million Italian measure supported by the RRF to support STMicroelectronics constructing a plant in the semiconductor value chain[102]. The assessment was made in line with the principles announced by the Commission in the communication adopted in February 2022, for example the positive impact on the value chain with regard to ensuring security of supply, and accompanying the Commission's proposal for a Chips Act regulation[103].

In addition, in November 2022, the Commission approved a EUR 500 million Spanish scheme supported by the RRF to help consumers and business in rural areas access high quality mobile services, contributing to Spain's economic and to the EU's overall digital objectives[104].

Media freedom and media pluralism play a key role for democracy. In 2022, the Commission approved a number of support measures for the media sector, helping the media sector to recover from the two crises the EU is facing while minimising anti-competitive effects. Moreover, the Commission approved boosting digital transformation and technological innovation in the media industry.

4.2 Competition policy enforcement contributed to the green transition

Competition policy contributes to the EU's environmental objectives and climate targets, for example the decarbonisation of the economy and the transport sector shift from fossil fuels to alternative fuels.

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[101] Case SA.63170, *RRF- Italy - Plan 1 Gbps*, OJ C 116, 11.03.2022, p. 3.
[102] Case SA.103083, *RRF - STMICROELECTRONICS S.R.L. (ST) – New SIC substrates plant in Catania.*
[103] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Chips Act for Europe, 8.2.2022, COM/2022/45 final.
[104] Case SA.103451, *RRF- ES - Deployment of backhaul networks for mobile connectivity,* OJ C 449, 25.11.2022, p. 2.

Competition law enforcement contributes to the European Green Deal[105] by keeping markets efficient, fair and innovative.

To ensure that competition policy enforcement assist the green transition, preparing the way to green mobility the Commission commissioned in 2022 a study analysing the competitive dynamics in the markets for publicly accessible recharging infrastructure. The study will be finalised in 2023[106].

Moreover, the Commission supports EU energy objectives and the European Green Deal through its antitrust work. In 2022, the Commission continued its investigation of firms suspected of colluding to influence price benchmarks for ethanol biofuel[107].

The Commission initiated an *ex officio* investigation into the natural gas markets in Europe to assess whether commercial conduct by market participants may have contributed to the disruptions of the energy markets and gas prices in Europe[108]. In December 2021, Ukrainian gas producer Naftogaz submitted a formal antitrust complaint against Gazprom, alleging that the company has been abusing its dominant position on a number of gas markets in the EEA. As part of its investigation, in March 2022, the Commission carried out unannounced inspections at the premises of several companies in Germany active in the supply, transmission and storage of natural gas[109]. Amont other things, Commission is looking into whether Gazprom's conduct may have contributed to increased gas prices on the European spot market and, as a result, benefitted Gazprom with regard to its hub-indexed long-term contracts with European customers.

Encouraging travellers to shift from road to rail transport represents an important contribution to the European Green Deal's objectives[110]. At the same time, healthy competition ensures European citizens are able to benefit from good quality and affordable rail passenger services. In the field of antitrust, in June 2022, the Commission informed *České dráhy* and *Österreichische Bundesbahnen*, the Czech and Austrian rail incumbents, of its preliminary view that the two companies had breached EU antitrust rules by colluding in the market for used passenger railway wagons with the aim of distorting competition in the rail passenger transport market[111]. In a separate case relating to a predatory pricing investigation into České dráhy, the Commission in September 2022 closed its investigation without an infringement decision. The Commission found that the evidence it gathered since sending České dráhy a statement of objections[112] in October 2020 did not confirm its initial

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[105] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, the European Green Deal, COM(2019) 640 final.
[106] See: https://competition-policy.ec.europa.eu/single-market-programme-smp/calls-tenders-contracts/ex-ante-publicity-low-and-middle-value-contracts_en
[107] Case AT.40054, *Ethanol benchmarks*. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6769
[108] In its complaint, *Naftogaz* inter alia alleges that Gazprom has engaged in a deliberate refusal to refill EU gas storage facilities, has stopped selling gas through its own Electronic Sales Platform without a justification, and continues to block gas exports to Europe by independent Russian and Central Asian gas producers.
[109] See the press release of 31.3.2022: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2202
[110] See for example: Report published by the European Union Agency for Railways - Fostering the railway sector through the European Green Deal, 16.7.2020 (updated 12.10.2022). See https://www.era.europa.eu/content/report-fostering-railway-sector-through-european-green-deal_en
[111] Case AT.40401, *České dráhy and Österreichische Bundesbahnen*.
[112] Case AT.40156, *Czech Rail*. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2017

concerns that the rail incumbent charged prices below costs in attempt of illegally shutting out new rivals[113].

