



# **Strategic Plan 2016-2020\***

## **DG COMPETITION**

\*The current Commission's term of office runs until 31 October 2019. New political orientations provided by the incoming Commission for the subsequent period will be appropriately reflected in the strategic planning process.

## Contents

|  |    |
|--|----|
| PART 1. Strategic vision for 2016-2020.....  | 3  |
| A. Mission statement.....  | 3  |
| B. Operating context .....   | 4  |
| C. Strategy.....   | 10 |
| General objective: A New Boost for Jobs, Growth and Investment .....   | 10 |
| 1.1. Antitrust and cartels .....   | 14 |
| 1.2. Merger control.....   | 25 |
| 1.3. State aid control.....  | 29 |
| 1.4. Promoting competition culture and international cooperation in the area of competition policy; maintaining and strengthening the Commission's reputation world-wide ..... | 40 |
| PART 2. Organisational management.....   | 46 |
| A. Human Resource Management .....   | 46 |
| B. Financial Management: Internal control and Risk management.....   | 48 |
| C. Better Regulation.....  | 49 |
| D. Information management aspects.....   | 50 |
| E. External communication activities .....   | 52 |
| Annex to the Strategic Plan .....  | 53 |

## PART 1. Strategic vision for 2016-2020

### A. Mission statement

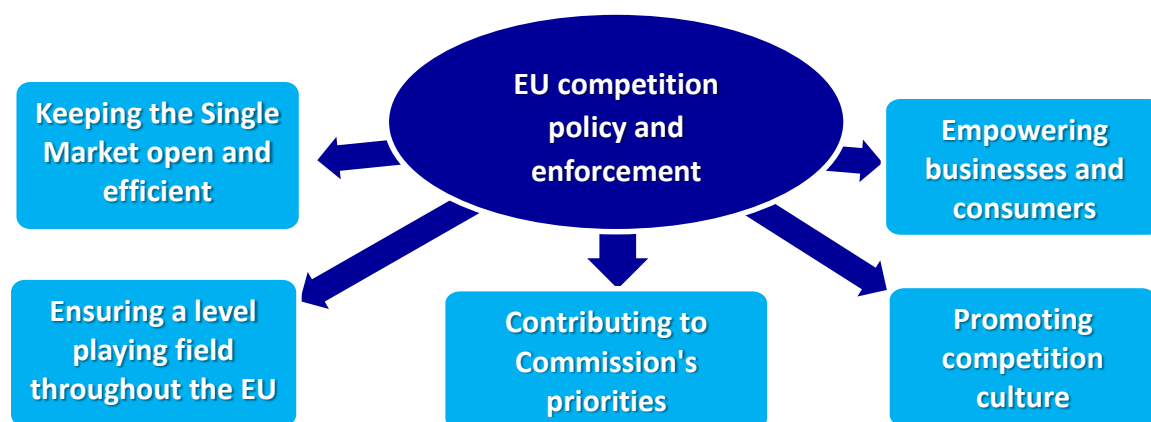
The mission of the Directorate-General for Competition is to enable the **Commission to make markets deliver more benefits to consumers, businesses and the society as a whole, by protecting competition on the market and fostering a competition culture in the EU and worldwide.** DG Competition does this by enforcing competition rules and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests. Competition policy is an indispensable element of a functioning internal market ensuring that all companies compete equally and fairly on their merits.

Competition is not an end in itself. It contributes to an efficient use of society's scarce resources, technological development and innovation, a better choice of products and services, lower prices, higher quality and greater productivity in the economy as a whole. EU competition policy thus contributes to the wider Commission objectives<sup>1</sup>, for example, boosting jobs, growth and investment, a connected Digital Single Market, a resilient Energy Union with a forward looking climate change policy, a deeper and fairer Internal Market with a strengthened industrial base and a deeper and fairer Economic and Monetary Union. This is also reflected in the mission letter by President Juncker to Commissioner Vestager<sup>2</sup>:

*"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.*

*...Mobilising competition policy tools and market expertise so that they contribute, as appropriate, to our jobs and growth agenda, including in areas such as the digital single market, energy policy, financial services, industrial policy and the fight against tax evasion. In this context, it will be important to keep developing an economic as well as a legal approach to the assessment of competition issues and to further develop market monitoring in support of the broader activities of the Commission".*

EU competition policy aims to protect competition from market distortions whether originating from Member States (distortive State aid), market players (distortive unilateral or coordinated behaviour), or mergers that would significantly impede effective competition. This is done by enforcing competition rules, namely antitrust/cartels, merger control and State aid control when the Commission finds evidence of unlawful behaviour, and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests.



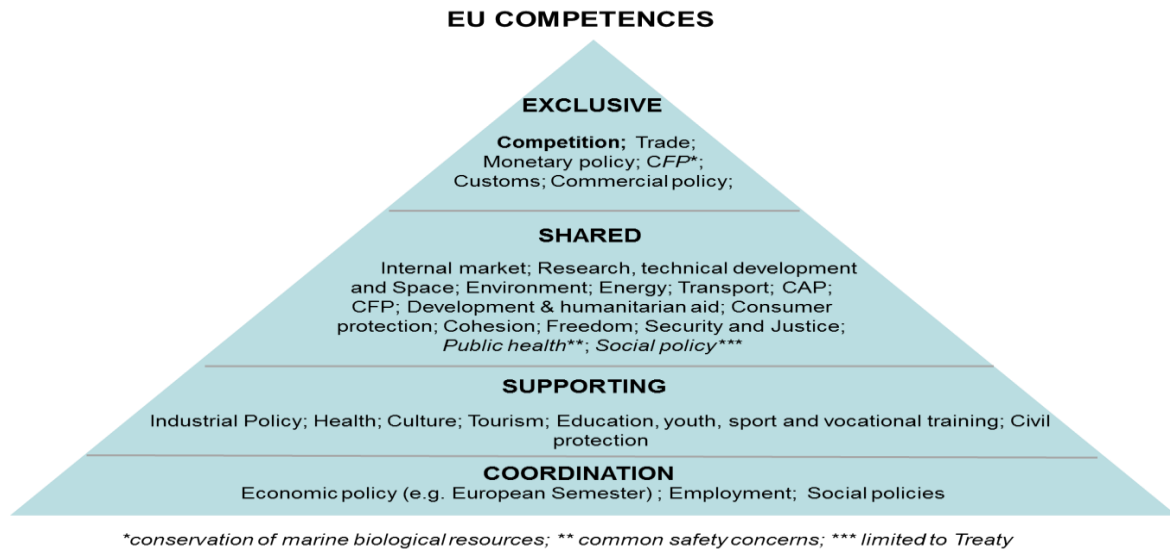
<sup>1</sup> Political Guidelines for the new European Commission as presented by President Juncker of 15 July 2014, [http://ec.europa.eu/priorities/docs/pg\\_en.pdf#page=5](http://ec.europa.eu/priorities/docs/pg_en.pdf#page=5)

<sup>2</sup> Mission Letter by President Juncker of 1 November 2014, [http://ec.europa.eu/commission/sites/cwt/files/commissioner\\_mission\\_letters/vestager\\_en.pdf](http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/vestager_en.pdf)

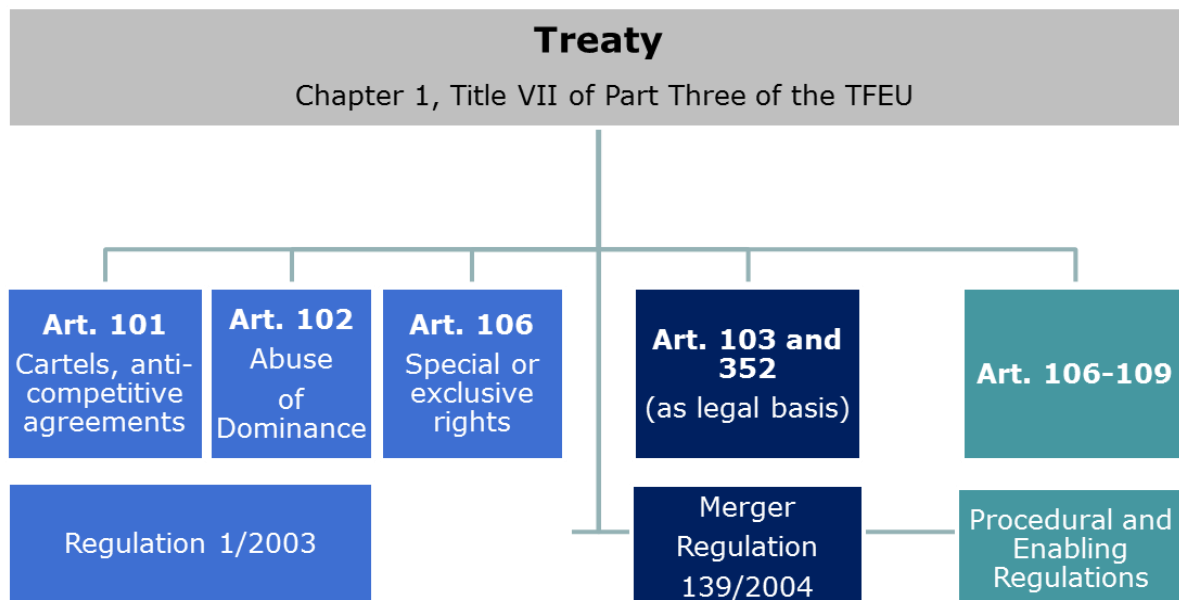
## B. Operating context

### Mandate

EU competition policy is one of the most prominent policies of the European Union, where the Commission can take decisions directly affecting companies or Member States. The Commission is responsible for defining and implementing EU competition policy. The principal competition rules are contained in Chapter 1, Title VII of Part Three of the Treaty on the Functioning of the European Union (TFEU).



