



Management Plan 2016

DG COMPETITION

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PART 1. Overview of main outputs for the year

General objective: A New Boost for Jobs, Growth and Investment

The ultimate goal of EU competition policy is making markets function better for the benefit of consumers – both households and businesses – and the society as a whole, by protecting competition on the market and fostering a competition culture in the EU and worldwide. The Commission, together with the national competition authorities (NCAs) and national courts¹, enforces EU competition rules, based on Articles 101-109 of the Treaty on the Functioning of the EU (TFEU). Within the Commission, the Directorate-General Competition is primarily responsible for implementing these direct enforcement powers. DG Competition carries out its mission mainly by taking direct enforcement actions² against companies or Member States when it finds evidence of unlawful behaviour.

By tackling market distortions and creating economic opportunities in the internal market, DG Competition contributes to the Commission's general objective "A New Boost for Jobs, Growth and Investment" in the European Union³. EU competition policy supports several key EU policies and initiatives, including Digital Single Market, Energy Union, Deeper and Fairer Internal Market and fight against tax evasion. DG Competition performs the following functions⁴ to meet these obligations:

- Enforcement of antitrust and cartel policy;
- Merger control;
- State aid control; and
- Promoting competition culture and international cooperation in the area of competition policy; maintaining and strengthening the Commission's reputation world-wide.

¹ National competition authorities may apply Articles 101 and 102 TFEU and national courts also Articles 107 and 108 for State aid.

² The Commission may adopt a prohibition decision, prohibiting the anti-competitive conduct and impose fines on the company (ies) or prohibit incompatible State aid by a Member State and order recovery of unlawfully granted incompatible aid. It may also adopt a commitment decision rendering commitments offered by the companies to address the Commission's competition concerns legally binding in antitrust proceedings, approve a merger transaction subject to legally binding commitments offered by the companies or impose conditions on the Member State with regard to the aid measure.

³ Political Guidelines of President Juncker, http://ec.europa.eu/priorities/docs/pg_en.pdf State of Union 2015 Speech by President Juncker, http://europa.eu/rapid/press-release_SPEECH-15-5614_en.htm Mission Letter by President Juncker to Commissioner Vestager, 1 November 2014, http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/vestager_en.pdf

"Competition policy is one of the areas where the Commission has exclusive competence and action in this field will be key to the success of our jobs and growth agenda. It should contribute to steering innovation and making markets deliver clear benefits to consumers, businesses and society as a whole. Every effort should be made to maximise the positive contribution of our competition policy in support of our overall priorities and to explain and demonstrate its benefits to citizens and stakeholders at all levels".

⁴ The Mission Letter asks the Commissioner for Competition to focus on: *"Pursuing an effective enforcement of competition rules in the areas of antitrust and cartels, mergers and State aid, maintaining competition instruments aligned with market developments, as well as promoting a competition culture in the EU and world-wide".*

As it is not meaningful⁵ to set numerical targets for competition policy enforcement, most of the indicators used to measure the Commission's performance include trends as targets (stable, increase, decrease, no target). On-going investigation by the Commission is always without prejudice to the final decision to be taken by the Commission in the case. However, DG Competition, like most competition authorities, provides the number of decisions (or intervention rate) to indicate the level of activity and output for the preceding year, also for deterrence purposes. It also provides an estimate of the customer benefits resulting from the Commission's cartel prohibition decisions and horizontal merger interventions, and considers the impact of competition policy on growth and macroeconomic performance more generally⁶. Fines imposed by the Commission flow into the EU budget, reducing the contributions by Member States and act as deterrence for future infringements⁷.

1.1. Antitrust and cartels

The aim of antitrust and cartels activity⁸ in DG Competition is to ensure effective enforcement of antitrust rules with a view to making markets work better protecting consumer welfare. This includes detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices, which hamper competition and negatively affect incentives to innovation and growth, as well as consumer welfare.

In the field of antitrust, DG Competition, like most competition authorities, provides the number of decisions (or intervention rate) to indicate the level of its enforcement activity and output for the preceding year, also for deterrence purposes. It also provides an estimate of the customer benefits resulting from the Commission's cartel prohibition decisions.

⁵ As far as merger and State aid enforcement is concerned, DG Competition's activities are largely driven by notifications by companies and Member States, which is a factor beyond the control of the Commission. As regards antitrust and cartel enforcement, a target would also depend on factors beyond the Commission's control (decisions of the parties or other market players to disclose such infringements through the leniency programme, whistleblowing, complaints or the availability of information to the Commission to detect infringements ex officio). In each and every case, the Commission must fully respect the rights of defence of the parties.

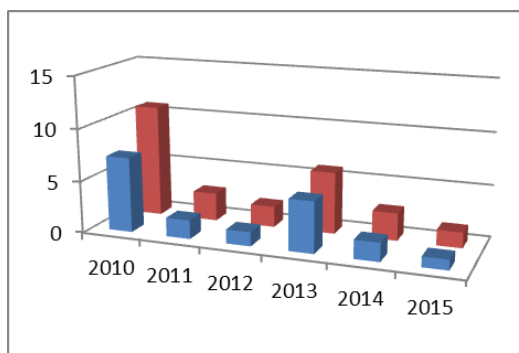
⁶ Model simulations with the QUEST model of DG ECFIN (Dierx A., Ilzkovitz F., Pataracchia B., Ratto M., Thum-Thysen A. and Varga J. (2015)), "*Distributional macroeconomic effects of EU competition policy – A general equilibrium analysis*", paper to be published in a World Bank-OECD publication on Competition Policy, Shared Prosperity and Inclusive Growth.

⁷ Between 2010 and 2015 the total amount of fines imposed by the Commission in cartel cases reached almost EUR 9.3 billion.

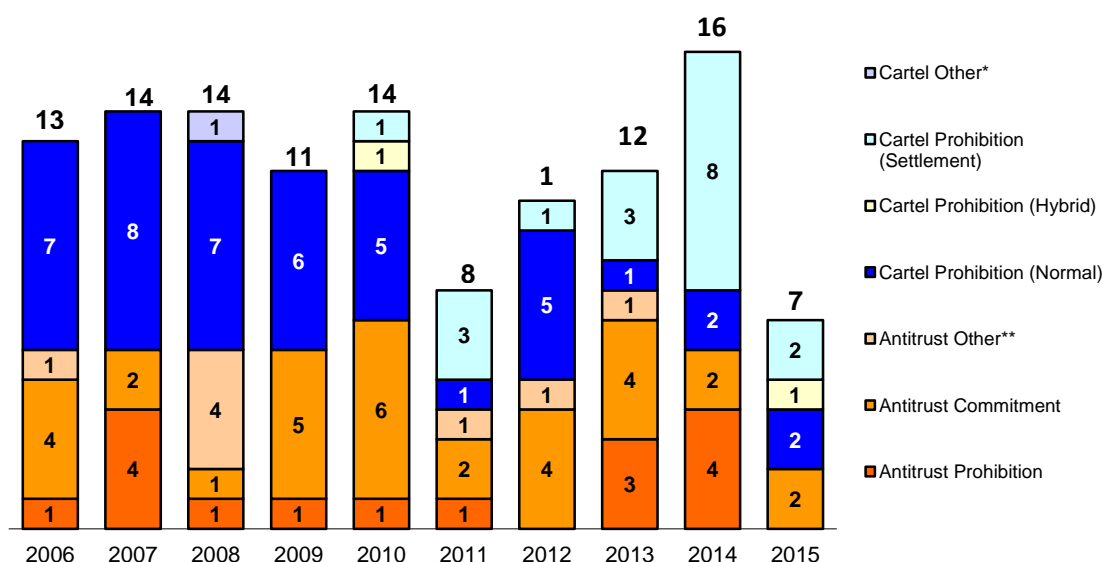
⁸ First, Article 101 TFEU prohibits agreements between two or more independent market operators which restrict competition. This provision covers both horizontal agreements (between actual or potential competitors operating at the same level of the supply chain) and vertical agreements (between firms operating at different levels, i.e. agreement between a manufacturer and its distributor). Only limited exceptions are provided for in the general prohibition. The most flagrant example of illegal conduct infringing Article 101 is the creation of a cartel between competitors, which may involve price-fixing and/or market sharing. Second, Article 102 TFEU prohibits firms that hold a dominant position on a given market to abuse that position, for example by charging unfair prices, by limiting production, or by refusing to innovate to the prejudice of consumers. Third, Article 106 TFEU enables the Commission to protect competition in the internal market by prohibiting Member State measures that induce public or privileged undertakings to abuse a dominant position or to conclude anti-competitive agreements.

Estimates of customer benefits resulting from cartel prohibition decisions at EU level

	2010	2011	2012	2013	2014	2015
EUR billion	7.2-10.8	1.8-2.7	1.35-2.0	4.89-5.92	1.78-2.64	0.99-1.49



Cartel and antitrust interventions, Commission decisions 2006-2015



* Rejection of complaint ** Rejection of complaint, procedural infringement, penalty payment

Specific objective: Effective enforcement of antitrust rules with a view to protect consumer welfare

Cartels

In 2016, DG Competition will continue to give priority to enforcement activity against cartels. This relates both to sectors where decisions were adopted in 2015⁹ such as car parts in the automotive sector and the financial sector, but also other sectors where proceedings were opened and Statements of Objections by the Commission were sent containing the Commission's preliminary concerns. This is without prejudice to the final outcome of the Commission investigation. Such cases include investigations into the area of canned

⁹ In 2015, five cartel decisions were adopted by the Commission, imposing fines of EUR 365 million.

mushrooms, rechargeable batteries, capacitors and trucks. In addition to using the leniency programme, DG Competition will pursue ex officio detection of cartels, aim to reduce the average duration of cartels cases via inter alia the settlement procedure, ensure efficiency and uniformity when settling cases and impose fines at a sufficiently deterrent level.

The cartels settlement procedure, introduced in 2008, has continued to be widely used¹⁰. It provides companies with 10% reduction in the fine if they accept liability for the infringement and do not contest the Commission's findings¹¹. The settlement procedure contributes to increasing the deterrent effect of the Commission's action against cartels since it leads to efficiency gains and thereby allows the Commission to focus resources on the detection and fight against other cartels. It is estimated that settlements allowed the Commission to reduce the duration by approximately two years. In 2016, the Commission will continue to apply the settlement procedure in cases considered suitable for this procedure.

DG Competition also ensures that its investigative tools remain adapted to technological changes. In 2015, the Commission continued to apply an improved methodology to gather digital evidence during inspections allowing it to deal more efficiently with the ever increasing quantity of digital data. The methodology was used in all inspections into alleged cartels in 2015, and will continue to be used in 2016. The Antitrust Damages Directive, which entered into force on 26 December 2014, endorsed the effectiveness of the public enforcement system and its instruments to detect and sanction cartels by setting out that leniency statements and settlement submissions cannot be disclosed in the context of private damages litigation.

In 2016, the Commission will continue to work together with other authorities within Europe and beyond (advocacy in the International Competition Network) to ensure efficient cooperation in the fight against cartels and that the instrument is and remains successfully used to end international cartels.

Other anticompetitive agreements and practices

Energy Union

In 2016, DG Competition will continue its antitrust enforcement activity in relation to anticompetitive behaviour in the energy sector pursuant to Articles 101, 102 and 106 TFEU, supporting the Commission's objective of achieving a European Energy Union. Antitrust enforcement can ensure fair access to indispensable energy infrastructure, remove obstacles to market integration and foster competition between and within Member States, helping to keep energy prices in check.

DG Competition will continue its investigation into potential distortions of price reporting in relation to ethanol price benchmarks established by a Price Reporting Agency¹². On-going

¹⁰ In 2015, the settlement route was pursued for two out of the five adopted decisions, bringing up to 19 the total number of settlement cases adopted since the procedure was introduced in 2008. A further case (Yen interest rate derivatives) is a hybrid case in which a standard decision was adopted against one party, and a settlement decision was adopted in December 2013 against all the other participants in the infringement.

¹¹ The General Court confirmed in 2015 the legality of "hybrid" cases in which both ordinary and settlement decisions are adopted in the same investigation because some parties do not wish to follow the settlement route.