In the field of merger control, the Commission, in July 2022, approved with conditions the acquisition of *Equans* by *Bouygues*[114]. The Commission's investigation revealed that the merged entity would have large market shares and only face competition from very few participants. This could give rise to higher prices for electrical engineering services for railway contact lines in Belgium. To address the Commission's competition concerns, Bouygues offered to divest *Colas Rail Belgium* in its entirety, including all assets, personnel and ongoing and future contracts of both its railway contact lines and track installation businesses. Competition in the rail passenger transport sector can drive prices down and service quality up to the benefit of consumers. The Commission's intervention ensures that another competitor will remain in the market continuing to exert competitive pressure in the relevant Belgian market while customers will benefit from a wider choice of suppliers and competitive prices.

In October 2022, the Commission proposed a new emergency regulation to mitigate the impact of high gas prices in the EU[115]. The Regulation was adopted in December 2022[116]. It includes, among other elements, a joint purchasing mechanism for gas to enable gas companies and gas consumers to negotiate lower prices and secure energy supplies in view of potential energy supply shortages.

The Commission is to contract a service provider to organise demand aggregation at EU level, grouping together gas import needs and seek offers on the market to match the demand. Companies would be allowed to form a European gas purchasing consortium, in compliance with EU competition rules. Joint purchasing would help smaller Member States and in particular companies in a less favourable situation as buyers to buy gas at better conditions. The Regulation also includes provisions to enhance transparency of intended and concluded gas supply purchases, in order to assess whether the objectives of security of supply and energy solidarity are met.

The Commission stands ready to assist firms when designing possible joint gas purchasing consortia in conformity with the EU competition rules.

In 2022, the Commission approved two Important Projects of Common European Interest ('IPCEIs') in the hydrogen technology chain. The two IPCEIs support the development of key strategic value and technology chains, as well as the objectives of the European Green Deal, the EU Hydrogen Strategy and the REPowerEU initiative.

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[113] Commission Daily News, 30.9.2022: https://ec.europa.eu/commission/presscorner/detail/en/mex_22_5911

[114] Case M.10575, *Bouygues/Equans*. See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_4603

[115] Proposal for a Council Regulation Enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks, COM(2022) 549 final.

[116] Council Regulation (EU) 2022/2576 of 19 December 2022 Enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders, OJ L 335, 29.12.2022, p. 1.

IPCEI Hy2Tech

The first IPCEI was approved in July 2022 and supports research, innovation and industrial deployment in the hydrogen technology value chain. For this project 15 Member States[117] will provide up to EUR 5.4 billion in public funding, which is expected to unlock an additional EUR 8.8 billion in private investments. Thirty-five companies, including SMEs and start-ups will participate in 41 projects[118]. The *IPCEI Hy2Tech* covers large parts of the hydrogen technology value chain including: (i) facilities and equipment for generation of hydrogen; (ii) production of fuel cells; (iii) storage, transportation and distribution of hydrogen; and (iv) end-user applications, in particular in the mobility sector. It contributes to the development of important technological breakthroughs, including new highly efficient electrode materials, more performant fuel cells and innovative transport technologies. The IPCEI Hy2Tech is expected to create some 20.000 direct jobs.

IPCEI Hy2Use

The *IPCEI Hy2Use* was approved in September 2022 and will boost the supply of renewable and low-carbon hydrogen and the development and initial industrial deployment of clean and innovative hydrogen technologies in other industrial sectors, such as cement, steel and glass. These products typically face higher barriers to decarbonisation. For this project 13 Member States[119] will provide up to EUR 5.2 billion in public funding, which is expected to unlock an additional EUR 7 billion in private investments. The IPCEI Hy2Use involves 29 companies and 35 projects[120].

Also in the hydrogen sector, the Commission approved in October 2022 a EUR 220 million Spanish State aid project to support *Cobra Instalaciones y Servicios, S.A*. ('COBRA')[121] under the CEEAG[122]. COBRA will produce renewable hydrogen and promote its use in industrials sectors. The State aid measure – supported by the RRF – contributes to the achievement of the EU Hydrogen Strategy and the European Green Deal targets, while helping reduce dependence on Russian fossil fuels and fast forward the green transition in line with the REPowerEU Plan.