The Commission, together with the national competition authorities (NCAs) and with national courts, enforces EU competition rules, based on Articles 101-109<sup>3</sup> of the Treaty on the Functioning of the EU (TFEU), to make EU markets work better, by ensuring that all companies compete equally and fairly on their merits in the internal market. This benefits consumers, businesses and the European economy as a whole.

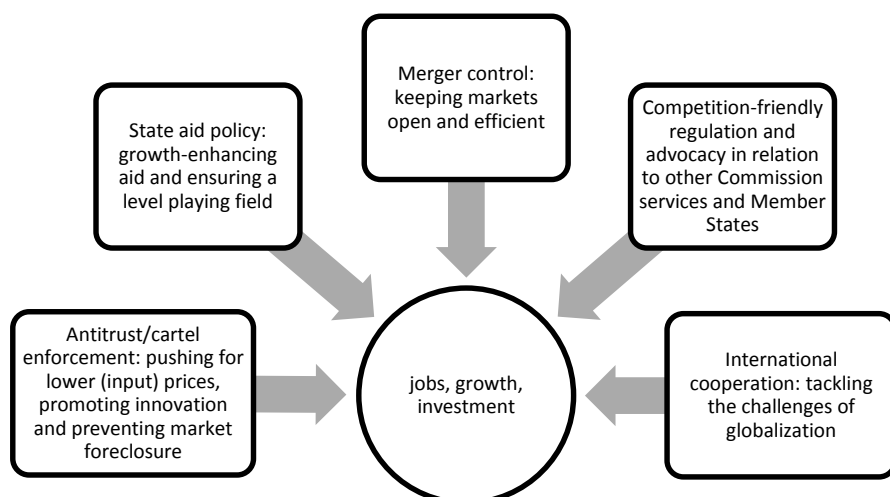


<sup>3</sup> Articles 101 and 102 TFEU; national courts play a role also in the application of Articles 107-109.

Within the Commission, the Directorate-General for Competition is primarily responsible for implementing these direct enforcement powers. DG Competition performs the following functions to meet these obligations, as also reflected in the Mission Letter by President Juncker<sup>4</sup>:

- 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.

DG Competition carries out its mission mainly by taking direct enforcement actions<sup>5</sup> against companies or Member States when it finds evidence of unlawful behaviour – be it anti-competitive agreements between firms, abusive behaviour by dominant companies or governmental action which leads to a distortion of competition in the internal market by providing some companies undue advantages over others<sup>6</sup>. EU merger control<sup>7</sup> 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. Finally, State aid control ensures that aid is growth-enhancing, efficient and effective and where aid is granted, that it does not restrict competition but addresses market failures to the benefit of society as a whole<sup>8</sup>. Such aid has a beneficial impact on competitiveness, employment and growth, and thus on the welfare of the society as a whole.



<sup>4</sup> The Mission Letter asks the Competition Commissioner 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*".

<sup>5</sup> 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.

<sup>6</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 4.1.2003, p. 1-25.

<sup>7</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, p. 1-22.

<sup>8</sup> Council Regulation (EU) No 733/2013, of 22 July 2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid, OJ L 204, 31.7.2013, p. 11-14. For the State Aid Modernisation, see also [http://ec.europa.eu/competition/state\\_aid/modernisation/index\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/index_en.html)

## DG Competition core principles

### **Relevance**

- ❖ Enforcement action to make a difference to EU citizens and businesses;
- ❖ Contributes to EU's strategic priorities;
- ❖ Prioritisation to achieve most impact.

### **Quality**

- ❖ Aiming at the highest rigour and quality in legal assessment and economic analysis;
- ❖ Sharing knowledge with other Commission services, national partners and stakeholders to enhance the quality of the assessment.

### **Efficiency and speed**

- ❖ Promptness of the action to ensure relevance of the outcome on the market whilst giving full procedural guarantees to the parties concerned;
- ❖ Cost-effectiveness in the use of resources.

### **Impartiality**

- ❖ Decisions taken impartially according to the law and in the public interest;
- ❖ Objectivity in analysing information and evidence;
- ❖ Transparent and consultative process to ensure the best available evidence and outcome.

### **Highest standards in competition enforcement**

- ❖ Adherence to the highest standards of professionalism, intellectual rigour and integrity;
- ❖ Ensuring transparency, due process and predictability for the stakeholders;
- ❖ Maintaining enforcement instruments in line with market realities and contemporary economic and legal thinking;
- ❖ Ensuring high standards IT tools to maintain and improve the effectiveness of enforcement.

### **Effective communication**

- ❖ Openness to listen and consider different views;
- ❖ Explaining the benefits of competition policy to citizens and stakeholders at all levels;
- ❖ Active engagement in international cooperation and promoting competition culture in the EU and world-wide.

## **Key stakeholders**

DG Competition channels its limited resources, insofar as not needed to deal with legal obligations and available for ex-officio investigations, to focus on the most harmful practices in key sectors, and works in partnerships with other Commission services to support the delivery of key Commission policy objectives in a pro-competitive way at EU and national level.

The main beneficiaries of EU competition policy are European citizens, businesses operating in the EU and the society as a whole. DG Competition provides guidance about the competition rules and their enforcement to improve legal certainty for its stakeholders in particular companies, associations of companies, and Member States. It also strives to ensure transparency, due process and predictability for its stakeholders and private enforcement of EU competition law. Knowledge of the benefits of competition is essential for citizens to exploit their opportunities as consumers, for businesses to compete on merit and for policymakers to come up with initiatives that support smart, sustainable and inclusive growth as well as to be efficient and non-distortive market operators. Better understanding of the advantages of competition helps consumers to make informed choices between products and services offered. It encourages businesses to refrain from anti-competitive agreements and behaviour. It makes public administrations realise how competition can contribute to addressing wider economic problems.

Judicial review related to competition law is conducted by the Court of Justice and the General Court. The General Court is particularly relevant for DG Competition's activities, since it has jurisdiction to hear direct actions brought by natural or legal persons against decisions addressed to or directly concerning them. For example, appeals to the General Court are lodged in practically every Commission decision imposing a fine, prohibiting a merger or other negative decisions. In many cases

applications are also filed by third parties claiming to be negatively affected by a Commission decision. DG Competition also continually reviews its enforcement and legislative instruments in the light of evolving case law developed by the General Court and Court of Justice.

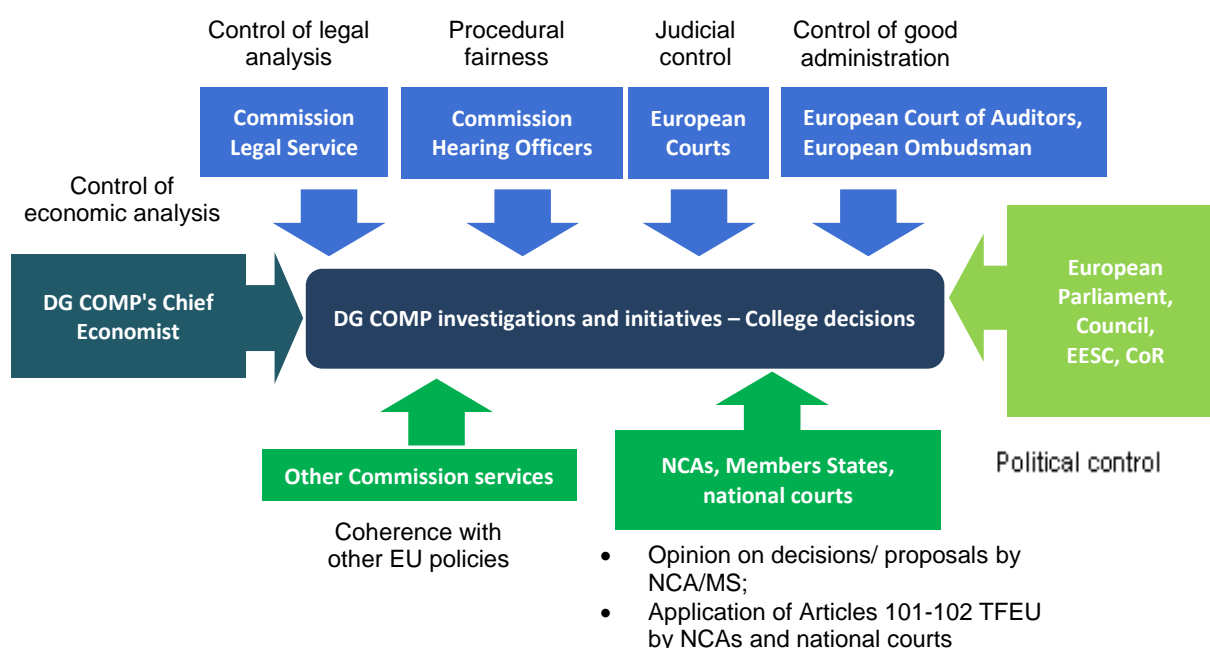
The European Ombudsman has competencies as regards any alleged maladministration or refusal of access to documents by DG Competition. DG Competition can also be subject to audits by the European Court of Auditors conducting audits to improve EU's accountability towards citizens.

DG Competition works in close partnership with national competition authorities and national courts to ensure an effective and coherent application of EU competition law, thereby contributing to a level playing field in the internal market. In the area of State aid, DG Competition works in direct contact with the Member States. Following the adoption of the State Aid Modernisation DG Competition has enhanced the multilateral and bilateral partnership with the Member States to sustain the implementation of the modernisation.

DG Competition has various levels of contact with the Council and various Council formations, in particular the Competitiveness Council and Eurogroup/EFC. Though the adoption of appropriate regulations or directives to give effect to the principles set out in Articles 101 and 102 is not subject to the ordinary legislative procedure, the Commission always carefully considers if a wider legal basis is required calling for the Parliament to co-decide on the initiative. Under Article 103 TFEU, the Council plays a predominant role, acting by a qualified majority on a proposal from the Commission and after consulting the Parliament.