¹² Case AT.40054 *Oil and Biofuel Markets*, [IP/15/6259](#) of 7 December 2015.

cases under Article 102 TFEU also concern the potential abuse by Gazprom of its dominant position in the supply of natural gas in Central and Eastern Europe¹³ and the possible foreclosure of gas markets in Bulgaria¹⁴ by the Bulgarian incumbent BEH. DG Competition will keep investigating if France has infringed EU antitrust rules by having granted to State-owned Electricité de France ("EDF") most of the country's concessions for exploiting hydropower¹⁵. DG Competition is also active in the environmental sector, in particular waste management. On-going enforcement action in this area includes the potential abuse by ARA¹⁶ of its dominant position on the markets for the management of packaging waste in Austria.

Digital Single Market

In 2016, DG Competition will continue its antitrust enforcement activity in the ICT sector to ensure effective competition in these markets. Taking action against anti-competitive foreclosure helps to keep markets competitive, and therefore to maintain incentives to innovate.

Search engines are of central importance to a well-functioning Internet. DG Competition continues its investigation of Google's practices in relation to a range of practices in relation to it¹⁷.

Access to the Internet increasingly takes place through mobile devices, including smartphones and tablets¹⁸. A lack of competition for the supply of hardware and software for those devices could have important effects in terms of continued innovation. DG Competition also continues its investigation on Android, where it is examining Google's¹⁹ conduct with regard to a range of mobile apps and services.

In the area of telecoms, the Digital Single Market (DSM) Strategy of 6 May 2015 foresees an ambitious overhaul of the EU Telecoms Framework. The Commission plans to present legislative proposals in 2016. Effective competition is a key driver for investment and better market outcomes (e.g. prices, quality) for consumers and businesses. DG Competition will therefore actively contribute to the review of the EU Telecoms Framework by ensuring that the new rules are pro-competitive and strike the right balance between providing the right incentives for investment/connectivity and avoiding re-monopolisation as a consequence of potential deregulation.

¹³ Case AT.39816 *Upstream gas supplies in Central and Eastern Europe*.

¹⁴ Case AT.39849 *BEH gas*.

¹⁵ Infringement number 2015/2187 *Concessions hydroélectriques en France*.

¹⁶ Case AT.39759 *ARA foreclosure*.

¹⁷ In April 2015, the Commission sent a Statement of Objections to Google alleging that the company had abused a dominant position in the markets for general internet search services by systematically favouring its own comparison shopping product in its general search results. The Commission continues to investigate Google's conduct as regards other specialised search services, as well as in relation to copying of third party web content, search advertising exclusivity, and restrictions on advertisers.

¹⁸ Eurostat figures for 2014 show that 51% of Europeans used the Internet on mobile devices. For these purposes "mobile" Internet usage includes all use while away from home or work, including access through a laptop computer.

¹⁹ Case AT.40099 *Google Android*, MEMO/15/4782 of 15 April 2015, http://europa.eu/rapid/press-release_MEMO-15-4782_en.htm

In the area of baseband chipsets, which process the core communication functions in smartphones, tablets and other mobile broadband devices, DG Competition will continue the investigation on Qualcomm²⁰ as regards payments to customers conditional on exclusivity and potential 'predatory pricing' by charging prices below costs with a view to forcing its competition out of the market.

In the publishing sector, DG Competition will continue its investigation concerning clauses in Amazon's²¹ contracts with publishers requiring them to inform Amazon about more favorable or alternative terms offered to Amazon's competitors and/or offer Amazon similar terms and conditions to its competitors. The Commission is investigating whether such clauses may make it more difficult for other e-book distributors to compete with Amazon²².

In the area of media, a major on-going investigation in 2016 concerns the cross-border provision of pay-TV services available in the United Kingdom and Ireland.

In the sports sector, DG Competition continues its antitrust investigation into the International Skating Union's²³ (ISU) rules banning skaters from certain competitions if they take part in events not approved by the ISU.

Finally, DG Competition also intends to publish a preliminary report for public consultation in 2016 presenting of the results of the sector inquiry into e-commerce of goods and digital content launched in May 2015. The inquiry gathers market information in order to better understand the nature, prevalence and effects of barriers to online trade erected by companies, and to assess them in light of EU antitrust rules. If, after full analysis of the results, the Commission identifies specific competition concerns, it could open case investigations to enforce the competition rules and provide guidance to businesses on the types of restrictions that are permissible online. The results may also be useful as inputs into the other actions within the Commission's Digital Single Market strategy.

Fairer and Deeper Internal Market

The Commission is engaging in wide-ranging efforts to support a deeper and fairer internal market. Competition policy goes hand in hand with internal market policy, creating a level playing field and ensuring that free movement rules are not undermined by anti-competitive conducts. In 2016, DG Competition continues to monitor markets and will proceed with its investigations in a range of important sectors of the internal market for both EU households and business, including financial services, agri-food sector, pharmaceutical sector, transport, and manufacturing. DG Competition also contributes to the Capital Markets Union and the Single Market Strategy of the Commission.

²⁰ Statements of Objections were sent to the company on 8 December 2015, IP/15/6271: http://europa.eu/rapid/press-release_IP-15-6271_en.htm

²¹ The Commission opened a formal investigation into some of Amazon's e-book distribution arrangements in June 2015.

²² In July 2015, the Commission sent a Statement of Objections to Sky UK and six major US film studios: Disney, NBC Universal, Paramount Pictures, Sony, Twentieth Century Fox and Warner Bros. alleging that each of the six studios and Sky UK have bilaterally agreed to put in place contractual restrictions that prevent Sky UK from allowing EU consumers located elsewhere to access, via satellite or online, pay-TV services available in the UK and Ireland.

²³ The Commission opened a formal investigation in October 2015.

In 2016, examples of on-going investigations include CDS Information market investigation and the MasterCard II²⁴ and Visa MIF cases²⁵ on interbank fees in the financial sector, investigation in relation to the market entry of generic modafinil (sleeping disorder medicine) in the pharmaceutical sector²⁶, an ex-officio investigation in container shipping, on-going investigations in the rail sector and in relation to code share agreements. DG Competition will also monitor the food sector, in particular practices that aim to segment the internal market along national borders and the application of recently adopted rules²⁷ on joint-selling by producers in certain agricultural sectors. In the sports sector, DG Competition continues its antitrust investigation into the International Skating Union's²⁸ (ISU) rules banning skaters from certain competitions if they take part in events not approved by the ISU. The ISU rules may prevent alternative organisers of ice-skating events from entering the market or drive them out of business.

In respect to manufacturing, DG Competition will continue to prevent anticompetitive agreements and practices as regards the supply of basic materials in order to ensure that EU high-value added industries such as automotive, aerospace, luxury goods and pharmaceuticals can obtain the key inputs that they need at competitive prices. These industries continue to represent a significant share of EU GDP, make a substantial contribution to the trade balance and also generate the high-value jobs that are at the heart of the Commission's strategy for re-industrialisation.

Specific objective: Effective and coherent application of EU competition law by national competition authorities and national courts

National competition authorities

In 2016, DG Competition will continue working with NCAs on individual cases with a view to ensure coherent and effective application of Articles 101/102 TFEU, inter alia by scrutinising envisaged decisions submitted to the Commission in accordance with Regulation 1/2003. It will also further organise and animate multilateral work in the ECN at different levels with a view to contribute to these objectives. The strategic steer comes from the regular half-yearly meetings of the heads of the NCAs with the Director General of DG Competition. Technical work is carried out in the ECN Plenary and in a range of ECN working groups and sectorial subgroups.

The 2014 Commission Communication on Ten Years of Regulation 1/2003 took stock of the enforcement record by the Commission and the NCAs. Furthermore, it called upon creation of a truly common competition enforcement area in the EU, building on the current achievements and identified concrete areas of action to boost the enforcement powers of

²⁴ A Statement of objections was issued in July 2015, http://europa.eu/rapid/press-release_IP-15-5323_en.htm

²⁵ A second partial settlement was reached on 26 February 2014, OJ C 147/7, 16.5.2014 but the case continues regarding Visa Inc.'s inter-regional inter-bank fees, Frequently Asked Questions http://europa.eu/rapid/press-release_MEMO-14-138_en.htm

²⁶ Case AT.39686 *Cephalon*, for further information see IP/11/511 of 28 April 2011 http://europa.eu/rapid/press-release_IP-11-511_en.htm?locale=fr

²⁷ Commission Notice – *Guidelines on the application of the specific rules set out in Articles 169, 170 and 171 of the CMO Regulation for the olive oil, beef and veal and arable crops sectors*, OJ C 431, 22.12.2015.

²⁸ The Commission opened a formal investigation in October 2015.

NCA's further. In November 2015, the Commission launched a public consultation on how to empower NCA's to be more effective enforcers²⁹. Responses to the public consultation were submitted until February 2016. The Commission will carefully review all input received in the public consultation before deciding whether and to what extent it should take further action, including, possibly, an EU legislative initiative.

National courts

EU antitrust rules are enforced not only by the European Commission and NCA's (public enforcement), but also by national courts when they protect subjective rights under Articles 101 and 102, for example by awarding damages to consumers and companies harmed by infringements of these rules (private enforcement). This is because Articles 101 and 102 have direct effect and confer rights on individuals which can be enforced before national courts. Effective overall enforcement of antitrust rules in the EU requires interplay between public and private enforcement. In 2016, DG Competition will continue to strengthen its cooperation with national courts. DG Competition is committed to providing support to national courts in individual cases pending before them, by providing information and opinions concerning the application of the antitrust rules.

Member States need to implement Directive 2014/104/EU on antitrust damages actions³⁰ in their legal systems by 27 December 2016. In 2016, the Commission will continue to support the Member States' implementation efforts by facilitating information exchange and cooperation. DG Competition will closely monitor policy, legislative and case-law developments at national level to evaluate the results of the implementation of the new rules for citizens and businesses.

Specific objective: EU competition law instruments aligned with market realities and contemporary economic and legal thinking

In order to ensure effective enforcement of EU competition law, it is important to maintain EU competition law instruments aligned with market realities and contemporary economic and legal thinking.

In its review of the Insurance Block Exemption Regulation (EU) No. 267/2010 (IBER)³¹, DG Competition has assessed the replies to the public consultation³² and held further stakeholder

²⁹ The Commission invited feedback from a broad range of stakeholders on potential improvements to guarantee that NCA's (i) have the right tools to detect and sanction violations of the EU competition rules; (ii) have effective leniency programmes that encourage companies to come forward, possibly in several jurisdictions, with evidence of illegal cartels; and (iii) have adequate resources and are sufficiently independent when enforcing EU competition law.

³⁰ Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union, 2013/0185 (COD) of 26 November 2014, http://ec.europa.eu/competition/antitrust/actionsdamages/damages_directive_final_en.pdf

³¹ OJ L 83, 30.3.2010, p. 1. The regulation contains a sunset clause which foresees expiry in March 2017.

³² Targeted questionnaires were sent to pools, customers, insurance intermediaries federations/brokers and mutual insurance associations.

contacts in 2015. DG Competition is preparing the Report³³ on the functioning and future of the IBER, which will be submitted to the Parliament and Council by March 2016. The Commission also commissioned two studies on issues regarding the functioning of the IBER raised by stakeholders in the context of the consultation process. The studies will be undertaken in the first half of 2016.

In November 2015, the Commission adopted new Guidelines on the application of EU antitrust rules to the agricultural sector, more precisely on the application of the rules set out in Articles 169, 170 and 171 of *Regulation 1308/2013 establishing a Common Market Organisation for agricultural products* (CMO Regulation) for the olive oil, beef and veal, and arable crops sectors³⁴. These guidelines are intended to ensure a coherent application of the new derogations, helping farmers and other market operators to obtain efficiencies in production. In 2016, DG Competition will monitor the food sector and the application of recently adopted rules on joint-selling by producers in certain agricultural sectors. The Commission is mandated by the CMO Regulation to report to the legislator on the implementation of the new specific competition rules regarding joint selling by producers in the agricultural sector of olive oil, beef and veal and arable crops in 2017.