The pace of developments was fast in 2022 and the Commission reacted by adjusting the State aid framework and putting in place energy crisis measures intended to relieve the pressure on energy bill payers.

For instance, to promote green district heating based on renewable energy and waste heat, the Commission approved, in August 2022, a EUR 2.98 billion German scheme. This scheme will support the construction of more efficient district heating systems and the decarbonisation of existing ones, increasing the share of renewable energy and waste heat in the heating sector. This will lead to a considerable decrease in emissions[123]. Furthermore, the Commission approved a modification of a German scheme to support electricity production from renewable energy sources. The scheme reflects a recent amendment by Germany to its Renewable Energy Act. The Act has an overall

[117] AT, BE, CZ, DK, EE, FI, FR, DE, EL, IT, NL, PL, PT, SK and ES.
[118] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4544
[119] AT, BE, DK, FI, FR, EL, IT, NL, PL, PT, SK, ES and SE.
[120] See: https://ec.europa.eu/commission/presscorner/detail/en/statement_22_5677
[121] Communication from the Commission: Guidelines on State aid for climate, environmental protection and energy, OJ C 80, 18.2.2022, p. 1.
[122] Case SA.104361, *Spain - Project Green Cobra*. Decision not yet published.
[123] Case SA.63177, *Germany - Federal support for efficient heat networks*, OJ C 366, 23.9.2022, p. 2.

budget of EUR 28 billion and aim at achieving a share of 80% of electricity produced from renewable energy sources by 2030, with a view to achieving climate neutrality by 2045[124].

4.3. Competition policy contributed to an economy that works for people

A conference that reviewed and debated the impact of competition policy on people's lives

In October 2022, DG Competition organised a conference[125] to discuss the significance of maintaining, nourishing, and developing a European social market economy and the role of competition policy. In her keynote speech, Executive Vice-President Vestager highlighted the main aspects of an economy that truly works for people and how competition policy is playing a vital role in this respect[126]. This includes a fairer distribution of new opportunities, while at the same time keeping prices low, maintaining choice and fostering innovative products and services. This is even more important in today's volatile world, in which new challenges emerge, requiring new solutions. Competition policy should ensure the best possible conditions for consumers, but should not stand in the way of other policies pursuing other policy goals. The interplay between regulation and competition policy should therefore be seen as complementary.

Competition policy enforcement contributed to resilient European financial services

State aid enforcement played a crucial role in protecting the Single Market and supporting EU economic policies in 2022. The Commission authorised aid to support the resolution of *Getin Noble Bank*[127], one of the ten largest Polish banks. The Commission also prolonged several existing State aid schemes which allow Member States to strengthen the resilience of the financial sector without having to grant new State aid to individual financial institutions. In particular, the Commission authorised the prolongation of schemes for the restructuring or orderly market exit of banks in distress in Poland[128], Ireland[129] and Italy[130].

In addition, the Commission continued to authorise Member States' support of recently founded SMEs and start-ups frequently held back by limited access to finance. To this end, the Commission approved a second modification of the existing risk finance scheme in France[131].

Also in the financial services sector, the Commission completed in 2022 its investigation into the access conditions to the Insurance Link data sharing system administered by *Insurance Ireland* in the

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[124] Case SA.102084, *Germany – EEG 2023*. See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7794
[125] See: https://competition-policy.ec.europa.eu/policy/making-markets-work-people_en
[126] See: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_22_6445
[127] Case SA.100687, *Poland – Liquidation aid to Getin Noble Bank S.A*. See: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_5922
[128] Case SA.103437, *Poland – Twelfth prolongation of the Credit Unions Orderly Liquidation Scheme*, OJ C 348, 9.9.2022, p. 8.
[129] Case SA.102499, *Ireland – 15th prolongation of the restructuring and stabilisation scheme for the Credit Union sector*, OJ C 220, 3.6.2022, p. 1; Case SA.104441, *Ireland – 16th prolongation of the restructuring and stabilisation scheme for the Credit Union sector*, OJ C 422, 4.11.2022, p. 2.
[130] Case SA.100262, *Italy – COVID-19 – Prolongation of the Italian orderly liquidation scheme for small banks*, OJ C 1235, 25.3.2022, p. 2.
[131] Case SA.100943, *France – 2e modification du dispositif IR-PME pour les investissements dans les FCPI et FIP*, OJ C 135, 25.3.2022, p. 4.