DG Competition engages in a continuous structured dialogue with the European Parliament, and its Economic and Monetary Affairs Committee (ECON) in particular. DG Competition regularly informs the relevant Parliamentary committees of public consultations and the adoption of new guidelines and policy documents. The Parliament adopts a resolution on the Commission's Annual Report on Competition Policy. The Commission also informs the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR) about major policy initiatives and participates in the respective study groups and section meetings. In turn, the EESC and CoR issue opinions on the actions and initiatives of DG Competition.

The table below depicts the main internal and external stakeholders influencing the Commission decision-making, in addition to companies/Member States being subject to competition investigations, or exerting judicial or political control or control relating to good administration.



In the international context, DG Competition strives to shape global economic governance by strengthening international cooperation in competition enforcement and making steps towards increased convergence of competition policy instruments across different jurisdictions. DG Competition cooperates with competition authorities bilaterally as well as through international fora, such as OECD, UNCTAD and the International Competition Network (ICN). DG Competition aims at maintaining and strengthening the Commission's reputation world-wide and promoting international cooperation in this area. Bilaterally, cooperation takes place with a wide variety of partners, not only those with whom the Commission has a long tradition of cooperation, such as the US, Canada, Japan, Korea and Switzerland, but also with new and emerging agencies in countries such as China and Brazil.

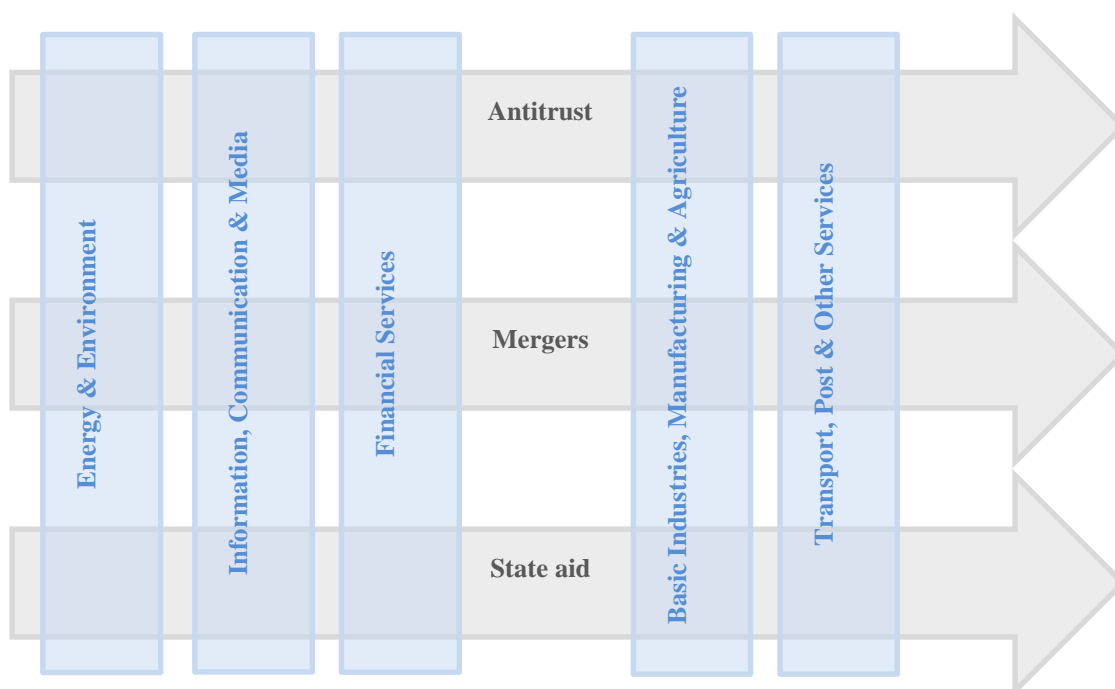
### Two-dimensional instrument-sector matrix organisation

DG Competition is comprised of ten Directorates. Five of these, the so-called "Markets and Cases Directorates", have a sectorial focus:

1. Energy and environment;
2. Information, communication and media;
3. Financial services;
4. Basic industries, manufacturing and agriculture, and
5. Transport, post and other services.

Each of the sectorial Directorates is comprised of units specialising in the application of the main competition enforcement instruments (antitrust, merger control and State aid control, respectively) to the given sector.

This results in an *instrument-sector based matrix structure* designed to promote instrument and sector knowledge, as well as the flexible and efficient use of human resources, both critical factors in ensuring a successful and timely delivery of the objectives.



A separate Directorate (Directorate G) is dedicated to cartel enforcement. Directorate H is responsible for applying most of the horizontal (i.e. non-sector specific) State aid rules, such as those relating to regional aid, R&D&I aid, risk finance aid, environmental aid, SME aid, employment aid, most areas of infrastructure aid, disaster aid and fiscal aid. It is also in charge of enforcing recovery decisions, cooperation with national courts in State aid and coordinating monitoring. Directorate H also includes a Task Force on Tax Planning Practices. Directorate A is in charge of policy for all competition enforcement instruments, in addition to the European Competition Network, private



enforcement and international relations. Directorate R is responsible for document management, human and financial resources management, IT and the management of issues related to security, ethics and business continuity. The Chief Economist, with his team, provides support in terms of economic analysis for individual competition cases and DG Competition policy developments. He reports directly to the Director-General and provides independent advice to the Commissioner. The Principal Adviser is responsible for the ex-post economic evaluation of competition policy.

Competition enforcement is a highly digitalised activity. Key business processes such as case file management, e-Discovery, and collaboration in case teams, investigations (requests for information and inspections) as well as exchanges with various stakeholders are supported by dedicated information systems. Against this background, sustained and continued investment in information technology is a strategic priority for DG Competition. The investment by DG Competition in IT materialises in particular in the Case Management Rationalisation project<sup>9</sup> and the ABCDE action under the ISA<sup>2</sup> program led by DG DIGIT.

DG Competition accomplishes its tasks through the use of its human resources (802 staff members on 31.12.2015) and its legal powers. It has no operational budget.

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<sup>9</sup> See Part 2, section D below.

## C. Strategy

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

#### *EU competition policy contributes to key Commission priorities*

The ultimate goal of EU competition policy is making markets function better for the benefit of European 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. By tackling market distortions and creating economic opportunities in the internal market, DG Competition activities significantly contribute to the Commission's agenda "*A New Boost for Jobs, Growth and Investment*".

To achieve this goal, EU competition policy supports several key EU policies and initiatives, such as

- i) Digital Single Market;
- ii) Energy Union;
- iii) Deeper and fairer Internal Market; and
- iv) Fight against tax evasion and avoidance.

It does so mainly through enforcement activity, i.e. fighting and preventing cartels, abuses of dominant positions and anticompetitive mergers as well as by facilitating better targeted growth-enhancing State aid. By mobilising its knowledge of key markets it can also share its expertise with other Commission services in support of the key priorities outlined in the Commission's agenda for Jobs, Growth and Investment. Consequently, every effort will be made in the next years to ensure that EU competition policy continues to support the Commission in pursuing its key policy priorities, for example, as follows:

#### **Deeper and fairer Internal Market**

- Ensure that basic materials and semi-finished inputs are available at fair market prices to Europe's high value-added industries
- Increase financial stability and transparency to underpin economic recovery
- Promote competition in the payment sector to benefit EU consumers
- Make the Single Market work better by fighting cartels
- Keep markets level and open in key sectors for businesses and consumers (e.g. food, pharma, manufacturing)
- Foster effective competition in the transport sector

#### **Fight against tax evasion and avoidance**

- Tackle selective tax advantages to make sure that all taxpayers contribute their fair share

#### **Digital Single Market**

- Keep telecoms and digital markets open and competitive
- Help securing and spreading innovation
- Widen choice for consumers
- Increase Broadband penetration

#### **Energy Union**

- Make energy more secure, affordable and sustainable
- Tackle market fragmentation
- Ensure better targeting of public subsidies

During 2016-2020, DG Competition will continue to use all competition policy instruments to support Commission's priorities, for instance, the agenda to boost growth, jobs and investment across the EU<sup>10</sup>. This is highlighted for instance by the priority treatment that will be provided to State aid cases linked to the Investment Plan for Europe (EFSI).

<sup>10</sup> Political Guidelines of President Juncker, [http://ec.europa.eu/priorities/docs/pg\\_en.pdf](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](http://europa.eu/rapid/press-release_SPEECH-15-5614_en.htm)

## *EU competition policy creates framework conditions for efficiently functioning markets and delivers benefits to the society as a whole*

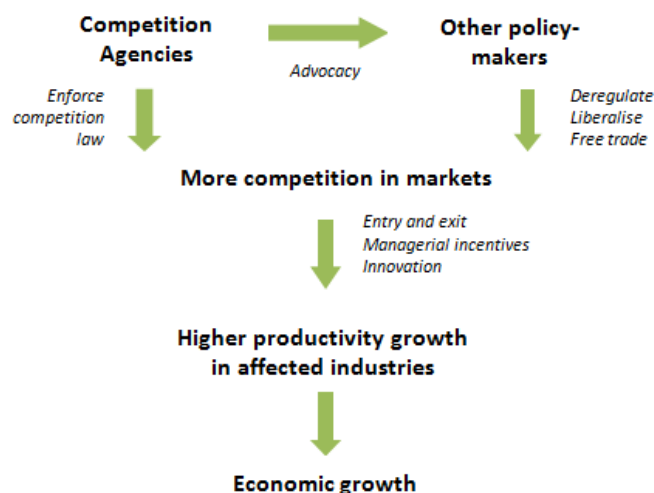
EU competition policy creates the framework conditions for efficiently functioning markets and improved competition conditions in the internal market. Strong competition can contribute to increased productivity, job creation and GDP growth by:

- (i) improving business dynamism and the reallocation of resources towards the most efficient companies;
- (ii) encouraging companies to improve efficiency and the quality of their management; and
- (iii) stimulating innovation.