Finally, in 2014 DG Competition with external consultants started an evaluation of the procedural rules on access to file and on complaints in order to assess whether they efficiently meet the need they are supposed to address and the objectives they must achieve. With regard to access to file, this evaluation aimed at providing DG Competition with better information on the respective costs and benefits of the access-providing methods set out in the Notice on the rules for access to the Commission file³⁵ and in the Notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU³⁶, concerning the disclosure of information in data rooms and confidentiality rings. With regard to complaints, this evaluation aimed at assessing whether the current system of antitrust complaints, in particular the procedure for rejecting such complaints, meets the needs of, on the one hand, the complainants by allowing them to effectively draw DG Competition's attention to alleged infringements and, on the other hand DG Competition's need to optimally allocate resources with a view to detecting cases that could lead to final decisions. In 2015, DG Competition reviewed the feedback received in the context of the evaluation. In 2016, it will finalise and publish the evaluation and draw conclusions from it.

³³ The report will present the Commission's preliminary views on the functioning and future of the IBER at this stage and will not prejudge the final decision that the Commission will take on its future once the Impact Assessment is completed.

³⁴ Commission Notice – Guidelines on the application of the specific rules set out in Articles 169, 170 and 171 of the CMO Regulation for the olive oil, beef and veal and arable crops sectors, OJ C 431, 22.12.2015.

³⁵ Commission notice on the rules for access to the Commission file in cases pursuant to Articles 81 and 82 of the EC Treaty, Articles 53, 54 and 57 of the EEA Agreement and Council Regulation (EC) No 139/2004, OJ C 325, 22.12.2005, p. 7.

³⁶ Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU, OJ C 308, 20.10.2011, p. 6.

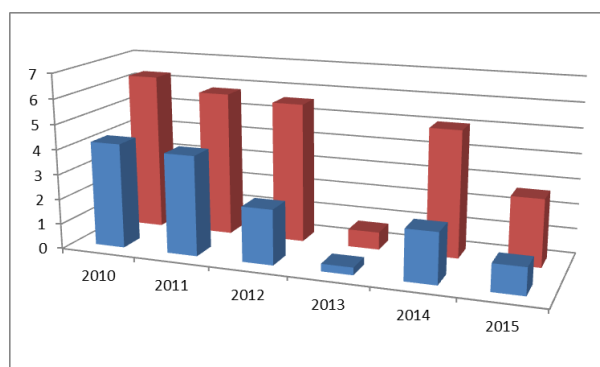
1.2. Merger control

The purpose of EU merger control is to ensure that market structures remain competitive while facilitating smooth industry restructuring, not only as regards EU companies, but any company active on the EU markets³⁷.

As far as merger control is concerned, DG Competition's activities are driven by notifications by companies. Therefore it is not meaningful to set numerical targets for merger enforcement actions as this depends on actions beyond the control of the Commission. However, DG Competition, like most competition authorities, provides the number of decisions (or intervention rate) to indicate the level of activity and output for the preceding year. It also provides an estimate of the customer benefits resulting from the Commission's interventions in horizontal mergers.

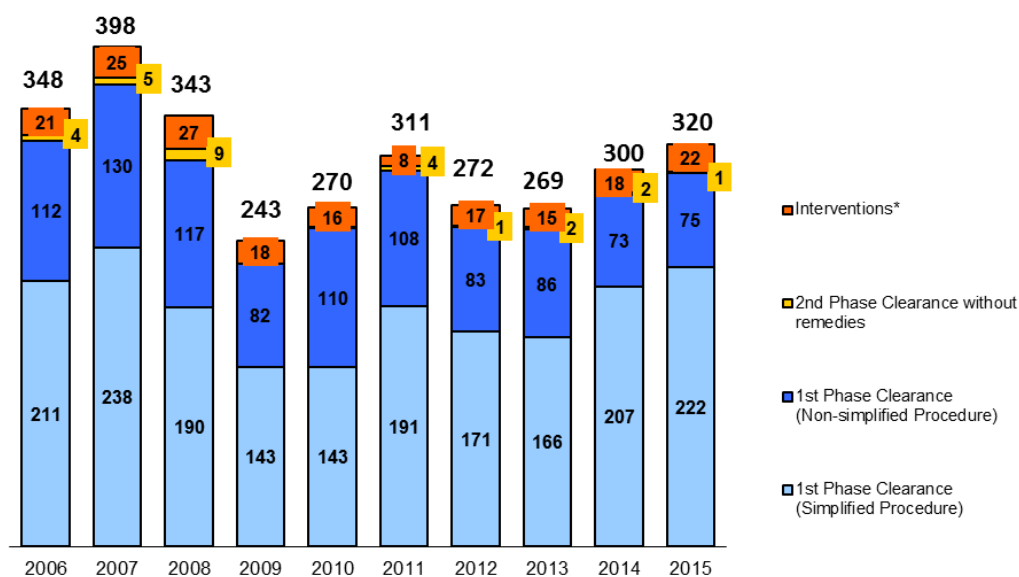
Estimates of customer benefits resulting from horizontal merger interventions at EU level

	2010	2011	2012	2013	2014	2015
EUR billion	4.2-6.3	4.0-5.8	2.2-5.6	0.3-0.7	2.02-5.06	1.08-2.69



³⁷ DG Competition exclusively assesses those proposed merger transactions that exceed the thresholds of the EU Merger Regulation. Below these thresholds, Member States are competent to assess the transaction under their national legislation, referral rules allowing for some flexibility in the entire control system.

Merger enforcement, the Commission decisions 2006-2015



* Includes prohibitions: one in 2007, 2011 and 2012 and two in 2013
 Source: Directorate-General for Competition

Specific objective: Facilitating smooth market restructuring by assessing non-harmful mergers in a streamlined manner

EU merger control³⁸ aims to facilitate smooth market restructuring by assessing non-harmful mergers in a streamlined manner and preventing the emergence of market structures which impede effective competition or result in the deterioration of market structures where competition is already less effective. Thus EU merger control guarantees a rapid assessment and clearance of non-problematic mergers.

The vast majority of cases notified are approved in a simplified procedure³⁹ without the need to open an in-depth investigation. In 2015, the simplified procedure was applied in relation to approximately 70% of all final Commission decisions in mergers. DG Competition expects this trend to continue also in 2016.

Specific objective: Prevention of anti-competitive effects of mergers

Industry restructuring is an important way of fostering efficient allocation of production assets. But, there are also situations where industry consolidation can give rise to harmful effects on competition, taking into account the merging companies' degree of market power and other market features. EU merger control ensures that changes in the market structure which lead to significant impediment to effective competition do not occur.

In 2016, DG Competition will continue to remain vigilant in order to ensure that markets are kept open and competitive in the internal market and to effectively underpin the

³⁸ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, p. 1-22.

³⁹ 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. 4.

Commission's priorities including in the field of Energy Union, Digital Single Market and Deeper and Fairer Internal Market. Examples of merger investigations in the telecoms sector in 2016 include DG Competition's review of the merger between Liberty Global and BASE in the telecoms sector⁴⁰ as well as the review of the merger between two of the United Kingdom's four mobile network operators, namely Hutchison and Telefónica UK⁴¹, and the review of the proposed joint venture between Hutchison and Wind in relation to fixed and mobile telecom services in Italy⁴². In the energy sector, merger control will focus on keeping EU energy markets open and equipped to face the challenges of climate change and the modernisation of the energy supply translating into better outcomes for EU business and households.

Specific objective: EU competition law instruments aligned with market realities and contemporary economic and legal thinking

In the White Paper "*Towards more effective EU merger control*" adopted in July 2014, the Commission made some concrete proposals to improve the Merger Regulation in a few areas. Those mainly concern the possible extension of the EU Merger Regulation to minority shareholdings and a proposed streamlining of the referral system and other procedures.

In light of the views expressed by stakeholders during the public consultation on the White Paper, the Commission decided to further assess the proportionality of a possible review system for minority shareholdings. For this purpose, the Commission engaged in 2015 in further discussions with relevant stakeholders on the question of how to design an effective system for the review of minority shareholdings which would pose as little administrative burden as possible on companies. These reflections will continue in 2016.

1.3. State aid control

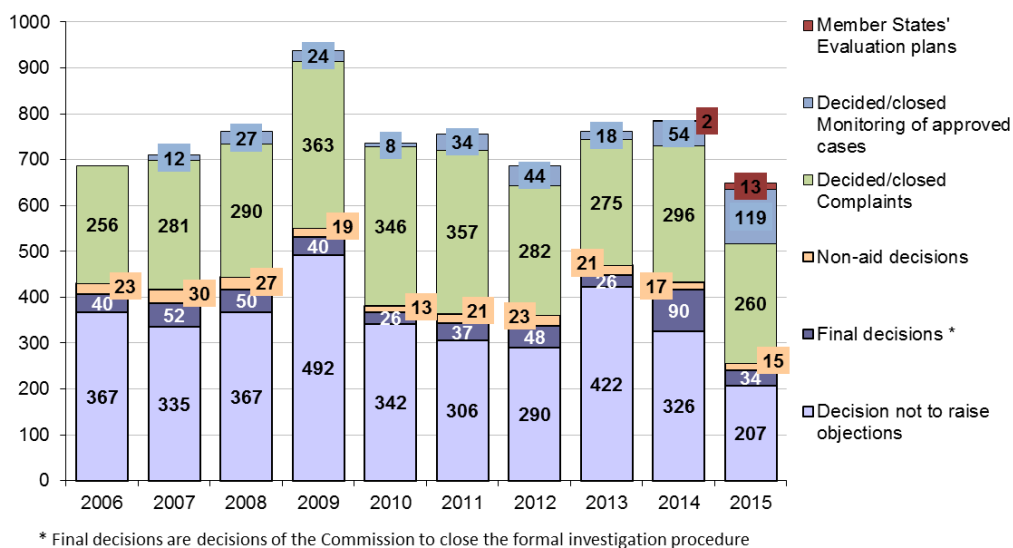
State aid rules help Member States target subsidies to areas where they are really needed, i.e. where the market by itself will not undertake investments needed to make the EU economy stronger and more competitive. In the broader context of the EU's agenda to foster growth, State aid policy facilitates well-designed aid targeted at market failures and objectives of common European interest.

⁴⁰ Case M.7637 *Liberty Global / BASE Belgium*, http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_7637

⁴¹ Case M.7612 *Hutchison 3G UK / Telefónica UK*, http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_7612 In October 2015, the Commission opened an in-depth investigation into the transaction, based on concerns that the merger could lead to higher prices, less choice and reduced innovation. The review continues in 2016.

⁴² Case M.7758 *Hutchison 3G Italy / WIND / JV*.

State aid enforcement (Commission decisions, monitoring and Member States' Evaluations Plans) 2006-2015



Specific objective: Overall effectiveness of State Aid Modernisation, increasing the share of better targeted growth-enhancing aid

The Commission has, to a large extent, completed its ambitious State Aid Modernisation (SAM) reform⁴³, which was launched in 2012⁴⁴ and aimed at promoting good aid that supports investments and spurs growth while contributing to Member States' efforts towards budgetary consolidation. The work continues on the remaining item, the guidance on the notion of aid.

One of the cornerstones of the State Aid Modernisation reform was the new General Block Exemption Regulation (GBER)⁴⁵, which simplifies aid granting procedures for Member States by authorising without prior notification a wide range of measures fulfilling horizontal common interest objectives. Only cases with the biggest potential to distort competition in the Single Market will remain for ex-ante assessment (notification). As a result of the reform, a significantly larger number of smaller and unproblematic measures are exempted from prior notification, in exchange for strengthened controls at Member State level, greater transparency and better evaluation of the impact of aid.