Irish motor insurance market. Following the Commission's intervention, access to Insurance Link is now available on a fair, transparent, objective and non-discriminatory basis[132].

Competition policy enforcement complementing tax policy

Court of Justice judgment in the Fiat Chrysler/Luxembourg case

In November 2022, the Court of Justice set aside the General Court's judgment[133] and annulled the Commission's 2015 decision which had found that Luxembourg had, by way of a tax ruling, granted Fiat Chrysler/Luxembourg an illegal tax break[134]. The Court of Justice stated that only the national law applicable in the Member State concerned should be taken into account when identifying the normal taxation system to be used as reference when determining if the State aid has generated an illegal selective advantage to a company. The Court of Justice confirmed that State subsidies granted by Member States in areas that are not subject to harmonisation by EU law are not excluded from the State aid rules.

The Commission will continue using all the tools at its disposal to ensure that free and fair competition is not distorted in the Single Market by Member States granting illegal tax breaks or implementing aggressive tax planning measures favouring international firms. This includes using EU State aid rules, while fully taking into account the case law of the Court of Justice.

5. Competition policy in a European and global context

5.1 Joining forces shaping a European and global competition culture

Policy cohesion through the European Competition Network

In 2022, the Commission continued to ensure the coherent application of Articles 101 and 102 through the ECN[135]. Two of the key cooperation and support mechanisms in Regulation 1/2003 are first, the national competition authorities' ('NCAs') obligation to inform the Commission about new investigations already at the moment of the first formal investigative measure and, second, their obligation to consult the Commission on envisaged decisions. In 2022, 148 new investigations were launched within the network and 78 envisaged decisions were submitted.

In addition to the cooperation set out in Regulation 1/2003, other ECN cooperation mechanisms ensure a coherent enforcement of the EU competition rules across jurisdictions. ECN members meet regularly to discuss recently opened cases, policy issues and matters of strategic importance. In 2022, horizontal working groups and sector-specific sub-groups held 45 meetings where NCA officials exchanged views and experience.

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[132] Case AT.40511 - *Insurance Ireland - Insurance claims database and conditions of access*. See: AT_40511_8511226_4076_3.pdf (europa.eu)

[133] Judgment of the General Court of 24.9.2019, T-755/15 and T-759/15, *Luxembourg and Fiat Chrysler Finance Europe v Commission*, EU:T:2019:670.

[134] Judgment of the Court (Grand Chamber) of 8.11.2022, Joined Cases C-885/19 P and C-898/19 P, *Fiat Chrysler Finance Europe and Ireland v European Commission*, EU:C:2022:859.

[135] Commission Notice on cooperation within the Network of Competition Authorities, OJ C 101, 27.4.2004, p. 43 and OJ C 374, 13.10.2016, p. 10.

A regular and constructive inter-institutional dialogue

The European Parliament, the Council, the European Economic and Social Committee and the European Committee of the Regions are key partners to the Commission in the continuing dialogues on competition policy.

In the European Parliament, Executive Vice-President Vestager participated in 2022 in a number of exchanges of views or structured dialogues, including with the Economic and Monetary Affairs ('ECON') Committee, the Industry Research and Energy ('ITRE') Committee, the Internal Market and Consumer Protection ('IMCO') Committee, and the Employment and Social Affairs ('EMPL') Committee. In addition, Executive Vice-President Vestager participated in plenary debates on competition policy, on the Digital Markets Act, on the Foreign Subsidies Regulation and on the EU response (including through State aid) to the US Inflation Reduction Act.

In its written response of July 2022 to the Parliament's resolution on competition policy (rapporteur Schwab; EPP, DE), the Commission highlighted, among other things, the phase-out of the COVID-19 Temporary State aid Framework, the adoption of the Temporary Crisis Framework in response to the negative economic impact of Russia's invasion of Ukraine, the Foreign Subsidies Regulation and the finalisation of trilogue negotiations, the Digital Markets Act and its smooth and rapid implementation, the unprecedented ongoing review of competition rules, including the adoption of the new CEEAG[136], the new Vertical Block Exemption Regulation and new Vertical Guidelines, and the ongoing review of the Market Definition Notice.

In 2022, in the Council, Executive Vice-President Vestager participated in exchanges of views and debates on competition policy matters, including several meetings of the Competitiveness Council (Internal market and industry).