By addressing market distortions whether originating from anti-competitive agreements between firms, abusive behaviour by dominant companies or attempts by governments to distort competition in the internal market, EU competition policy ensures that all sectors of the economy remain open and competitive and can make a significant contribution to growth, investment and sustainable high-quality jobs in the EU. Undistorted competition also fosters competitiveness in a global context: a competitive Single Market brings out the best in European companies, preparing them to do business on global markets and to succeed. Increased competition drives investments in technological upgrades, especially in key sectors for the economy such as the telecoms sector.

Competition policy forms part of investors' investment decisions in terms of legal certainty, ensuring that investments will not be undermined by distortive subsidies elsewhere in the Single Market, and that illegal and incompatible subsidies will be recovered if granted. Regulatory certainty requires that Single Market and competition rules are properly and firmly enforced. By promoting competition on the markets and creating better conditions for doing business, DG Competition promotes economic growth at limited cost to the taxpayers. Properly functioning competitive markets have a positive impact on fiscal consolidation and public finance (States are important buyers in the economy), freeing up public resources that can be used to stimulate growth and to strengthen social cohesion.

It can be difficult to measure the effect of competition law on economic growth, but according to the OECD<sup>11</sup>, there is solid evidence in support of each of the relationships shown below.



While being direct, the causal link between EU competition policy and wider Commission objectives, including economic growth, is not exclusive, since the latter is dependent on a number of external factors outside the control of EU competition policy (general economic environment, business strategies, Member States' policies etc.). The same is true for the contribution that competition

<sup>11</sup> OECD Factsheet on how competition policy affects macro-economic outcomes (October 2014), p. 2, <http://www.oecd.org/daf/competition/2014-competition-factsheet-iv-en.pdf>

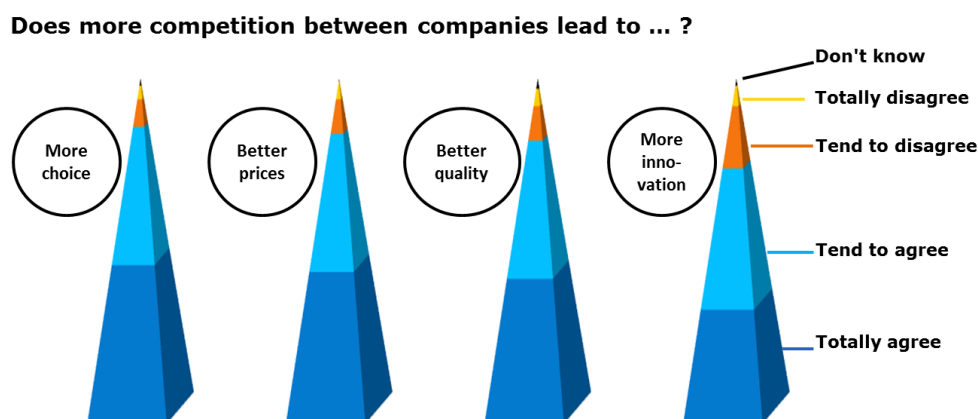
policy brings to achieving several of the European Union's key objectives and headline targets<sup>12</sup>. Therefore, while the contribution of competition policy cannot be directly inferred from a series of indicators, structural policies, of which competition policy is one, contribute towards reaching these objectives.

Recent research attempts to show the link between the microeconomic assessment of important competition policy decisions by the European Commission in the area of cartels and mergers and EU macroeconomic performance. Although this work is based on a number of assumptions, it offers a good idea of the order of magnitude of the impact of EU competition policy. Model simulations made with the QUEST model of the Directorate-General for Economic and Financial Affairs show that the Commission's merger interventions and cartel decisions have a sizeable impact on growth and jobs: GDP increases by 0.4% after five years and by 0.7% in the long run, while around 650000 new jobs are created<sup>13</sup>. These effects are of the same order of magnitude as the effects of the implementation of the Services Directive across EU Member States<sup>14</sup>.

### ***EU competition policy brings added value and delivers benefits to EU consumers***

All competition policy instruments contribute to a well-functioning Internal Market where companies compete on their merits and efficiencies are passed on to European customers, both households and businesses. This results in lower prices, better quality and new products.

When a cartel is broken up or a company is forced to allow new entrants in a market, the effects of DG Competition's efforts on EU consumers can be felt almost immediately in the way of lower prices and more competitive pressure on other key parameters of competition (choice, quality, innovation). According to a recent *Eurobarometer survey*<sup>15</sup>, also EU citizens share this view. According to the results of the survey, more than 80% of EU citizens believe that effective competition between companies can lead to better prices and more choice, and encourages innovation and economic growth<sup>16</sup>. 74% of EU citizens consider that effective competition has a positive impact on them as consumers.



<sup>12</sup> Europe 2020 targets [http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/targets/index\\_en.htm](http://ec.europa.eu/europe2020/europe-2020-in-a-nutshell/targets/index_en.htm)

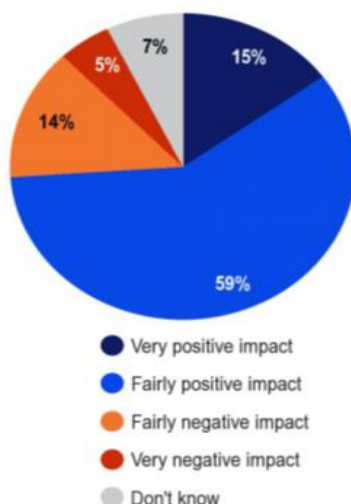
<sup>13</sup> See Dierx A., Ilzkovitz F., Pataracchia B., Ratto M., Thum-Thysen A. and Varga J. (2015), "Distributional macroeconomic effects of EU competition policy – A general equilibrium analysis", paper to be published in a World Bank-OECD publication on Competition Policy, Shared Prosperity and Inclusive Growth.

<sup>14</sup> Monteagudo J., Rutkowski A. and Lorenzani D. (2012), "The economic impact of the Services Directive: A first assessment following implementation", European Economy, Economic Papers 456.

<sup>15</sup> Flash Eurobarometer 403 – Citizens' Perception about Competition Policy (2014) published in March 2015 at [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html)

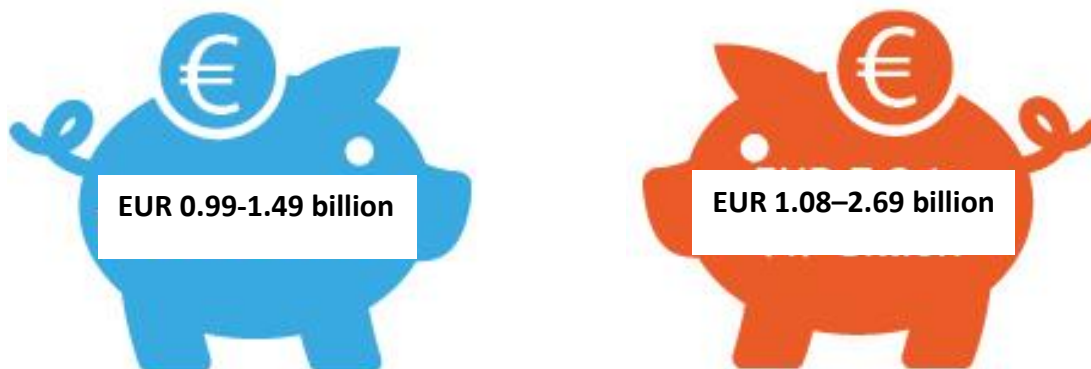
<sup>16</sup> See also [EU Competition Policy, Facts, figures and priorities July 2015](http://ec.europa.eu/competition/publications/facts_figures_and_priorities_July_2015), [http://ec.europa.eu/competition/publications/facts\\_figures\\_2015.pdf](http://ec.europa.eu/competition/publications/facts_figures_2015.pdf)

## What impact does effective competition have on you as a consumer?



To assess the impact of its cartel and merger enforcement on the market each year, DG Competition provides for a quantitative assessment of the results achieved by the Commission in protecting competition. The benchmark for the customer benefits resulting from Commission decisions estimates the benefits to customers from cartel prohibition decisions and horizontal merger interventions<sup>17</sup>. In 2015, the estimated customer benefits resulting from cartel prohibition decisions of the Commission amounted to between EUR 0.99 billion and EUR 1.49 billion. The customer benefits resulting from horizontal merger interventions were estimated to fall within the range of EUR 1.08 billion and EUR 2.69 billion.

### Customer benefits from cartel prohibitions (2015)    Customer benefits from merger interventions (2015)



It should be emphasized that these estimates do not include any benefits stemming from better quality or wider choice, other effects of competition policy, such as productivity gains or impact on jobs, any possible pass-on to final consumers in the case of intermediary goods or services. Moreover, they ignore the deterrent effects of the Commission's merger and cartel decisions. It also is important to note that the above estimates only cover the enforcement activities of DG Competition in the area of cartels and horizontal mergers, leaving out other activities including antitrust and State aid control, and therefore underestimate the actual impact of EU competition enforcement on consumers.

<sup>17</sup> OECD *Guide for assessing the impact of competition authorities' activities* (April 2014), <http://www.oecd.org/daf/competition/Guide-competition-impact-assessmentEN.pdf>

Between 2010 and 2015 the total amount of fines imposed by the Commission in cartel cases reached almost EUR 9.3 billion. Fines imposed by the Commission flow into the EU budget, reducing the contributions by Member States and act as deterrence for future infringements.

As it is not meaningful to set numerical targets for competition enforcement<sup>18</sup>, most of the indicators to measure performance for antitrust, mergers and State aid policy have been defined as trends (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.