Thus the new rules allow Member States to easier implement, normally without ex-ante notification to the Commission, State aid measures to:

- strengthen the research and development effort of undertakings;
- foster the innovation process in the Union;

⁴³ For a comprehensive overview of State Aid Modernisation http://ec.europa.eu/competition/state_aid/modernisation/index_en.html

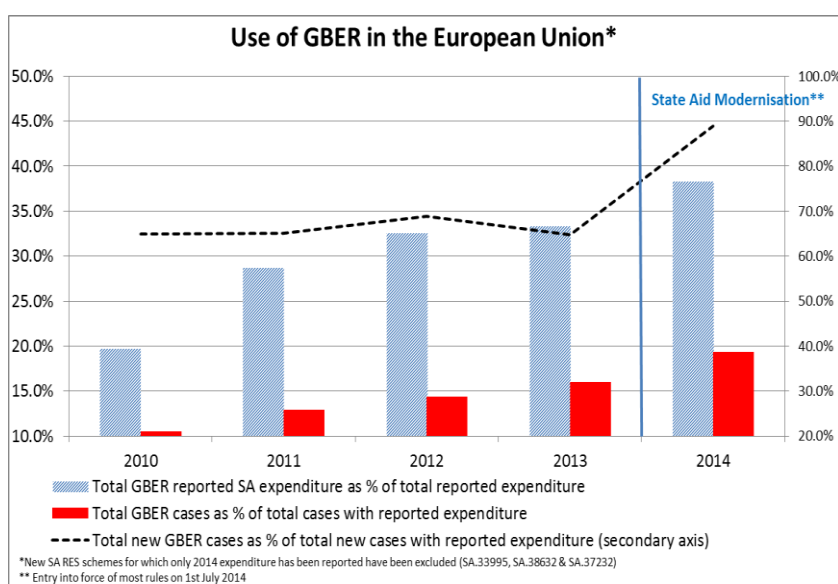
⁴⁴ Communication of 8 May 2012 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *EU State Aid Modernisation (SAM)*, COM(2012) 209 final.

⁴⁵ 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 TFEU, OJ L 187, 26.6.2014, p. 1.

- facilitate the access of SMEs to finance, including risk capital;
- support the creation of new, and in particular of small and innovative firms;
- support job creation, training efforts of firms, the recruitment of disadvantaged workers; and
- enhance the social and economic cohesion at national level as well as within the Union.

The State Aid Modernisation also implied a greater role for Member States in State aid control, including in designing State aid measures to fit the rules (particularly the GBER), taking responsibility for compliance of the aid they grant, and making the transparency and evaluation⁴⁶ requirements work. In 2016, DG Competition will continue to support the Member States meeting these obligations. In 2016, the major focus of DG Competition will be in ensuring, in partnership with the Member States, the effective and full implementation of the reform.

Use of GBER in State aid cases 2010-2014



Aid to research, development and innovation ("RDI")

In 2016, the State aid rules in the area of RDI aim at making sure that public funding goes to research projects that would not have happened otherwise, that is to say to projects that truly go beyond the state of the art and which bring innovative products and services to the market and ultimately to consumers.

⁴⁶ In line with the Commission's public commitment for a proportionate and targeted approach, evaluation has so far concerned 25 schemes in 11 Member States representing EUR 16 billion in total annual budget, or about 25% of Member States' annual State aid expenditures. The initial focus has been mostly on large aid schemes implemented under the GBER for either R&D&I or regional aid. More recently, the practice is extending to notified broadband and energy schemes.

Aid to risk finance

In addition to the new RDI State aid rules, the Commission set up a simpler, more flexible and generous State aid framework for the provision of risk finance to SMEs and mid-caps⁴⁷. The new risk finance regime, which the Commission continues to apply in 2016, provides the framework for seamless support of new ventures from their creation to their development into global players, so as to help them overcome the critical stages – the so-called "valley of death" – where private financing is either unavailable or not available in the necessary amount or form.

Regional aid

Regional State aid policy continues to be an important instrument in the EU's toolbox to achieve greater cohesion also in 2016. Spending on regional aid is also an important component of the overall State aid spending by Member States: in the period 2008-2013, regional aid amounted to EUR 78.5 billion, or some 18.5% of total State aid granted by Member States in that period.

Energy Union

Specific objective: Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules

State aid control in the areas of energy and environment contributes to reaching the EU ambitious energy and climate targets at the least possible cost for taxpayers and without undue distortions of competition. In 2016, DG Competition will continue implementing the Environmental and Energy State Aid Guidelines, in particular ensuring that renewable support schemes favour market integration of new electricity generation from renewable sources and that support is granted through competitive bidding processes.

In addition, through the recently launched State aid sector inquiry into national measures to ensure sufficient electricity supply (so-called "capacity mechanisms"), DG Competition will, in 2016, assess if certain design features of capacity mechanisms are distorting competition between electricity suppliers or hindering trade across national borders. The inquiry will provide input to legislative proposals under the Energy Union strategy, in particular DG Energy's Market Design Initiative, by clarifying how best to support security of electricity supply. DG Competition envisaged the final results from the survey during 2016.

Digital Single Market

The broadband sector is highly commercial and most of the financing for the upgrade and new deployment of next generation networks should come from the private sector. However, due to economics of density, private companies tend to invest mostly in urban highly populated areas which can assure rapid return on investment. As a result, in certain areas – in particular rural areas – public funds are needed to ensure the sustainability of investment supporting the deployment of broadband networks for the sake of inclusion and development.

⁴⁷ The new rules, contained in the new Risk Finance Guidelines and in the new GBER, entered into force on 1 July 2014.

For this reason, State involvement (via State aid and regulation) has been very significant⁴⁸ and will continue in 2016. According to the Commission's analysis⁴⁹, the achievement of the coverage target (30 Mbps for all) will require EUR 21 billion funding from public sources.

State aid is needed to stimulate roll-out, in particular in rural areas. However, experience with more than 140 State aid decisions in the sector indicates that there exist numerous difficulties with the implementation of State aid schemes. In 2016, State aid control continues to ensure that publicly funded networks do not crowd out private investments.

Aggressive tax planning

Fair tax competition is essential for the integrity of the Single Market and for keeping the playing field level for European companies. For these reasons, the fight against tax evasion and tax avoidance is high on the Commission's agenda⁵⁰. DG Competition contributes to this by investigating whether Member States have granted selective fiscal advantages to individual undertakings or groups of undertakings⁵¹. While collecting taxes and combating tax evasion and avoidance are normally competences of EU Member States, they have to comply with internal market rules and competition law.

The Commission has recently demonstrated that aggressive tax planning can entail a breach of EU State aid rules. This applies to preferential tax schemes, like the Belgian Excess Profit system⁵² or individual tax rulings, like the cases of Starbucks (Netherlands) and Fiat Finance & Trade (Luxembourg)⁵³. In these cases the national tax authorities artificially lowered the taxes paid by the companies. Therefore, the Commission has ordered the respective Member States to recover the unpaid taxes from the beneficiaries, in order to remove the unfair competitive advantage they have enjoyed and to restore equal treatment with other companies.

These investigations, and further pending investigations pursued in 2016⁵⁴, will provide guidance to Member States and market participants on which preferential regimes the Commission considers problematic under State aid rules.

⁴⁸ Since 2003, the Commission adopted over 130 decisions approving more than EUR 13 billion of State subsidies across Europe.

⁴⁹ This calculation is performed for urban coverage of DOCSIS 3.1 and FTTH/B as a proxy for reaching the target of 50% take-up of 100 Mbps: this scenario reaches 85.1% of population coverage with 100 Mbps technologies.

⁵⁰ Mission Letter by President Juncker to Commissioner Vestager, 1 November 2014. http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/vestager_en.pdf

⁵¹ In 2013 DG Competition set up a task force to investigate ex-officio whether Member States grant special tax deals to companies, in particular to multinational companies. This Task Force has been systematically investigating the tax ruling practice in all Member States. In the overall context DG Competition's contribution consists, *inter alia*, in ensuring that tax authorities do not grant fiscal advantages to selected companies or kind of companies.

⁵² IP/16/42 of 12 January 2016, http://europa.eu/rapid/press-release_IP-16-42_en.htm

⁵³ IP/15/5880 of 21 October 2015, http://europa.eu/rapid/press-release_IP-15-5880_en.htm

⁵⁴ Other pending formal investigations concern Apple in Ireland and McDonald's and Amazon in Luxembourg.

Financial services

Specific objective: Stability and promotion of competition in the banking sector

In 2016, DG Competition will continue focusing its State aid control activities also on the financial and banking sectors. The financial crisis caused an unprecedented increase of State aid to the financial sector. In the past years, DG Competition has managed to limit the amount of aid and to keep the distortions of competition resulting from this aid to the necessary minimum. It has also played a leading role in the shaping of the Banking Union, the common European "tool box" to deal with struggling and failing banks in the future. On 1 January 2015, the Bank Recovery and Resolution Directive (BRRD) entered into force. The bail-in provisions of the BRRD will enter into force on 1 January 2016. The BRRD is shifting the cost of bank failures to shareholders and creditors, and make State aid less likely. However, also under the BRRD State aid will still be possible, outside resolution and in resolution cases.

DG Competition will therefore continue to play a key role in controlling future public interventions in the financial sector, to make sure that the aid given is kept to the necessary minimum and adequate measures are taken to minimize distortions of competition.

Deeper and fairer internal market in the real economy

A competitive level playing field for business in the real economy is key to ensuring a deeper and fairer internal market contributing to increased productivity and long term growth, also reducing input costs for other business and services.

Aid to manufacturing

In 2016, State aid control in manufacturing industries will continue to be geared at enforcing the State aid rules for rescue and restructuring of firms in difficulty in the "real" economy. For instance, in the steel sector, following the order to recover EUR 211 million aid from Belgium to companies in the Duferco Group⁵⁵, in January the Commission initiated formal proceedings regarding alleged aid granted by Italy to keep Ilva – EU's third largest steel producer – afloat⁵⁶. Where necessary, the Commission shall swiftly act to prevent protectionist aid to shelter national production from market developments.

Aid in transport

The transport system is the backbone of the internal market. State aid control has a key role to play in achieving a modern, integrated, efficient and affordable EU transport system, which is a powerful driver for growth and jobs. It contributes to limiting distortions of competition on transport markets, which have been traditionally marked by significant public intervention, so that those markets are as competitive as possible to the benefit of consumers. Moreover, it ensures that public funding is targeted at projects and activities that deliver tangible benefits in terms of mobility of people and goods across Europe.

As regard aviation, which is a priority area, the EU has around 150 scheduled airlines operating in a highly competitive environment, notably on intra-EU routes, where the market is fully liberalised and truly pan-European. Thus, it is essential to ensure that airlines receive State aid

⁵⁵ Commission Decision of 20.1.2016 in case SA.33926.

⁵⁶ Commission Decision (opening proceedings) of 20.1.2016 in case SA.38613.

only exceptionally, and that aid to airports does not give rise to undue competition distortions on the downstream air transport market. Moreover, aid to regional airports should be granted only if and to the extent that those airports fulfil genuine transport needs, and with a view to phasing out operating aid. In 2016, the Commission will continue to focus on these enforcement priorities, based on the 2014 Aviation State aid Guidelines.

In the rail sector, certain forms of State funding to incumbent operators are particularly harmful in that they hamper the emergence of real competition and sometimes result in maintaining inefficient operations and poor quality of service. This is notably the case for cross-subsidisation between infrastructure management and transport operations within incumbent groups, overcompensation of public service activities and public funding linked to public service activities which are ill-defined or too wide in scope. In 2016, DG Competition will prioritise such measures, which will be particularly relevant also in the wake of the adoption of the 4th Railway Package. Formal investigations to be pursued in 2016 concern restructuring aid to a number of national railway companies. Competitive railway companies support growth and competitiveness of their industrial suppliers upstream and also the provision of cheaper transport services to business and citizens alike in the internal market.

In the maritime sector, DG Competition will continue to work towards preventing abuses of the favourable fiscal and social charge regime allowed for shipping companies ("tonnage tax"), ensuring a consistent application of the 2004 Maritime State aid Guidelines. It will also give particular attention to financial compensations linked to large public service contracts.

Aid to the postal sector

Despite the complete liberalisation of the postal sector in the EU between 2011 and 2013, the letter market remains heavily concentrated and subject to very significant State intervention. While Member States enjoy a wide discretion in the definition of these Services of General Economic Interest (SGEIs), it must be ensured that their financing does not overcompensate postal incumbents and unduly distort competition not only in the markets directly affected by the aid such as the traditional letter market but also, through potential cross-subsidisation, in neighbouring markets and in particular the fast-expanding field of parcel delivery.