5.2. Competition policy cooperation across the world

Multilateral relations

In 2022, the Commission continued its active engagement in international competition fora such as the OECD Competition Committee, the International Competition Network ('ICN'), where the Commission took up a three-year co-chair role in the Merger Working Group, and the United Nations Conference on Trade and Development ('UNCTAD'). The Commission continued its endeavours to improve international rules for subsidies. Reforming the subsidy rules is one of the EU's main priorities for the modernisation of WTO trade rules.

Bilateral relations

In October 2022, the Commission and the U.S. Competition Authorities held the second meeting of the Joint Technology Competition Policy Dialogue, discussing cooperation efforts to ensure and

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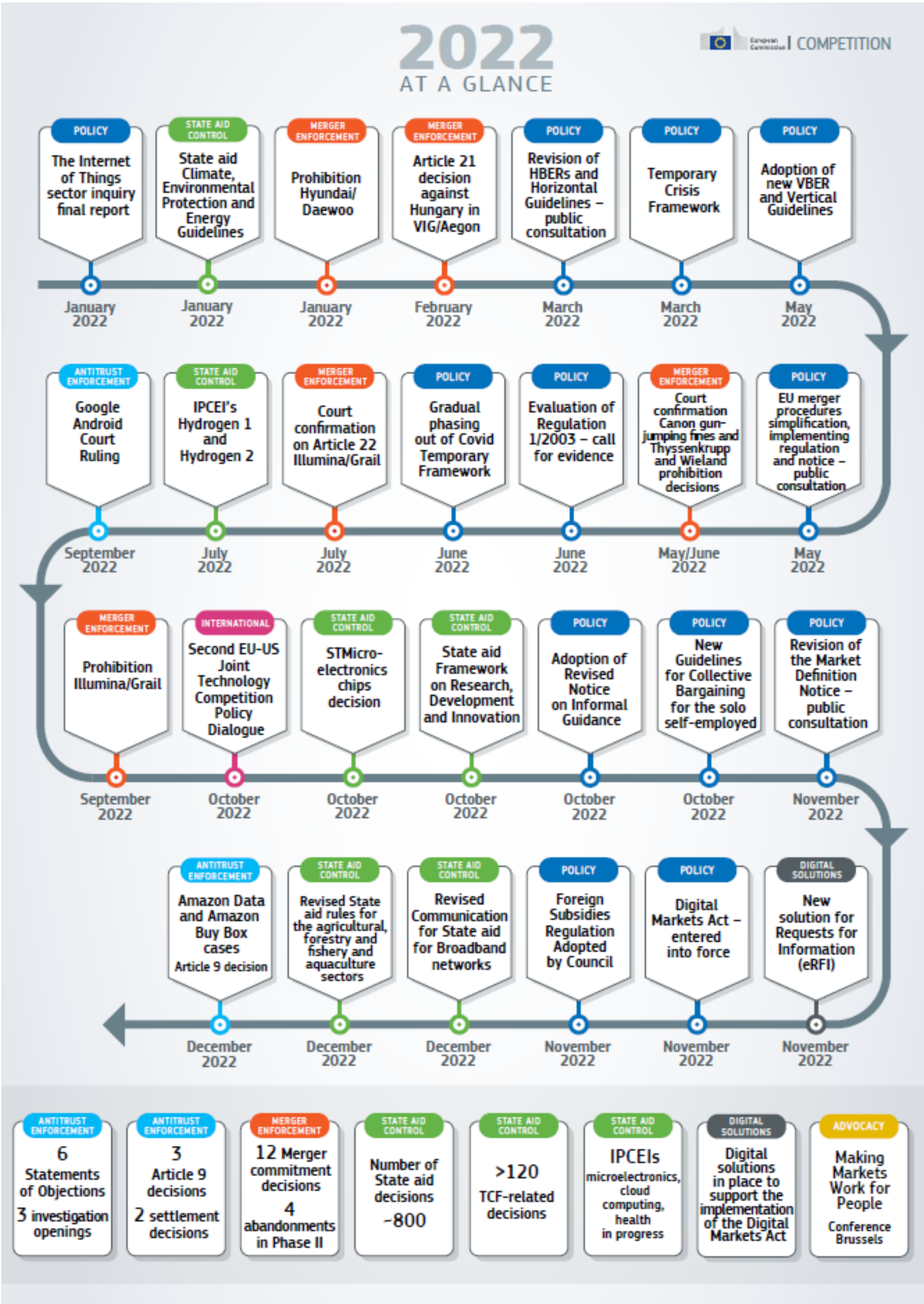
[136] Communication from the Commission: Guidelines on State aid for climate, environmental protection and energy, OJ C 80, 18.2.2022, p. 1.

promote fair competition in the digital sector[137]. Two ministerial meetings took place in May and December 2022 in the EU-U.S. Trade and Technology Council. The meetings led to an administrative arrangement on a common mechanism for reciprocal information sharing about public support provided by the EU and the U.S. to the semiconductor industry[138].