During 2016-2020, DG Competition will continue to use all competition policy instruments to support Commission's priorities, in particular, the agenda to boost growth, jobs and investment across the EU. This is highlighted for instance by the priority treatment that will be provided to State aid cases linked to the Investment Plan for Europe (EFSI).

### **1.1.Antitrust and cartels**

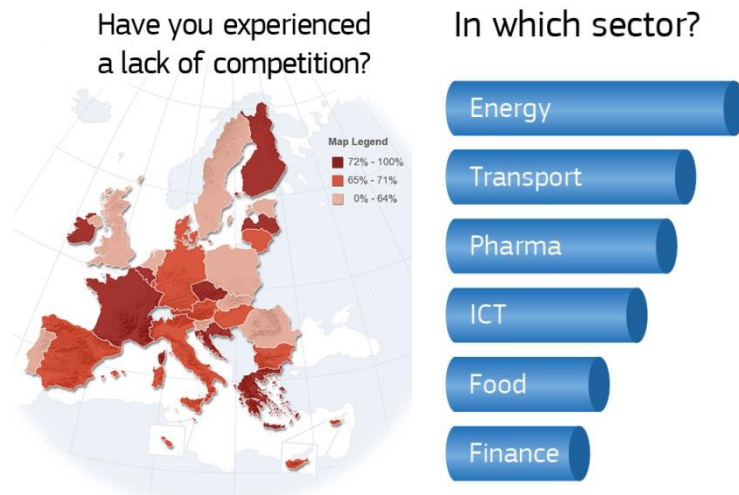
The purpose of antitrust and cartels activity in DG Competition is to ensure effective enforcement of antitrust rules with a view to protecting consumer welfare. This includes detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices. Such practices hamper competition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

Such practices include agreements between market players to limit or eliminate competition with a view to raising prices and profits (Art 101 TFEU), and situations where a dominant company abusively prevents new entry or squeezes competitors out of the market (Article 102 TFEU). Also, 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. According to a recent survey<sup>19</sup>, over two-thirds (68%) of EU citizens have experienced a lack of competition in at least one sector that resulted in problems such as higher prices, less product or supplier choice, or lower quality.

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<sup>18</sup> 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.

<sup>19</sup> Flash Eurobarometer 403 – *Citizens' Perception about Competition Policy* (2014) published in March 2015 at [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html)



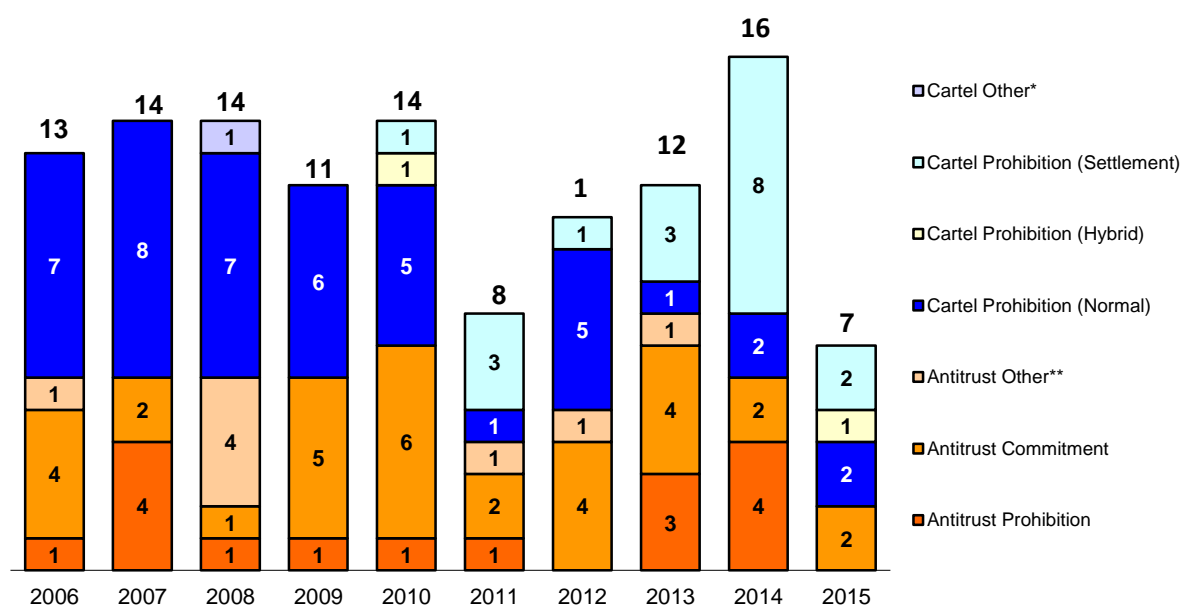
In order to best underpin the Commission's general objective of a New Boost for Jobs, Growth and Investment, DG Competition's activities in the area of antitrust and cartels will focus on the following specific objectives to support the key priorities of the Commission:

- Effective enforcement of antitrust rules with a view to protect consumer welfare;
- Effective and coherent application of EU competition law by NCAs and by national courts;
- EU competition law instruments aligned with market realities and contemporary economic and legal thinking.

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

Anti-competitive agreements and practices can create distortions of competition that manifest themselves in higher prices and profits, lower quantities sold and sub-optimal levels of consumer welfare. In addition, the lack of competition diminishes incentives to innovate and to increase productivity for firms already active in the market, while preventing new firms from entering the market. When innovation and efficiency incentives are reduced, present and future growth are severely affected. Removing or diminishing anti-competitive practices by enforcing antitrust rules creates economic growth by restoring the incentives to innovate and produce more efficiently, which translates in higher production volumes, fairer and lower prices and increased consumer benefits.

Lower prices have also positive spill-over effects on businesses in other sectors in the economy: firms need access to fairly-priced input. Anti-competitive conducts often concern input and intermediate products and, if they remain unaddressed, are likely to make EU produced goods less competitive, harming companies further down the supply chain and negatively impacting their growth prospects. The chart below indicates the number of antitrust and cartel interventions by the Commission in the past ten years.



\* Rejection of complaint \*\* Rejection of complaint, procedural infringement, penalty payment  
Source: Directorate-General for Competition

## a) Cartels

Cartels are the gravest of anti-competitive agreements prohibited by Article 101 TFEU and a high priority for DG Competition. Cartels typically reduce or eliminate competition between undertakings with a view to raising prices and profits, without any objective countervailing benefits. These agreements and conducts hinder the normal functioning of competition in market and result in artificially high prices, restricted choice or reduced product quality. Cartels reduce the competitiveness of the users of the products/services concerned, reduce the incentives to innovate, delay the necessary restructuring in certain sectors and ultimately have a negative impact on growth. Thus cartels represent a hidden economic toll that undercuts EU growth potential.

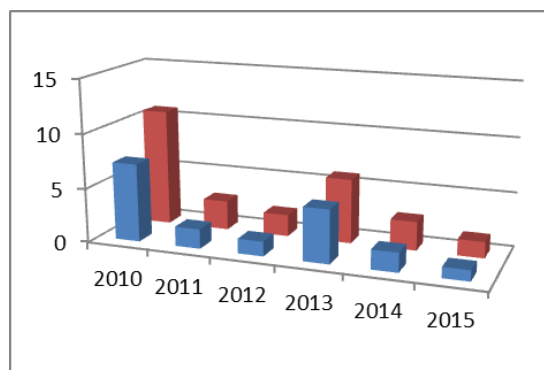
The role of the Commission is to detect and punish cartels which have an appreciable effect on competition in the EU<sup>20</sup>. These are either the European angle of global cartels or cartels that cover several Member States. DG Competition's strong enforcement against cartels is one of EU's most effective tools to make the most out of the Single Market. Efficient work-sharing arrangements within the European Competition Network ensure that national cartels are handled by the national authorities. The chart below indicates the estimates of customer benefits resulting from the Commission's cartel prohibition decisions in 2010-2014.

<sup>20</sup> See the following guiding instruments: 1) the Leniency Notice sets out the circumstances under which companies can receive immunity from, or reductions in, fines for providing evidence about cartels; 2) the Settlements Notice sets out, as an alternative to the ordinary procedure, a streamlined procedure for dealing with cases where companies acknowledge the Commission's view as to the scope and duration of the cartel and their liability for their involvement in exchange of a reduction of 10% of the fine; and 3) the Fines Guidelines sets out a standard method for determining fines that sufficiently punish those companies that have entered into cartels, and deter both them and other companies from entering into cartels in the future.



## 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 |



The leniency policy of the Commission, under which companies can receive immunity from, or reductions in, fines for providing evidence about cartels, continues to attract significant flow of leniency applications (see figure below). A majority of the cartels decisions adopted by the Commission originates from leniency applications and the Commission has continued to work together with other authorities within Europe and beyond (advocacy in the ICN) to ensure that the instrument is successfully used to pursue and end cartels.

The cartels settlement procedure, introduced in 2008, has become more widely used. It gives companies a 10% reduction in the fine if they accept liability for the infringement and do not contest the Commission's findings. The settlement procedure leads to efficiency gains and allows the Commission to focus resources on the detection and fight against other cartels, thereby contributing to increasing the deterrent effect of the Commission's action against cartels. It is estimated that settlements allows the Commission to reduce the duration of proceedings by approximately two years.

At the international level, the Commission has a leading role in the fight against cartel. Together with the US Department of Justice, the Commission is recognised as one of the world's leading cartel enforcers. DG Competition cooperates on a regular basis within the International Competition Network (ICN) and on individual cases with the authorities in charge of fighting cartels in the US, Canada, Japan, Korea, Australia, etc.

Cartels have harmful effects on prices, output and innovation. Therefore, detecting, ending and punishing cartels links directly to the overall Commission priority of promoting economic growth and innovation. While economic studies<sup>21</sup> show that, less than a fifth of cartelising firms are detected, surveys<sup>22</sup> of competition lawyers and companies indicate that the number of cartels deterred per cartel detected varies between 5 and 28. Therefore the success of cartel enforcement should be appreciated not only in terms of the harm directly removed by the enforcement action, but also in preventing companies from forming cartels.