In 2016, the Commission will pursue its rigorous enforcement of State aid rules in the postal sector based on its 2012 SGEI package⁵⁷, notably as regards the most significant cases (notifications and complaints) falling within the scope of the 2012 SGEI Framework which impose stringent compatibility conditions, to ensure a level playing field between postal incumbents and competitors. In 2016, the Commission will continue its formal investigations regarding the Spanish incumbent Correos⁵⁸ and the Greek incumbent ELTA⁵⁹.

⁵⁷ IP/11/1571, http://europa.eu/rapid/press-release_IP-11-1571_en.htm

⁵⁸ Case SA.37977 (2016/C) – Complaint regarding unlawful State aid in favour of Sociedad Estatal Correos y Telégrafos S.A., IP/16/284, http://europa.eu/rapid/press-release_IP-16-284_en.htm.

⁵⁹ State aid — Greece — State aid SA.35608 (2014/C) (ex 2014/N) — Ελληνικά Ταχυδρομεία (EATA)/Hellenic Post (ELTA) Compensation for the financing of the universal postal service — Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union, OJ C 348, p. 48, 3.10.2014.

Specific objective: Prevention and recovery of incompatible aid

Over the years, the architecture of State aid control has evolved. Today, 38% of aid is granted under block-exempted schemes which are not examined by the Commission prior to their entry into force⁶⁰. Overall, 86% of aid is granted on the basis of previously approved aid schemes or Block Exemption Regulations⁶¹. In that context, it is essential for the Commission to verify that Member States apply the schemes correctly and that they only grant aid when all required conditions are met. DG Competition's State aid control activity also aims at ensuring effective prevention and recovery of incompatible State aid in order to prevent that Member States re-create artificial barriers to intra-community trade.

Monitoring and Recovery

In order to ensure that aid granted under existing aid schemes (without being individually notified and examined by the Commission) effectively complies with State aid rules, DG Competition performs a systematic, sample based, ex-post control (so-called "monitoring exercise"). The scope of the monitoring exercise has been systematically enlarged and covered 75 block-exempted or approved schemes in 2015. The exercise covers all Member States, all main types of aid and, since 2014, one third of Member States expenditure under existing schemes over a period of 3 exercises. In 2016, DG Competition will continue its monitoring efforts in particular in the areas where the implementation of State aid rules seems to raise more issues.

When unlawful aid is declared incompatible, the Commission is obliged to ask for its recovery by the Member State who granted it in order to restore the situation in the market prior to the granting of the aid. The purpose is to re-establish the situation that existed on the market prior to the granting of the aid in order to ensure that the level-playing field in the internal market is maintained. In 2016, DG Competition aims to make further progress towards effective and rapid enforcement of recovery decisions⁶².

Specific objective: EU competition law instruments aligned with market realities and contemporary economic and legal thinking

In view of maintaining EU competition law instruments aligned with market realities and contemporary economic and legal thinking, DG Competition will focus on ensuring an effective implementation of the State aid Modernisation package in 2016 through a new partnership with Member States, including the adoption of a Commission Communication on the notion of State aid. As indicated in Recital 1 of the new General Block Exemption Regulation (GBER)⁶³, the Commission is also reflecting to propose criteria for exempting port and airport

⁶⁰ This percentage concerns aid in terms of volume. Banking schemes are not considered here. The latest publicly available figures (2014), Scoreboard, EU 28 (2009-2014), http://ec.europa.eu/competition/state_aid/scoreboard/

⁶¹ Ibid.

⁶² By 31 December 2015, the total amount of illegal and incompatible aid recovered from beneficiaries since 1999 stood at EUR 13.5 billion. At the same time, a total of approximately EUR 8.3 billion is currently outstanding. In 2015, the Commission adopted 17 new recovery decisions and an amount of EUR 6.1 million was recovered by the Member States. At the end of 2015, the Commission had 54 pending active recovery cases. (DG Competition calculations)

⁶³ 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 on the Functioning of the European Union (TFEU), OJ L 187, 26.6.2014, p. 1.

infrastructure provided that sufficient case experience was developed. First public consultations in this respect are envisaged in 2016.

1.4. Promoting competition culture and international cooperation in the area of competition policy; maintaining and strengthening the Commission's reputation world-wide

DG Competition engages in advocacy activities and promotes competition culture in the EU and world-wide. Maintaining and strengthening the Commission's reputation world-wide and promoting international cooperation in this area is also defined as a priority for the new Commission in the area of competition policy⁶⁴.

Specific objective: Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level

In 2016, DG Competition will continue to work in close cooperation with other Commission services on the Commission's wider economic policy and economic governance agenda, including participating to horizontal policy coordination exercises such as the European Semester and the support to structural reforms as well as contribute to other policy initiatives of the Commission. Such cooperation is aimed at:

- (i) Ensuring a consistent approach to competition-related issues across the Commission;
- (ii) Ensuring that competition policy is as a key contributor in achieving long-term Commission objectives such as growth and competitiveness;
- (iii) Complementing other Commission policy areas with specific competition-related knowledge.

In 2016, DG Competition will also continue to work together with other services of the Commission and with other institutions, in particular the European Parliament, the Council and the ECB.

Specific objective: Explaining competition policy and its benefits

Knowledge of the benefits of competition is essential for citizens to exploit their opportunities as consumers, for businesses to compete on the merits and for policy makers to bring initiatives that support smart, sustainable and inclusive growth as well as to be efficient and non-distortive market operators. Explaining competition policy and demonstrating its benefits to citizens and stakeholders at all levels is also defined as a priority for the new Commission in the field of competition policy.

In 2016, DG Competition will continue its advocacy efforts aim at demonstrating the benefits of competition to citizens as well as stakeholders and explaining to businesses and Member States the economic and legal approach used by DG Competition when taking decisions⁶⁵. DG Competition conducted in 2014, for the second time, *Flash Eurobarometer 403 survey – Citizens' Perception about Competition Policy*⁶⁶. The results of the survey were shared with

⁶⁴ Mission Letter by President Juncker to Commissioner Vestager.

⁶⁵ Furthermore, DG Competition's printed publications were sent to 6452 subscribers/readers and the digital publications to 34880 in 2015.

⁶⁶ Eurobarometer Flash 403 on Citizens' Perception about Competition Policy (2014) published in March 2015, http://ec.europa.eu/competition/publications/reports/surveys_en.html, See also Flash

national competition authorities in the European Competition Network (ECN) for the benefit of competition advocacy efforts by the Commission and the national competition authorities. In 2016, DG Competition will continue to work together with then NCAs in this context and plans to conduct the survey again in 2019.

Specific objective: Promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control

In 2016, DG Competition aims at promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control by undertaking a wide range of activities.

- One important field of activity concerns the negotiation of Free Trade Agreements (FTAs) which include competition and State aid provisions in order to ensure a level playing field for European and foreign companies. Negotiations with the US on a Transatlantic Trade and Investment Partnership Agreement (TTIP) were one of the priorities for DG Competition in 2015 and will continue to be so in 2016. Other important agreements being negotiated include the FTA with Japan. In the course of 2016, further trade negotiations are expected to be launched with Mexico and other countries.
- Another field of activity is the technical cooperation with the Commission's main trading partners with which DG Competition has signed Memoranda of Understanding on Cooperation (MoUs). DG Competition's technical cooperation activities with the Chinese competition authorities are most notable and will continue in the coming years. A significant programme for technical cooperation with the Indian competition authorities will run until 2018. DG Competition will also provide technical assistance as a follow-up to recently concluded FTAs to countries such as Ukraine.
- Negotiations are ongoing with Canada to include provisions into the existing Cooperation Agreement which would enable both competition agencies to exchange evidence they have obtained in their respective investigations.
- As to the accession negotiations with candidate countries, the main policy objective, in addition to fostering a competition culture, is to further assist the candidate countries and potential candidate countries to meet the conditions for EU accession in the competition policy field. DG Competition will put a particular emphasis on Turkey, Serbia, Albania, Montenegro and FYROM as well as on the settlement process in Cyprus.
- In 2016, DG Competition will also continue to participate actively in international fora such as the Competition Committee of OECD, International Competition Network and UNCTAD by means of written contributions and its participation in oral discussions in meetings conferences and workshops.

EB 264 EU citizens' perceptions about competition policy (2009), http://ec.europa.eu/competition/publications/reports/surveys_en.html According to the results of the survey, more than 80% of EU citizens believe that competition between companies can lead to better prices, more choice, innovation and economic growth. On the question used as an indicator, 74% of EU citizens respond that effective competition has a positive impact on them as a consumer. EU citizens identify competition concerns in sectors which largely correspond also to the priority sectors that DG Competition focuses on.

Specific objective: Ensuring the highest standards in the enforcement of competition policy

DG Competition is committed to ensuring competition policy enforcement of the highest standards. In 2016, DG Competition will continue to adhere to the highest standards of professionalism, intellectual rigour and integrity so as to ensure the highest standards in the enforcement of competition policy. Recently, DG Competition conducted, for the second time, Eurobarometer Standard Qualitative survey among its professional stakeholders on some key quality parameters⁶⁷ related to DG Competition's work⁶⁸. In 2014, there was also widespread agreement among stakeholders that DG Competition's impact on the market is significant by promoting competition, raising awareness for competition rules and acting as deterrent. DG Competition plans to conduct such a survey again in 2019 to obtain updated information. As an example of an initiative to improve economy and efficiency of its non-financial activities, DG Competition engages in 2016 in an overarching exercise aimed at finding "Smarter Ways of Working". This ongoing initiative engages all staff in identifying further sources of efficiencies and synergies as well as ways to make DG Competition a better work place.

DG Competition Stakeholder Survey (Eurobarometer 2010/2014)



⁶⁷ These parameters include i) *Soundness of legal and economic analysis* (clarity and comprehensibility of decisions, predictability of decisions, predictability of fines imposed, understanding the markets and quality of economic analysis) ii) *Transparency and procedural fairness* (level of transparency of DG Competition's work, listening and informing in a timely manner, publication of non-confidential versions of decisions, stakeholder consultations on new rules, observance of procedural rules and burden on businesses and organisations), iii) *Economic effectiveness* (effectiveness of detection policy, deterrent effect of fines, impact of existing antitrust rules on planned business transactions, timeliness of decisions, focus on the right sectors, adaptation to the technological changes and globalisation, Impact on the markets, use of settlements in cartel cases and commitment decisions in antitrust cases, enforcement of decisions and contribution to the EU's economic growth) and iv) *Communication and promotion of competition culture* (clarity and comprehensibility of external communication, choice of communication and media channels and promotion of competition culture and policy convergence at the international level).

⁶⁸ Eurobarometer Standard Qualitative Study – Qualitative Eurobarometer survey about the perceived quality of DG Competition's actions (2014), published in March 2015, http://ec.europa.eu/competition/publications/reports/surveys_en.html; see also Qualitative Eurobarometer survey about the perceived quality of DG Competition's actions (2010), http://ec.europa.eu/competition/publications/reports/surveys_en.html; see also annual ranking of competition authorities around the world by Global Competition Review (GCR), the latest June 2015, <http://globalcompetitionreview.com/surveys/article/38830/european-commissions-directorate-general-competition>

PART 2. Organisational management outputs for the year

Human Resource Management

Objective: The DG deploys effectively its resources in support of the delivery of the Commission's priorities and core business, has a competent and engaged workforce, which is driven by an effective and gender-balanced management and which can deploy its full potential within supportive and healthy working conditions.

Main outputs in 2016:

Description	Indicator	Target
Increase the number of female Heads of Unit from 13 to 15 (subject to the actual vacancies)	Percentage of female representation in middle management	34.5%
Additional fit at work initiatives inspired by corporate strategy and events, tailor-made to DG Competition's needs; Launch of a fit at work corner on MyCOMP; Update DG Competition Guidelines on flexible working arrangements and related communication initiatives	Percentage of staff who feel that the Commission cares about their well-being	Maintain above Commission average
Further initiatives in the framework of DG Competition's staff motivation, engagement and retention strategy	Staff engagement index	Maintain above Commission average

Since being awarded the Balanced Workplace label in December 2013, DG Competition has continued to improve its gender balance. In December 2015, DG Competition is slightly above its target for female representation in Middle Management (30.2% vs. a Commission average of 30%). DG Competition will do its utmost to increase this level and will continue to encourage female applications for every middle management position that becomes vacant⁶⁹.