In 2022, the Commission continued its cooperation in competition policy with third countries, including technical cooperation programmes with several Asian[139] and African[140] countries. In 2022, the Commission continued negotiations to conclude Free Trade Agreements ('FTA') with Australia, India, Indonesia, and concluded the FTA negotiations with New Zealand and Uzbekistan. As regards candidate countries[141] and potential candidates[142], the Commission's main policy objective is to assist these countries to create legislative frameworks with well-functioning and operationally independent competition authorities.

[137] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_6167
[138] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7433
[139] See: https://asia.competitioncooperation.eu
[140] See: https://africa.competitioncooperation.eu
[141] Countries granted candidate country status by the European Council on the basis of a recommendation by the European Commission: Albania, Bosnia and Herzegovina, Moldova, Montenegro, North Macedonia, Serbia, Türkiye and Ukraine.
[142] Potential candidates for EU membership: Georgia and Kosovo.


2022
AT A GLANCE
COMPETITION
POLICY
The Internet of Things sector inquiry final report
January 2022
STATE AID CONTROL
State aid Climate, Environmental Protection and Energy Guidelines
January 2022
MERGER ENFORCEMENT
Prohibition Hyundai/Daewoo
January 2022
MERGER ENFORCEMENT
Article 21 decision against Hungary in VIG/Aegon
February 2022
POLICY
Revision of HBERs and Horizontal Guidelines – public consultation
March 2022
POLICY
Temporary Crisis Framework
March 2022
POLICY
Adoption of new VBER and Vertical Guidelines
May 2022
POLICY
EU merger procedures simplification, implementing regulation and notice – public consultation
May 2022
MERGER ENFORCEMENT
Court confirmation Canon gun-jumping fines and Thyssenkrupp and Wieland prohibition decisions
May/June 2022
POLICY
Evaluation of Regulation 1/2003 – call for evidence
June 2022
POLICY
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June 2022
MERGER ENFORCEMENT
Court confirmation on Article 22 Illumina/Grail
July 2022
STATE AID CONTROL
IPCEI's Hydrogen 1 and Hydrogen 2
July 2022
ANTITRUST ENFORCEMENT
Google Android Court Ruling
September 2022
MERGER ENFORCEMENT
Prohibition Illumina/Grail
September 2022
INTERNATIONAL
Second EU-US Joint Technology Competition Policy Dialogue
October 2022
STATE AID CONTROL
STMicro-electronics chips decision
October 2022
STATE AID CONTROL
State aid Framework on Research, Development and Innovation
October 2022
POLICY
Adoption of Revised Notice on Informal Guidance
October 2022
POLICY
New Guidelines for Collective Bargaining for the solo self-employed
October 2022
POLICY
Revision of the Market Definition Notice – public consultation
November 2022
DIGITAL SOLUTIONS
New solution for Requests for Information (eRFI)
November 2022
POLICY
Digital Markets Act – entered into force
November 2022
POLICY
Foreign Subsidies Regulation Adopted by Council
November 2022
STATE AID CONTROL
Revised Communication for State aid for Broadband networks
December 2022
STATE AID CONTROL
Revised State aid rules for the agricultural, forestry and fishery and aquaculture sectors
December 2022
ANTITRUST ENFORCEMENT
Amazon Data and Amazon Buy Box cases
Article 9 decision
December 2022
ANTITRUST ENFORCEMENT
6 Statements of Objections
3 investigation openings
ANTITRUST ENFORCEMENT
3 Article 9 decisions
2 settlement decisions
MERGER ENFORCEMENT
12 Merger commitment decisions
4 abandonments in Phase II
STATE AID CONTROL
Number of State aid decisions
~800
STATE AID CONTROL
>120
TCF-related decisions
STATE AID CONTROL
IPCEIs
microelectronics, cloud computing, health
in progress
DIGITAL SOLUTIONS
Digital solutions in place to support the implementation of the Digital Markets Act
ADVOCACY
Making Markets Work for People
Conference Brussels