Consequently, DG Competition's objective for 2016-2020 remains zero tolerance towards all cartels having a sufficient EU impact and increased deterrence in the market. There is no safe haven for cartels and all sectors could be the subject of a Commission intervention. The following factors will contribute to a successful fight against cartels in the coming years:

<sup>21</sup> Ormosi, Peter L. (2014), "A tip of the iceberg? The probability of catching cartels", *Journal of Applied Econometrics*, Vol. 29(4), p. 549-566.

<sup>22</sup> London Economics (2011), "The impact of competition interventions on compliance and deterrence", OFT Report No. 1391, December, and SEO (2011), "Anticipating cartel and merger control", SEO-report.

- A robust, efficient and steady EU enforcement record with fines that are sufficiently high to deter companies from engaging in cartels;
- Increased number of *ex officio* cases to further improve the deterrent value of the enforcement action of the Commission;
- Continuing to cooperate closely with other enforcement agencies inside and outside the EU to detect, investigate and sanction also large international cartels with activities in many jurisdictions across the world;
- Ensuring that the investigative tools remain adapted to technological changes.

## **b) Other restrictive agreements and practices**

DG Competition's activities in the area of antitrust cover important products and services markets in the EU, and contribute to a number of Commission's sectorial priorities. Since May 2004, the Commission has investigated potential antitrust infringements across almost all sectors of the economy and has adopted over 140 decisions many of which landmark precedents<sup>23</sup>.

In addition, the national competition authorities (NCAs) play a key role as parallel enforcers of EU antitrust rules. Regulation 1/2003 empowers the Commission, national competition authorities (NCAs) and national courts to apply Articles 101 and 102 TFEU to agreements and practices that are capable of affecting trade between Member States. Since May 2004, the NCAs have investigated more than 1800 cases, giving rise to more than 800 enforcement decisions applying Articles 101 and 102 TFEU in various sectors of their economies<sup>24</sup>.

In 2016-2020, DG Competition will continue its cartels and antitrust enforcement pursuant to Articles 101 and 102 TFEU to support the Commission actions including Energy Union, Digital Single Market Deeper and Fairer Internal Market.

## **Energy Union**

In its Political Guidelines, the Commission President called for a reform of EU energy policy into a new European Energy Union<sup>25</sup>. The Energy Union framework strategy<sup>26</sup> aims at addressing three long-standing challenges in the energy sector: security of supply, sustainability and competitiveness.

Energy is an essential input to all economic sectors, and a significant item of expenditure for EU households. Energy markets are currently facing significant challenges: incomplete market integration and high prices are among the most important. The Commission is committed to address these issues with the reform and reorganisation of EU energy policy into a new European Energy Union.

<sup>23</sup> Report on Competition Policy 2014 SWD (2015) 113 final, of 4.6.2015 p. 24.

<sup>24</sup> Report on Competition Policy 2014, SWD (2015) 113 final, of 4.6.2015 p. 24; see also Communication from the Commission of 9 July 2014, *Ten Years Of Antitrust Enforcement Under Regulation 1/2003: Achievements And Future Perspectives*, COM/2014/0453 available at [http://ec.europa.eu/competition/antitrust/legislation/antitrust\\_enforcement\\_10\\_years\\_en.pdf](http://ec.europa.eu/competition/antitrust/legislation/antitrust_enforcement_10_years_en.pdf)

<sup>25</sup> Political Guidelines for the new European Commission as presented by President Juncker of 15 July 2014, [http://ec.europa.eu/priorities/docs/pg\\_en.pdf#page=5](http://ec.europa.eu/priorities/docs/pg_en.pdf#page=5)

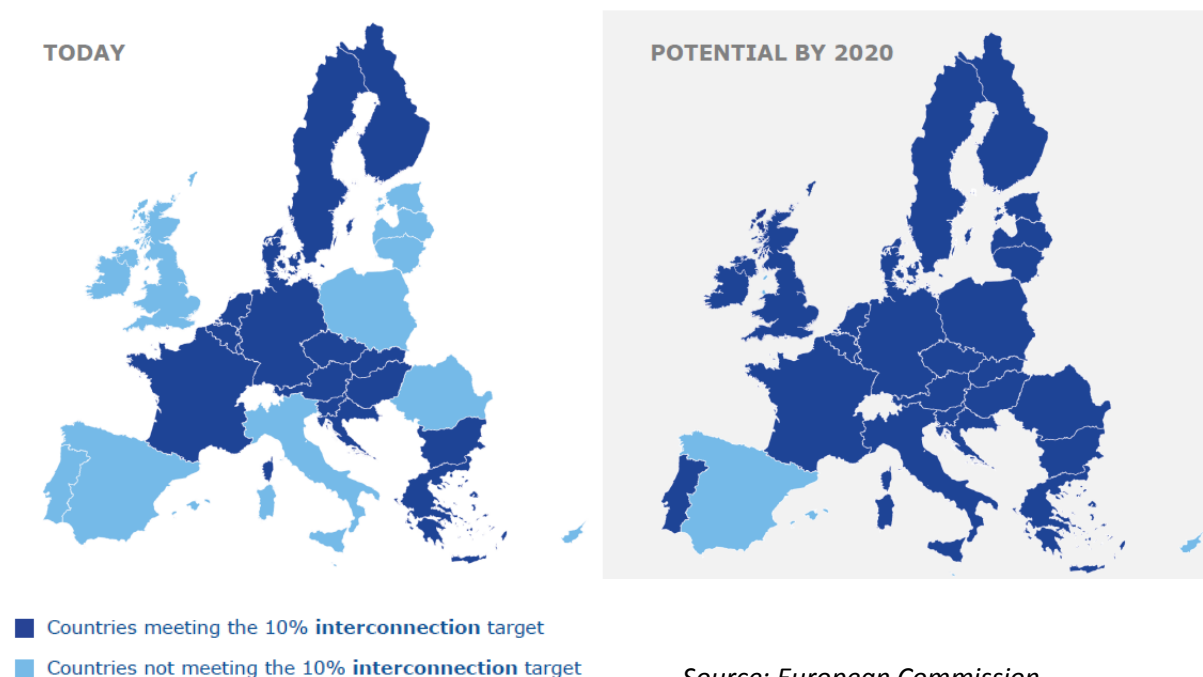
<sup>26</sup> Communication of 25 February 2015 from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank "A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy". COM/2015/080 final, Conclusions of the European Council from 19 and 20 March 2015, EUCO 11/15.

### Key figures to illustrate the challenges to reach a low carbon, secure and competitive Energy Union<sup>27</sup>

The EU is the largest energy importer in the world, importing 53% of its energy, at an annual cost of around EUR 400 billion. A few Member States are dependent on one single external supplier for all their gas imports. Almost half of the EU Member States do not meet the EU's minimum interconnection target – that at least 10% of installed electricity production capacity be able to "cross borders". An appropriately interconnected European energy grid could save consumers up to EUR 40 billion a year. Over EUR 1 trillion needs to be invested into the EU energy sector by 2020 alone. Wholesale electricity prices in Europe are 30% higher, and wholesale gas prices over 100% higher, than in the US. By 2030, the EU aims to cut greenhouse gas emissions by at least 40%, boost renewable energy by at least 27%, and improve energy efficiency by at least 27%.

Competition is an important part of the policy mix that can address these challenges. Competition enforcement notably ensures that companies do not maintain or reinstate barriers to competition that have been removed by legislation liberalising the sector and stops dominant companies from excluding competitors and exploiting their dominance to the detriment of consumers.

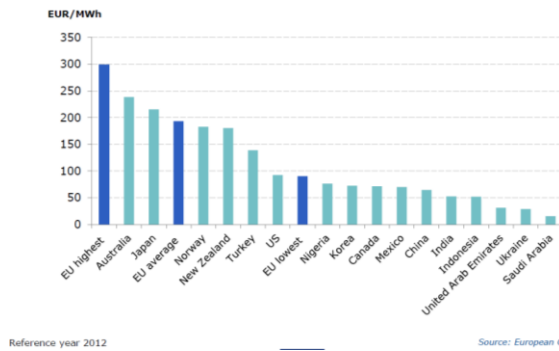
## Connecting Electricity Markets



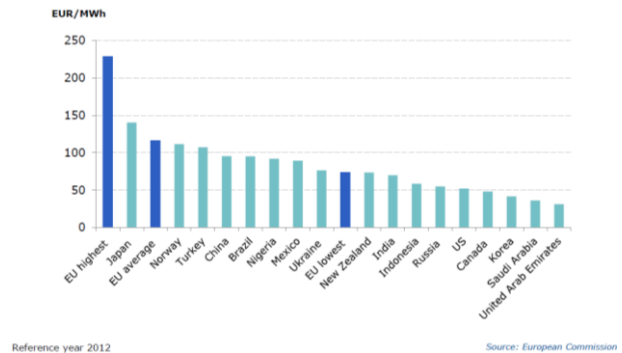
Competition enforcement leads to opening markets, creating a level playing field between competitors and ultimately promoting investment and innovation. Enforcement actions tackle in particular market fragmentation and prevent companies from maintaining or re-erecting barriers to protect them from competition, hampering the creation of a truly integrated EU energy market. Most recently, antitrust enforcement actions have addressed practices that partition the internal markets and prevent new entrants from accessing the market. Such behaviour leads to higher energy prices. Therefore, enforcement of antitrust rules in the energy sector is a crucial complement to the Energy Union strategy to make energy more secure, affordable and sustainable and help to achieve an integrated, interconnected and resilient energy market where energy flows freely across borders, based on competition and the best possible use of resources.