As regards the degree of integration of equal opportunities into human resources management, DG Competition has made good progress towards becoming a respectful working environment (cf. the percentage of positive replies in the staff survey). Concrete proposals to improve opportunities for female managers to grow and succeed in DG Competition will be developed and implemented in 2016. Actions with the same objectives will also be undertaken for staff with disabilities⁷⁰.

2016 will see additional fit at work initiatives in line with conferences and events organised at central level and tailor-made to the needs of DG Competition, the launch of a fit at work corner on MyCOMP. A number of communication initiatives regarding the rules and use of flexible working arrangements in the DG have taken place during 2015, including presentations to staff and Guidelines on flexible working arrangements to ensure coherent practices across the DG. These initiatives will be continued in 2016. Moreover, new more

⁶⁹ With regard to deputy Heads of Unit, who constitute the prime reserve pool for future management appointments, the baseline figures looked significantly brighter: the female representation rate stood at 41.9%. Moreover, 50% of newly appointed deputy Heads of Units in 2015 were women.

⁷⁰ In the framework of an in-depth equal opportunities assessment conducted in 2015, DG Competition focused on the question of how to groom a larger number of female candidates for future management appointments and looked into possibilities to improve reasonable accommodation for staff with disabilities. A set of concrete actions on the basis of the quantitative and qualitative analysis contained in the in-depth assessment will be adopted in 2016.

accommodating rules on telework and part-time work should be in place, which will be translated into updated Guidelines on flexible working arrangements for DG Competition.

DG Competition's staff motivation, engagement and retention strategy focuses on further upgrading the in-house managerial excellence: DG Competition recently finalised a 180° feedback exercise for all middle and senior managers in DG Competition; moreover, all managers in DG Competition committed to the 10 DOs for people management, a set of principles that apply to the particular work patterns and challenges in DG Competition. Additional initiatives will include: follow-up to the 180° feedback exercise⁷¹, continuing the informal lunch discussions among middle managers (Middle Management Forum), preparing a focus group with AST colleagues to discuss the implementation of the 10 DOs and the Staff Survey results, collecting and publishing good/best practices in Directorates⁷².

Objective: Motivate, train and retain highly qualified staff and promote equal opportunities within DG Competition.

Main outputs in 2016:

Description	Indicator	Target
Increase the visibility of DG Competition's internal career guidance officers. Continue to conduct entrance, exit and return interviews, as well as career development interviews for AD colleagues; launch career development interviews for AST staff. Finalise and publish the DG Competition Mobility Brochure.	Turnover (% of statutory staff leaving DG Competition before three years in DG Competition)	Decrease from 4%

Entrance, exit, and career development interviews (for the AD population with at least three years on the job) are conducted on a regular basis. In 2016, the information gathered in these interviews will be used to further improve the communication on flexible working arrangements and on career guidance services (DG Competition reinforced its career guidance capacity during 2015). Moreover, in 2016 DG Competition plans to introduce career development interviews also for AST staff with more than five years seniority on the job. The return interviews were introduced in 2015 in view of the increasing number of ex-colleagues returning to DG Competition, and they will be continued in the coming years. On this basis, an objective for 2016 is that the turnover decreases further.

⁷¹ Switching to the framework proposed at corporate level (in preparation by DG HR) could be considered in the medium term.

⁷² The results of the latest Staff Survey show that DG Competition continued to score well on most of the staff engagement index factors. It fared less well regarding two factors: 'I feel that my opinion is valued' and 'My line manager helps me to identify my training and development needs'. As already part of its staff motivation, engagement and retention strategy, and most recently as part of the Smarter Working Initiative action plan, DG Competition will continue to offer the 180° feedback exercise to recently appointed Heads of Unit (eight of them eligible in 2016) and to the Director-General, as well as to its deputy Head of Unit and Head of Task Force population (45 people). A number of follow-up training modules of the blended development programme will be repeated for all Heads of Unit and a tailored programme will be developed for deputy Heads of Unit and Heads of Task Force. Moreover, all managers in DG Competition will renew their pledge to the 10 DOs for people management, with a new signing ceremony planned for autumn 2016. The assessment of managers in terms of people management skills is to be developed in line with corporate middle management strategy.

Furthermore, a brochure for newcomers on mobility and careers in DG Competition has been designed in response to the comparatively high rate of outward mobility that the DG has seen over the past years. Although the concentration of departures in the lower grades has somewhat lessened recently, it still represents a weakness in terms of the return on investment in people.

A more general paper/brochure on mobility and careers will be reviewed in early 2016. The brochure contains information about the entire range of work areas in DG Competition and about opportunities for mobility inside the DG. By describing a variety of management as well as non-management careers, it also aims at enriching the vision of career progression among staff. Through its distribution to all newcomers in DG Competition, it is finally aimed at managing their expectations in a proactive manner from the very beginning.

Objective: Information flows effectively both top-down and bottom-up, and the staff understands the Commission's and DG Competition's objectives and how their individual work relates to these objectives.		
Main outputs in 2016:		
Description	Indicator	Target
Staff's understanding of Commission and DG Competition's policy strategy and priorities and seeing the connection between their job and those priorities.	Level of understanding by DG Competition staff of their priorities, as indicated by DG Competition Internal Communication Survey (ICS) responses	Over 63% (baseline established by 2013 survey) of DG Competition's respondents to the 2016 ICS think that DG Competition priorities are well communicated
Staff's understanding of their objectives and tasks	Level of understanding by DG Competition staff of their objectives and tasks, as indicated by DG Competition Internal Communication Survey (ICS) responses	At least 94% (baseline established by 2013 survey) of the respondents to the 2016 ICS say that they clearly know their objectives and tasks

2016 marks the final year of DG Competition's Internal Communication Strategy and Action plan for 2014-2016. Therefore, the focus in 2016 will be on completing the delivery of the main projects defined in the Strategy and Action plan. A central part is also measuring the achievement of the objectives set out in the Internal Communication Strategy and Action plan for 2014-2016.

Financial Management: Internal control and Risk management

Competition policy is implemented through enforcement and involves predominantly procedural (case-handling) and advocacy activities. DG Competition manages a relatively modest administrative budget of EUR 7.5 million under direct centralised management. The budget covers the administrative costs in support of DG Competition's operations such as mission costs, expert groups, advisory committees, conferences, studies, consultations, expert advice, IT and training. Financial management is therefore not a critical challenge for the DG's operations.

In 2016, as an example of an initiative to improve economy and efficiency of its financial activities, DG Competition will make an analysis of its financial circuits in order to assess the functioning of the internal control system. It will in particular consider whether there is scope to further improve the efficiency of our financial operations without risking the legality and regularity of our transactions.

Objective: Effective and reliable internal control system giving the necessary guarantees concerning the legality and the regularity of the underlying transactions

Main outputs in 2016:

Description	Indicator	Target
All transactions are reviewed ex-ante by the financial sector and allow the required corrections to be made during the transaction process.	Transactions made in accordance with financial circuits	100%
	Estimated residual error rate	< 2%

Objective: Effective and reliable internal control system in line with sound financial management.

Main outputs in 2016:

Description	Indicator	Target
To ensure that the controls in place do not contain systematic weaknesses	Number of instances of overriding controls or deviations from established procedures	< 10
Compliance with contractual payment delays	Payments executed within the contractual limits	> 90%
Implement the financial resources allocated to DG COMP	Budget execution with respect to budget appropriations	> 90%

Objective 3: Minimisation of the fraud, ethics and security risks through the application of effective anti-fraud, ethics and security measures, integrated in all activities of the DG, based on the DG's Anti-Fraud Strategy (AFS), Code on Ethics and Security Guidelines.

Main outputs in 2016:

Description	Indicator	Target
Drafting of updated AFS and review of Code on Ethics	Updated AFS (elaborated on the basis of the methodology provided by OLAF) and Code on Ethics	Updated in 2016
Monitoring of attendance at ethics training and follow-up	Fraud and ethics awareness is increased for target population as identified in the DG's AFS and Code on Ethics	Close to 100% newcomers attending ethics training
Review of anti-fraud actions undertaken and proposal for further actions	Regular monitoring of the implementation of the AFS and Code on Ethics, and reporting to management	Report to management in 2016
Monitoring and reporting of incidents and follow-up of recommendations	Knowledge and respect by staff of DG Competition's security rules and incident reporting procedures	Reduction of inadvertent disclosures of confidential information

In 2016, DG Competition intends to continue its follow-up of inadvertent disclosures of confidential information, and report on the implementation of the AFS and Code on Ethics. In light of the new methodology to be provided by OLAF, DG Competition will review its Anti-Fraud Strategy and update its Code on Ethics. Compulsory ethics training for newcomers will be regularly organised and attendance will be monitored. Awareness raising activity will be organised.

Better Regulation

Early 2016, DG Competition will launch a comprehensive ex-post evaluation of the State aid decisions regarding bank restructuring. Later in the year, DG Competition will finalise a number of studies that can help to further improve policy making and working practices

including studies on: (1) the passing-on of overcharges (to facilitate the implementation of the Directive on antitrust damages actions), (2) issues pertaining to the insurance production process (to facilitate the application of the Insurance Block Exemption Regulation), (3) certain aspects related to the treatment of minority shareholdings, on (4) the economic impact of competition policy enforcement on the functioning of telecoms markets in the EU; and (5) on the training of judges in EU competition law.

Objective: Prepare new policy initiatives and manage the EU's acquis in line with better regulation practices to ensure that EU policy objectives are achieved effectively and efficiently.

Main outputs in 2016:

Description	Indicator	Target
Gradual improvement of the percentage of positive opinions on first submission is an indicator of progress made by the DG in applying better regulation practices.	Percentage of Impact assessments submitted by DG Competition to the Regulatory Scrutiny Board that received a favourable opinion on first submission.	>= 87.5% (i.e. Positive trend compared to DG's 2014 situation of IAB positive opinions on 7 of the 8 IA submissions)
The application of better regulation practices progressively leads to the stock of legislative acquis covered by regular evaluations to increase.	Percentage of the DG's regulatory acquis covered by ex-post evaluations and Fitness Checks not older than five years.	36% (i.e. Positive trend compared to baseline (25% for DG Competition in 2015) and target (Positive trend compared to interim milestone)).

Information Management Aspects

Competition enforcement is evidence based and evidence is found increasingly in electronic documents. Information systems which contribute to an efficient management of competition activities, as well, as document management itself, constitute essential support functions for the daily operations of DG Competition. In 2016 DG Competition will continue the development of a common Case Management System for the Commission services participating in the Case Management Rationalisation project. In addition, it continues to develop Knowledge Management and information sharing tools like 'COMPWiki' to empower staff to share knowledge and best practices within the DG and employ collaborative tools such as COMP Collaborative Platform and e-Discovery for their daily activities.

Objective: Information and knowledge in your DG is shared and reusable by other DGs. Important documents are registered, filed and retrievable

Main outputs in 2016:

Description	Indicator	Target
Instead of Ares, internally DG Competition uses its own registration/document system (EDMA). In EDMA 100% of documents are filed, including also those that are sent from EDMA to other DGs via Ares, since filing is mandatory in DG Competition.	Percentage of registered documents that are not filed ⁷³ (ratio)	0% (Ares) 0% (EDMA)

⁷³ Each registered document must be filed in at least one official file of the *Chef de file*, as required by the [e-Domec policy rules](#) (and by ICS 11 requirements). The indicator is to be measured via reporting tools available in Ares.