<sup>27</sup> Press release after the adoption of the Energy Union framework strategy, IP/15/4497 of 25 February 2015, [http://europa.eu/rapid/press-release\\_IP-15-4497\\_en.htm](http://europa.eu/rapid/press-release_IP-15-4497_en.htm)

Current Prices for Electricity – Household Consumers



Current Prices for Electricity – Industrial Consumers



In 2016-2020, 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. DG Competition's efforts in this area aim at ensuring fair access to indispensable energy infrastructure, removing obstacles to market integration, fostering competition between and within Member States and tackling excessively high energy prices. A recent study<sup>28</sup> illustrates that EU merger policy enforcement is consistently and significantly related to better market outcomes. The same study also showed that E.ON's commitment to divest electricity generation capacity following a Commission's antitrust intervention led to a reduction in wholesale electricity prices in Germany.

### Digital Single Market

Turning the Digital Single Market (DSM) into a reality will significantly boost Europe's growth potential. The digital economy is of paramount importance to drive Europe's growth and competitiveness in many traditional and new economic sectors, as well as to create high-quality jobs. It is estimated that bringing down barriers within the DSM could contribute an additional EUR 415 billion to EU GDP.

The Commission's DSM strategy<sup>29</sup>, adopted in May 2015, includes as one of three pillars better access for consumers and businesses to online goods and services across Europe. DG Competition's ongoing e-commerce sector inquiry is part of the list of 16 planned actions. Cross-border access to goods and services by consumers is an important cornerstone of the Digital Single Market. Achieving the goals of the DSM in terms of better market integration requires competition enforcement to complement legislative initiatives to remove barriers to trade and to ensure competitive online markets.

Competition policy actions in the digital sector broaden consumers' choice, stimulate technological innovation, and ensure that such innovation is widespread so that citizens and businesses can benefit from innovative goods and services. Also, antitrust enforcement has a key role to play in helping EU consumers benefit from a competitive digital environment, without artificial barriers erected by private companies.

Digital markets may be characterised by network effects, and effective enforcement of antitrust policy should ensure a fair and level digital playing field across the EU. This benefits small businesses insofar as it provides them with opportunities to grow and get access for their products to the markets. It also provides for incentives to invest and innovate for all market players.

<sup>28</sup> "The economic impact of enforcement of competition policies on the functioning of EU energy markets", report prepared by ICF Consulting Services in association with DIW Berlin at the request of DG Competition (January 2016), [http://ec.europa.eu/competition/publications/reports\\_en.html](http://ec.europa.eu/competition/publications/reports_en.html)

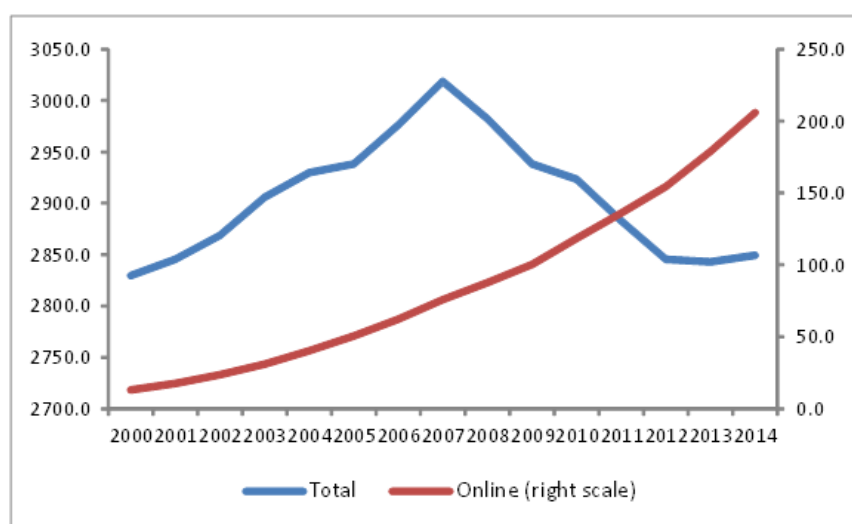
<sup>29</sup> Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions "A Digital Single Market Strategy for Europe", 6.5.2015, COM(2015) 192 final.

The Commission has tackled competition issues in a wide range of areas, extending from telecoms to internet, media, and smart devices, and will continue to do so in the coming years. DG Competition has a long track-record of enforcement in technology markets, with the aim of ensuring that consumers can benefit fully from the latest innovations. The Commission also has a number of on-going priority investigations in this area.

### *E-commerce Sector Inquiry*

The Commission decided on the basis of Article 17 of Council Regulation (EC) No 1/2003 to launch a sector inquiry into e-commerce in the European Union (EU). The aim of the sector inquiry is to gather data on the functioning of e-commerce markets and to identify possible competition problems, in particular in relation to cross-border e-commerce. The sector inquiry complements the Commission's DSM Strategy by analysing these company-erected barriers. The market knowledge gained through the sector inquiry should allow DG Competition to identify future enforcement priorities in the area of e-commerce. The Preliminary Report should be available by mid-2016, followed by a public consultation and, ultimately, the publication of the Final Report in the first quarter of 2017.

### **Evolution of total and online retail sales in goods in the EU, 2000-2014 (EUR billion)**



*Source: Duch-Brown and Martens (2015)*

### *Review of the telecoms framework*

The achievement of a connected digital single market by "breaking national silos in telecoms regulation"<sup>30</sup> and by making the telecoms rules fit for purpose is one of the key priorities of the second pillar of the Digital Single Market (DSM) Strategy of 6 May 2015<sup>31</sup>. The DSM Strategy 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 also in the telecoms sector. DG Competition will therefore actively contribute to the review of the EU Telecoms Framework by ensuring that the new rules are pro-

<sup>30</sup> President Juncker's Political Guidelines for the Next Commission – "A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change" of 15 July 2014.

<sup>31</sup> Digital Single Market Strategy second pillar "Creating the right conditions for digital networks and services to flourish". Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *A Digital Single Market Strategy for Europe* COM/2015/0192 final of 6 May 2015.

competitive and strike the right balance between providing the right incentives for investment/connectivity and avoiding re-monopolisation as a consequence of potential deregulation.

As part of its enforcement actions, DG Competition continues to monitor the sector closely. On-going investigations under Article 102 TFEU include the potentially abusive practices on the part of Qualcomm, a leading developer of wireless technology products and services. The products concerned are communication chipsets used in mobile handsets and mobile broadband devices<sup>32</sup>.

### ***Deeper and Fairer Internal Market***

The Commission is engaging in wide-ranging efforts to support a deeper and fairer internal market, one of Europe's most important assets to underpin jobs, growth and investment. 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. With undistorted and fair competition in the internal market, companies have the opportunity to succeed by competing on the merits. Safeguarding the correct functioning of the Single Market is an essential aspect of EU competition policy.

The enforcement of competition rules against cartels and other anti-competitive agreements and practices is one of EU most effective tools to make the most out of the Single Market. DG Competition's activities to underpin a deeper and fairer internal market encompass a wide range of key sectors, for both EU households and business – financial services, agri-food sector, pharmaceutical sector, transport sector and manufacturing are some of the areas where competition policy efforts will continue making a difference. DG Competition contributes also to priority items in the Commission's agenda such as the Capital Markets Union and the Single Market Strategy.

- The Capital Markets Union aims at achieving sustainable growth notably by channelling greater private investment flows into the capital of undertakings. The new MiFID II/MiFIR regime<sup>33</sup> supports these aims by establishing rules that make not only financial markets safer, sounder and more transparent, but also by opening up certain segments to enhance competition and choice. The Interchange Fee Regulation entered into force introducing caps on inter-bank fees for the most-used credit and debit cards and improving competition in credit and debit cards.
- The Revised Payment Services Directive (PSD II)<sup>34</sup> will enhance the security of internet payments in general. It will also open the market for regulated new entrants who offer alternative means of making internet payments<sup>35</sup> or offer a whole range of other services based on information from the consumer's bank accounts<sup>36</sup>. Some of these services are already on the market and many more are expected after the transitional period of two years. The "payment package" therefore opens the door for extensive innovation and investment in the payments sector. With the package in place, competition enforcement in payments during the coming years is likely to focus on ensuring that with an effective implementation of the new rules, markets function efficiently and no new situations of (collective) anti-competitive behaviour occur.
- With its competition enforcement into wholesale financial services, DG Competition continues contributing to these goals for the benefit of the economy and society as a whole. DG Competition will continue to be vigilant in the area of financial services and pay attention to possible anti-competitive agreements in financial markets, whether horizontal or vertical, which may cause harm to consumers and undermine the achievement of the internal market.

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<sup>32</sup> IP/15/6271: [http://europa.eu/rapid/press-release\\_IP-15-6271\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6271_en.htm)

<sup>33</sup> Regulation (EU) 2015/751, [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2015.123.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.123.01.0001.01.ENG)

<sup>34</sup> Directive (EU) 2015/2366, [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL\\_2015\\_337\\_R\\_0002](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2015_337_R_0002)

<sup>35</sup> For example, through e.g. through credit transfers from the consumer's bank account.

<sup>36</sup> For instance providing consolidated information on the situation on all the consumer's accounts or offering new independent payment instruments linked to the consumer's ordinary account.