Instead of HAN, inside DG Competition documents are exchanged and made visible in DG's own registration/document system (EDMA), in which 99.19% of files are opened to the whole DG. However, security can be and is implemented in EDMA also at the attachment level. The target here is not a quality measure, but reflects a policy decision taken in DG Competition on accessibility.	Percentage of HAN files readable/accessible by all units in the DG	99,19% (EDMA)
This number reflects only files in HAN containing documents exchanged with other DGs, which is and should remain an exception. In its own registration/document system (EDMA), DG Competition shares no files with another DG. Competition regulations set out a strict professional secrecy obligation and limitations on use of data for any other purposes than competition cases. Therefore, by definition DG Competition files are restricted to DG Competition.	Percentage of HAN files shared with other DGs	0% (EDMA)
The percentage represents the proportion of units using either the Collaborative Platform or e-Discovery	Percentage of units using collaborative tools to manage their activities	100%
Important documents are retrievable	Number of cases where an important document could not be retrieved and resulted in a report to the DMO (register of "exceptions" to be created)	0

Objective: Timely and effective handling of requests for information under Regulation 1049/2001

Main outputs in 2016:

Description	Indicator	Target
According to the regulation, it is mandatory to reply within the deadline.	Respect of the time-limits for replies	100%

Objective: Enhance paperless document exchanges (e-Commission) with 3rd parties

Main outputs in 2016:

Description	Indicator	Target
Optimising the usage of DG Competition's document management and electronic communication systems and limiting paper-based exchanges	Percentage paperless exchanges with Member States and external stakeholders	95%

Objective: IT rationalisation in sub-domain for Case Management Systems (led by DG Competition)

Main outputs in 2016:

Description	Indicator	Target
DG Competition leads the implementation of a common Case Management System for the Commission services participating in the Case Management Rationalisation project	Implementation status of the project	Tender procedure concluded. Framework contract signed.

External communication activities

DG Competition has made no commitment for spending in significant external communication actions in 2016.

Annual communication spending (based on estimated commitments):		
Baseline (Year n-1): -		Target (2015): -
Objective: Citizens perceive that the EU is working to improve their lives and engage with the EU. They feel that their concerns are taken into consideration in European decision making and they know about their rights in the EU.		
Main outputs in 2016:		
Description	Indicator	Target
A proxy for the global overall perception of the EU citizens measured by Eurobarometer.	Percentage of EU citizens having a positive image of the EU (provided by DG Communication)	Positive image of the EU \geq 50%
Help stakeholders understand EU competition rules	Number of people reached with communication actions directly supporting EU competition policy as a result of the DG's actions	DG Competition's printed and digital publications sent to minimum 37000 subscribers/readers.

Objective: Citizens perceive that the EU is working to improve their lives and engage with the EU. They feel that their concerns are taken into consideration in European decision making and they know about their rights in the EU.

Indicator 1: Percentage of EU citizens having a positive image of the EU

Every DG should aim to contribute to it and, considering its area of work, explain how it aims at enhancing the positive image of the EU

Definition: Eurobarometer measures the state of public opinion in the EU Member States. This global indicator is influenced by many factors, including the work of other EU institutions and national governments, as well as political and economic factors, not just the communication actions of the Commission. It is relevant as a proxy for the overall perception of the EU citizens. Positive visibility for the EU is the desirable corporate outcome of Commission communication, even if individual DGs' actions may only make a small contribution

Source of data: Standard Eurobarometer (DG COMM budget) [monitored by DG COMM [here](#)].

Baseline: November 2014	Target: 2020
Total "Positive": 39% Neutral: 37% Total "Negative": 22%	Positive image of the EU \geq 50%

Indicators: Help understanding of EU competition rules by stakeholders

Indicator 2: Number of people reached with communication actions directly supporting EU competition policy as a result of the DG's actions

Source of data: Collated monitoring data collected by DGs from their actions, from the ECN Sharepoint; from monitoring and evaluation contractors; from Opinion polls etc.

Baseline (2014)	Target (2016-2020)
DG Competition's printed publications were sent to 6000 subscribers/readers and the digital publications to 31154.	Increasing trend

Annexes to the Management Plan

Annex 1 Performance tables

General objective: A New Boost for Jobs, Growth and Investment		
Impact indicator 1: GDP growth		
Source of the data: Eurostat		
Baseline (2012)		Target
1.4%		Increasing trend

Antitrust and cartels

Relevant general objective: A New Boost for Jobs, Growth and Investment		
Specific objective 1: Effective enforcement of antitrust rules with a view to protecting consumer welfare (Antitrust and cartels)		Related to spending programme(s): -
Result indicator 1: Estimate of customer benefits resulting from Commission decisions prohibiting cartels		
Rationale: Quantitative indicator to ensure positive impact of competition enforcement on consumer welfare		
Source of data: DG Competition calculation		
Baseline (2015)		Target (2016)
EUR 0.99-1.49 bn ⁷⁴		No target
Result indicator 2: Deterrent effect of the Commission's fines		
Rationale: The Commission can impose fines on companies to punish infringements of antitrust rules and to deter future infringements.		
Source of data: DG Competition Stakeholder Survey 2014		
Baseline (2014)	Target (2016)	Target (2019)
> 50% ⁷⁵	No target	Senior Management decision to repeat the survey once in a mandate
		Maintain

⁷⁴ DG Competition calculation. The approach followed to estimate customer benefits from stopping a cartel (prevented harm) consists in multiplying the assumed increased price brought about by the cartel (called the "overcharge") by the value of the affected products or markets and then by the likely duration of the cartel had it remained undetected. A 10% to 15% overcharge is assumed. This is conservative when compared to the findings of recent empirical literature which report considerably higher median price overcharges for cartels. In order to estimate what the likely duration of the cartel would have been if it had continued undetected, a case-by-case analysis was carried out. This analysis focussed on the particular circumstances of each case and an assessment of important quantitative indicators, including the specific market conditions, the lifespan of the cartel, the ease of reaching and renewing cartel agreements as well as the potential reactions of outsiders (such as new entrants). The cartels are classified into three categories: "unsustainable", "fairly sustainable" and "very sustainable". It is assumed that the cartels in the first category would have lasted one extra year in the absence of the Commission's intervention, the cartels in the second category three years, and the cartels in the third group six years. The assumptions concerning the likely duration of the cartels are made prudently to establish a lower limit rather than to estimate the most likely values. Finally, the estimates obtained are also conservative because other consumer benefits, such as innovation, quality and choice are not taken into account. Financial services: the customer benefit calculation is based upon the termination of the cartels in their entirety (some parties have settled; for others the proceeding against them is ongoing).

Main outputs in 2016:		
Policy-related outputs		
Description	Indicator	Target date (2016)
Commission antitrust and cartel decisions	Intervention rate ⁷⁶	No target
Specific objective 2: Effective and coherent application of EU competition law by the national competition authorities (Antitrust and cartels)		Related to spending programme(s) -
Result indicator 1: Number of cases signalled to the European Competition Network (ECN)		
Rationale: Benchmark for the level of the ECN activity to ensure coherent application of EU competition law		
Source of data: ECN case system		
Baseline (2015)		Target (2016-2020)
179		No target
Result indicator 2: Number of envisaged enforcement decisions and similar case consultations in the European Competition Network (ECN)		
Rationale: Benchmark for the level of the ECN activity to ensure coherent application of EU competition law		
Source of data: ECN case system		
Baseline (2015)		Target (2016-2020)
100		No target
Main outputs in 2016:		
Policy-related outputs		
Description	Indicator	Target date
-	-	-
Main expenditure outputs		
Description	Indicator	Target date
-	-	-
Specific objective 2: Effective and coherent application of EU competition law by national courts (Antitrust and cartels)		Related to spending programme(s) -
Result indicator 1: Compliance rate of national judgments with Commission replies to requests for opinions (Article 15(1) of Regulation 1/2003)		
Rationale: Benchmark for coherence of the activities by the courts and the Commission to ensure coherent private enforcement of EU competition law		
Source of data: DG Competition statistics on the basis of national judgments transmitted		
Baseline (2004-2015)		Target (2016-2020)
18/21: 100% compliance rate possible ⁷⁷ .		Maintain 100% compliance rate in the long term to ensure coherent

⁷⁵ Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014), Aggregate Report, published in 2015, p. 35, "Overall, most participants believed that fines, especially larger fines, are an effective deterrent for companies, which try to avoid being in a position where they could be penalised. A national competition authority and some companies mentioned that fines have increased considerably in recent years and have become even more effective".

⁷⁶ Intervention rate consists of antitrust interventions (decisions) by the Commission. In 2015, 7 interventions by the Commission included 2 antitrust interventions (2 commitment decisions), 5 cartel prohibition decisions (2 settlement decisions, 1 hybrid decision (normal procedure) and 2 prohibition decisions (normal procedure).

⁷⁷ In three cases the respective national courts have not yet issued their decision.

		application of EU competition rules.
Result indicator 2: Compliance rate of national judgments with Commission 'amicus curiae' briefs (Article 15 (3) of Regulation 1/2003)		
Rationale: Benchmark for coherence of the activities by the courts and the Commission to ensure coherent private enforcement of EU competition law		
Source of data: DG Competition statistics on the basis of national judgments transmitted		
Baseline (2006-2015)		Target (2016-2020)
12/12		Maintain 100% compliance rate in the long term to ensure coherent application of EU competition rules.
Result indicator 3: Number of Member States having fully implemented the Directive ensuring the right for victims of EU competition law infringements to obtain compensation through national courts		
Rationale: Benchmark for ensuring equal opportunities to obtain compensation for competition law infringements in all Member States		
Source of data: DG Competition statistics based on evaluation		
Baseline (2014)		Target (2016) (Directive 2014/104/EU)
- MS		100% of Member States implemented by 27 December 2016
Specific objective 3: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking (Antitrust and cartels)		Related to spending programme(s) -
Result indicator 1: Stakeholder consultation on new rules (Eurobarometer 2014)		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target⁷⁸ (2019)
5.5/7.0 ⁷⁹	No target	Stable trend
Policy-related outputs		
Description	Indicator	Target date
-	-	-
Main expenditure outputs		
Description	Indicator	Target date
-	-	-

Merger control

Specific objective 5: Prevention of anticompetitive effects of mergers with a view to protecting consumer welfare (Merger control)		Related to spending programme(s) -
Result indicator 1: Estimate of customer benefits resulting from horizontal merger interventions		
Rationale: Quantitative indicator to ensure positive impact of competition enforcement on consumer welfare		
Source of data: DG Competition calculation		
Baseline (2015)		Target (2016-2020)
EUR 1.08-2.69 bn ⁸⁰		No target

⁷⁸ Senior Management decision of 1 February 2016: Increasing trend for <5/7 and stable trend ≥ 5/7.

⁷⁹ See Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014), Aggregate Report p. 27, "There was a high overall level of satisfaction with DG Competition's consultation on new rules, although some participants felt that their views are not always taken into account." http://ec.europa.eu/competition/publications/reports/surveys_en.html

⁸⁰ DG Competition calculation. The approach followed to estimate customer benefits from the Commission's intervention in the form of a prohibition of a horizontal merger or an approval of such a merger subject to conditions consisted in predicting the change in consumer surplus. The prevention of anticompetitive effects such as the negative impacts on innovation and choice are not

Policy-related outputs		
Description	Output indicator 1:	Target date (2016)
Level of enforcement activity	Number of merger decisions per year (2015) ⁸¹	No target
Description	Output indicator 2:	Target date (2016)
Commission merger decisions	Intervention rate (2015) ⁸²	No target
Description	Output indicator 3:	Target date (2016)
Lessening the burden for businesses	Ratio of merger decisions taken by the Commission in a simplified procedure (2015) ⁸³	Stable level
Specific objective 6: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking (Merger control)		Related to spending programme(s) -
Result indicator 1: Stakeholder consultation on new rules (Eurobarometer 2014)		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
5.5/7.0 ⁸⁴	No target	Senior Management decision to repeat the survey once in a mandate
		Stable trend
Policy-related outputs		
Description	Indicator	Target date
-	-	-
Main expenditure outputs		
Description	Indicator	Target date
-	-	-

taken into account, even though some cases are also largely based on non-price effects, especially effects on innovation. In practical terms, the calculation of the predicted change in consumer surplus arising from the Commission's intervention in each product market is based on three factors: (i) the total size (by value) of the product market concerned, (ii) the likely price increase avoided and (iii) the length of time that this market would have taken to self-correct either by the arrival of a new entrant or by the expansion of existing competitors. The expected price increase is set at 3-5%, a value in line with current academic literature, albeit a conservative estimate. The lower boundary of the estimate is based upon a 3% price increase lasting for two years, the higher boundary upon a 5% price increase for a duration depending on the barriers to entry of the affected market. The stable target is a planning assumption. As the merger control activity is driven by notifications, it is not meaningful to provide a numerical target for this indicator.

⁸¹ In 2015, the Commission adopted 317 decisions in merger cases.

⁸² There were 22 merger interventions by the Commission in 2015. Intervention rate indicator includes prohibition decisions and mergers approved subject to commitments, as well as withdrawals during second phase investigation (in-depth investigation by the Commission).

⁸³ Ca. 70% (2015).

⁸⁴ See Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014), Aggregate Report p. 27, "There was a high overall level of satisfaction with DG Competition's consultation on new rules, although some participants felt that their views are not always taken into account." http://ec.europa.eu/competition/publications/reports/surveys_en.html

State aid control

Specific objective 7: Overall effectiveness of State aid modernisation, increasing share of better targeted growth-enhancing aid (State aid control)		Related to spending programme(s) -
Result indicator 1: The share of GBER expenditure over total expenditure on State aid.		
Source of data: State Aid Scoreboard		
Link: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html		
Baseline (2014)		Target (2016-2020)
38.2%		Maintain or increase
Result indicator 2: Percentage of State aid granted by Member States for horizontal objectives of common interest.		
Rationale: Indicator to ensure that state aid is targeted at horizontal objectives of Community interest, such as regional development, employment, environmental protection, promotion of research and development and innovation, risk capital and development of SMEs.		
Source of data: State Aid Scoreboard – The information is based on the annual reports provided by Member States pursuant to Article 6(1) of Commission Regulation (EC) 794/2004 and comprises expenditure granted by Member States through existing aid measures which fall into scope of Article 107(1) TFEU.		
Link: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html Please briefly define the indicator)		
Baseline (2014)	Target (2016)	Target (2016-2020)
84.9%	Maintain or increase	Maintain or increase
Policy-related outputs		
Description	Output indicator 1:	Target date (2016)
Level of enforcement activity	Number of opening decisions per year (2015) ⁸⁵	No target

Specific objective 8: Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules (State aid control)		Related to spending programme(s) -	
Result indicator 1: Number of EEAG-based decisions⁸⁶ on operating support schemes for renewable electricity			
Rationale: The compliance of the capacity mechanisms with EEAG ensures a level playing field in the internal electricity market.			
Source of data: DG Competition calculation ⁸⁷			
Link: http://ec.europa.eu/competition/elojade/isef/index.cfm			
Baseline (2014/2015)		Target (2016-2020)	
11 decisions as at 01/01/2016		Increase	
Result indicator 2: Number of EEAG-compatible capacity mechanisms as share of all existing capacity mechanisms			
Rationale: The compliance of the capacity mechanisms with EEAG ensures a level playing field in the internal electricity market.			
Source of data: DG Competition calculation			
Link: http://ec.europa.eu/competition/elojade/isef/index.cfm			
Baseline (2014/2015)	Interim Milestone		Target (2020)
	(2017)	(2018)	
5% of capacity mechanisms	30%	50%	100%

⁸⁵ In 2015, the number of opening decisions in State aid was 20.

⁸⁶ Communication from the Commission — *Guidelines on State aid for environmental protection and energy 2014-2020*, OJ C 200, 28.6.2014, p. 1-55, [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0628\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0628(01))

⁸⁷ The calculation accounts for final Commission decisions under EEAG on operating schemes for RES-e comprising the whole of a Member State; individual/ad hoc aid is not considered; calculated annually, as on 1 January; trend should be increasing in view of cumulative decisions.

Specific objective 9: Stability and promotion of competition in the banking sector		Related to spending programme(s) -
<p>Result indicator 1: For each stress test carried out by the SSM or the EBA, calculate the ratio of a) State aid and Fund aid to banks in the test sample to cover shortfalls identified in the stress test to b) the total capital shortfall identified by the stress test at the respective observation date</p> <p>Rationale: The more banks are capable of filling in the capital shortfalls identified in the stress tests themselves, the better it is for financial stability.</p> <p>Source of data: For the numerator DG Competition calculation – State aid granted in 2014 to banks in EBA sample. For the denominator EBA 2014 stress tests' website http://www.eba.europa.eu/-/eba-publishes-2014-eu-wide-stress-test-results</p>		
Baseline (2014)		Target (2016-2020)
6.1%		Decrease
<p>Result indicator 2: Ratio of (a) State aid to all banks in the EU in the form of capital-relevant instruments to (b) the stock of total capital and reserves for all banks in the EU</p> <p>Rationale: The more banks are capable of filling in the capital shortfalls identified in the stress tests themselves, the better it is for the financial stability.</p> <p>Source of data: For the numerator DG COMP calculation. For the denominator ECB data under: http://sdw.ecb.europa.eu/reports.do?node=1000003506</p>		
Baseline (2014)		Target (2016-2020)
0.2%		Decrease

Specific objective 10: Prevention and recovery of incompatible aid (State aid control)		Related to spending programme(s) -
<p>Result indicator 1: Implementation of recovery (at least provisional) or Court action for non-implementation within two years from the date of the recovery decision (expressed as percentage of total recovery decisions)</p> <p>Rationale: Qualitative indicator on the effectiveness and enforcement of recovery decisions</p> <p>Source of data: DG Competition case management system (ISIS)</p>		
Baseline (2015)	Target (2016)	Target (2019)
33% ⁸⁸	Increase	Increase
Specific objective 11: Monitoring of aid measures (State aid control)		Related to spending programme(s) -
<p>Result indicator 1: Number of aid measures (mainly schemes) monitored <i>ex-post</i> (out of 1855 schemes in operation in all Member State (on rolling basis, 10-year average) on which expenditure above EUR 200000 was reported)</p> <p>Rationale: Stable indicator ensuring a reasonable number of aid measures (mainly schemes) subject to <i>ex-post</i> monitoring in every annual monitoring cycle.</p> <p>Source of data: DG Competition calculation</p>		
Baseline (2015)		Target (2019)
At least 75 aid measures (mainly schemes) subject to <i>ex-post</i> monitoring		Stable

⁸⁸ Total of recovery decisions adopted which fall into this result indicator is 39; in 9 instances, recovery was implemented and in 4 cases it was decided to launch Court action.

Specific objective 11: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking (State aid control)		Related to spending programme(s) -
Result indicator 1: Stakeholder consultation on new rules (Eurobarometer 2014)		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		Senior Management decision to repeat the survey once in a mandate
5.5/7.0 ⁸⁹	No target	Stable trend

Promoting competition culture and international cooperation in the area of competition policy: maintaining and strengthening the Commission's reputation world-wide

Specific objective 12: Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level		Related to spending programme(s) -
Result indicator 1: Readiness to engage and contribute with high quality input to other DG's policy projects (Ensuring collegiality)		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Other DGs' Survey by DG Competition (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		To repeat the survey once in a mandate
5.0/7.0	No target	Stable trend
Result indicator 2: Relevance of input to other DGs' policy projects (Ensuring collegiality)		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Other DGs' Survey by DG Competition (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		To repeat the survey once in a mandate
5.2/7.0	No target	Stable trend
Policy-related outputs		
Review of competition aspects of initiatives adopted and implemented at EU level ⁹⁰	Output indicator 1: Number of substantial replies to Commission inter-service consultations (2015)	Target date (2016)
850	194	Stable level
European Semester country specific recommendations ⁹¹	Output indicator 2: Number of country specific recommendations promoted or co-monitored by DG Competition (2015)	
43	29	Stable level
Main expenditure outputs		
Description	Indicator	Target
-	-	-

⁸⁹ See Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014), Aggregate Report, p. 27, "There was a high overall level of satisfaction with DG Competition's consultation on new rules, although some participants felt that their views are not always taken into account." http://ec.europa.eu/competition/publications/reports/surveys_en.html

⁹⁰ Number of substantial replies to Commission inter-service consultations: replies in which DG Competition either provides a positive reply under the conditions that its reservations are taken into account or a negative reply (DG Competition calculation).

⁹¹ DG Competition calculation.

Specific objective 13: Explaining competition policy and its benefits		Related to spending programme(s): -
Result indicator 1: Percentage of positive replies in surveys conducted among citizens agreeing that effective competition has a positive impact on them as consumers		
Rationale: Indicator to measure citizens' view of competition and competition policy		
Source of data: Eurobarometer Flash Citizens' Survey		
Baseline (2015)	Target (2016)	Target (2019)
74% ⁹²	No target	Senior Management decision to repeat the survey once in a mandate
Increasing trend		
Policy-related outputs		
Help understanding of EU competition rules by stakeholders ⁹³	Output indicator 1: Number of people reached with communication actions directly supporting EU competition policy as a result of the DG's actions (2015)	Target date (2016)
DG Competition's printed publications	DG Competition's printed publications were sent to 6452 subscribers/readers and the digital publications to 34880	Increasing trend
Main expenditure outputs		
Description	Indicator	Target
-	-	-

Specific objective 14: Promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control internationally		Related to spending programme(s): -
Result indicator 1: Promotion of competition culture and policy convergence at international level		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
4.9/7.0	No target	Senior Management decision to repeat the survey once in a mandate
Increasing trend		
Policy-related outputs		
Output Indicator 1: Number of competition cooperation agreements and free trade agreements containing competition and State aid clauses		
Rationale: Provides a benchmark for the increased level of convergence with third countries' competition authorities		
Source of data: DG Competition's statistics		
Baseline (2014)	Target (2016)	Target (2019)
20 agreements	No target	34 new agreements
Output Indicator 2: Number of contributions to OECD, ICN and UNCTAD		
Rationale: Provides a benchmark for the activity of the Commission in contributing to increased international convergence of competition policy on multilateral fora		
Source of data: DG Competition's statistics		
Baseline (2014)	2015	Target (2015-2017)
21 (2014) 13 (OECD), 5 (ICN), 3 (UNCTAD)	12 (OECD), 5 (ICN), 3 (UNCTAD)	15-20

⁹² Ibid.

⁹³ Collated monitoring data collected by DGs from their actions, from monitoring and evaluation contractors; from Opinion polls etc. (DG Competition calculation).

Output Indicator 3: Number of technical assistance workshops organised with third countries		
Rationale: Provides a benchmark for the activity of the Commission in contributing to increased international convergence of competition policy bilaterally		
Source of data: DG Competition's statistics		
Baseline (2014)	2015	Target (2015-2017)
China (8) India (2), Brazil (1)	China (3) India (2), Brazil (1)	China (8) India (2), Brazil (1)

Specific objective 15: Ensuring the highest standards in the enforcement of competition policy		Related to spending programme(s): -
Result indicator 1: Legal soundness of Commission decisions in competition cases		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		Senior Management decision to repeat the survey once in a mandate
5.3/7.0 ⁹⁴	No target	Stable trend
Result indicator 2: Quality of economic analysis		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		Senior Management decision to repeat the survey once in a mandate
4.9/7.0 ⁹⁵	No target	Increasing trend
Result indicator 3: Market knowledge		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		Senior Management decision to repeat the survey once in a mandate
5.0/7.0 ⁹⁶	No target	Stable trend
Result indicator 4: Impact on the markets		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		Senior Management decision to repeat the survey once in a mandate
4.8/7.0 ⁹⁷	No target	Increasing trend
Result indicator 5: Timeliness of decisions		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019)
		Senior Management decision to repeat the survey once in a mandate
4.0/7.0 ⁹⁸	No target	Increasing trend

⁹⁴ Ibid. p. 12.

⁹⁵ Ibid. p. 19.

⁹⁶ Ibid. p. 17.

⁹⁷ Ibid. p. 42.

⁹⁸ Ibid. p. 37.

Result indicator 6: Informing in a timely manner		
Rationale: Benchmark for a key quality parameter related to DG Competition's work		
Source of data: Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)		
Baseline (2014)	Target (2016)	Target (2019) Senior Management decision to repeat the survey once in a mandate
4.9/7.0 ⁹⁹	No target	Increasing trend
Planned evaluations: Eurobarometer DG Competition Stakeholder Survey to be conducted in 2019		

⁹⁹ Ibid. p. 24.