- As to manufacturing and consumer goods, DG Competition will continue where necessary to intervene against 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 generate high-value.
- In the agri-food sector, DG Competition will monitor the sector, in particular the application of recently adopted rules<sup>37</sup> on joint-selling by producers in certain agricultural sectors and will continue its enforcement of competition rules, in particular as regards retailers' practices and practices that aim to segment the internal market along national borders. It will monitor and take further action also in the pharma sector to prevent anti-competitive practices. In both the agri-food and pharma sectors DG Competition will actively contribute to the development of new development of new regulatory initiatives (for example regarding joint sales by farmers and the single market package for medicine) thereby increasing the efficiency of production and distribution of goods in Europe.
- The transport sector is not only an economic sector important in itself but also has a significant role to play as "enabler" of additional investment and growth in many other areas of the European economy as well as in the daily life of European citizens. Therefore, DG Competition will continue to enforce competition rules in this area to promote investment and prevent anticompetitive agreements and practices causing damage to European citizens and businesses. In doing so, DG Competition will ensure that the existing liberalisation of the relevant sectors is not jeopardised by market players to the detriment of competition. In the rail sector, new entrants may bring much needed investment and innovative services on the market and lead to lower prices for better services. Vigilant enforcement of competition rules will be essential to counter any potential anti-competitive behaviour from incumbent companies to delay or prevent entry into the market. In the maritime sector, DG Competition will continue to ensure that market players comply with the competition rules fully applicable since 2008. In the aviation sector, DG Competition will continue to assess the benefits to consumers of cooperation agreements between airlines.
- The Commission will remain vigilant to detect restrictions that segment the internal market along national borders also other markets for the benefit of European citizens and businesses.

### **Specific objective: Effective and coherent application of EU competition law by NCAs and by national courts**

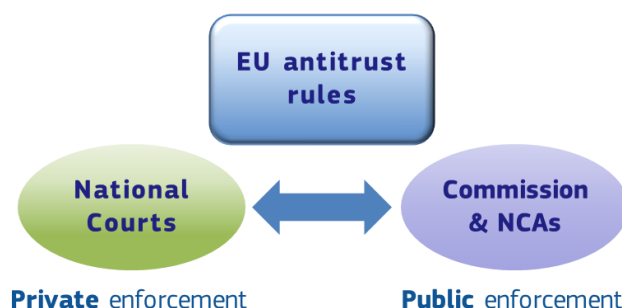
The Commission, together with the national competition authorities (NCAs), enforces EU competition rules (Articles 101 and 102 TFEU). DG Competition contributes to the effective and coherent application of European competition law in the EU via the European Competition Network (ECN) comprised of the NCAs and through cooperation with national courts. Effective and coherent enforcement action by the Member States' competition authorities and courts has an important role to play in achieving increased consumer welfare and a level playing field in the internal market.

EU antitrust rules are enforced not only by the European Commission and NCAs (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.

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<sup>37</sup> 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.

## Interplay between public and private enforcement:



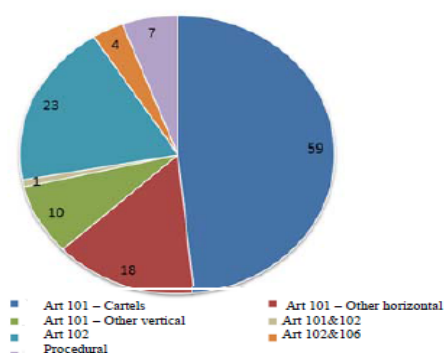
The 2014 Commission Communication on "*Ten Years of Antitrust Enforcement under Regulation 1/2003: Achievements and Future Perspectives*"<sup>38</sup>. The Communication took stock of the enforcement record by the Commission and the NCAs. Furthermore, it called upon creation of a truly common competition enforcement area in the EU, building on the current achievements and identified concrete areas of action to boost the enforcement powers of NCAs further.

On 4 November 2015, the Commission launched a public consultation on empowering the national competition authorities (NCAs) to be more effective enforcers<sup>39</sup>. The Commission invites feedback from a broad range of stakeholders on potential improvements to guarantee that NCAs (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. Responses to the public consultation could be submitted until 12 February 2016. The Commission will then decide whether any EU further legislative action is needed in 2016-2020 to ensure effective antitrust enforcement in the EU.

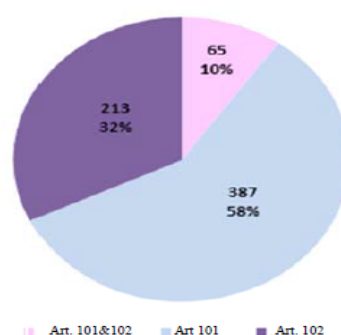
## Articles 101 and 102 TFEU enforcement decisions

### Enforcement decisions - May 2004 to December 2013

COM: 122



NCA: 665



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 stimulate multilateral work in the ECN at different levels with a view to contribute to these

<sup>38</sup> Communication from the Commission of 9 July 2014, *Ten Years Of Antitrust Enforcement Under Regulation 1/2003: Achievements And Future Perspectives*, COM/2014/0453, [http://ec.europa.eu/competition/antitrust/legislation/antitrust\\_enforcement\\_10\\_years\\_en.pdf](http://ec.europa.eu/competition/antitrust/legislation/antitrust_enforcement_10_years_en.pdf)

<sup>39</sup> Public consultations: *Empowering the national competition authorities to be more effective enforcers*, [http://ec.europa.eu/competition/consultations/2015\\_effective\\_enforcers/index\\_en.html](http://ec.europa.eu/competition/consultations/2015_effective_enforcers/index_en.html)



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.

Directive 2014/104/EU on antitrust damages actions was adopted in 2014 and Member States need to implement the Directive in their legal systems by 27 December 2016. The Commission is supporting the Member States' implementation efforts by facilitating information exchange and cooperation. DG Competition is closely monitoring 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. Consequently, DG Competition holds under continued review competition rules on substance and procedures, notably Regulation 1/2003, Commission Regulations and "soft law" such as Guidelines, Communications and Notices.

In addition to providing legal certainty and transparency for all stakeholders, these instruments play an important role in preventing and deterring restrictions of competition that harm consumers by informing companies and governments about the criteria the Commission uses in assessing anti-competitive agreements and abuses of dominant positions. Review of these instruments has also led to a considerable reduction of regulatory burden, especially for companies, including SMEs, lacking market power.

## **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-based companies, but any company active on the EU markets. Since the EU Merger Regulation came into force in 1990, the Commission has cleared nearly 6000 transactions.

In order to best underpin the Commission's general objective of *A New Boost for Jobs, Growth and Investment*, DG Competition's activities in the area of merger control will focus on the following specific objectives to support the key priorities of the Commission:

- Facilitating smooth market restructuring by assessing non-harmful mergers in a streamlined manner;
- Prevention of anti-competitive effects of mergers;
- EU competition law instruments aligned with market realities and contemporary economic and legal thinking.

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

EU merger control guarantees a rapid assessment and clearance of non-problematic mergers. The vast majority of cases notified are approved, mostly without the need to open an in-depth investigation. Most concerns about the possible effects of a merger are resolved through remedies. DG Competition expects this trend to remain stable in 2016-2020.

Streamlined handling of merger transactions has in recent years led to a considerable reduction of regulatory burden for non-harmful mergers. The latest changes<sup>40</sup> aimed at making EU merger review procedures simpler and lighter for stakeholders and to save costs.

### 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 its assessment, DG Competition also considers whether the anti-competitive effects of the merger can be offset by efficiencies realised by the combined entity that can be passed on to European consumers.

Merger control, by ensuring that market structures remain competitive, makes an essential contribution to growth and jobs in the European economy. Effective control of mergers maintains competitive pressure on market participants, which stimulates innovation and efficient distribution of scarce resources. It also ensures that European industries maintain access to critical input at competitive prices. Swift approvals of mergers that do not raise competition concerns, as well as the approval of effective, tailor-made remedies to remove such concerns, where needed, enable industries to restructure and adapt to new market challenges.

A study carried out for DG Competition by a team of academics from the University of East Anglia showed that market concentration is a strong driver of the estimated price effect of a merger<sup>41</sup>. The average price increase is around zero in non-concentrated markets and between 10% and 20% in concentrated markets, although the remedies managed to mitigate the post-merger price hike even in concentrated markets. This shows why the focus of EU merger control on concentrated markets remains pertinent. However, concentration is only one of several elements the Commission takes into account in assessing mergers.

The division of work between the Commission and the Member States' NCAs, takes account of the relative size of the transactions. DG Competition deals exclusively with those proposed transactions that exceed the thresholds of the EU Merger Regulation. Below these thresholds, Member States are competent to deal with the transaction under their national legislation, referral rules allowing for some flexibility in the entire control system.

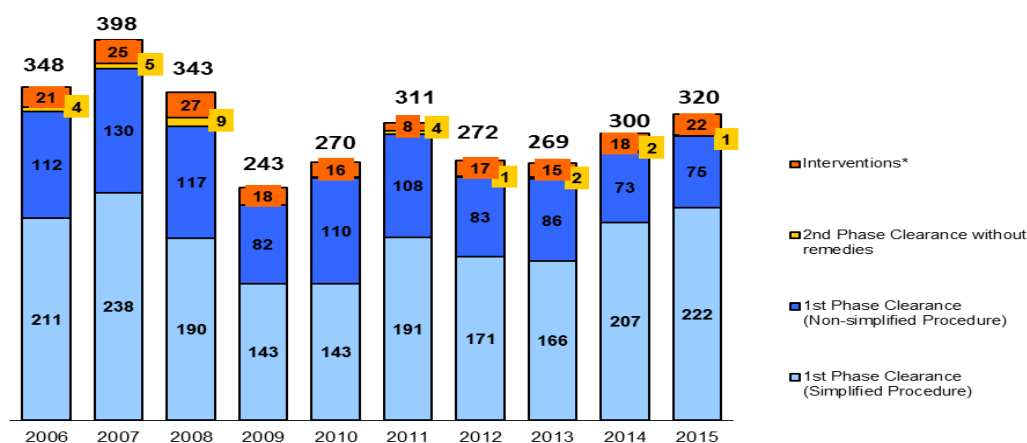
The existence of the so-called *one stop shop* for reviewing concentrations of EU dimension allows companies trading in different EU Member States to obtain clearance for their mergers in one go. Annually, approximately 300 notified acquisitions are scrutinized by the Commission and up to 3000 mergers by the national competition authorities within the EU pursuant to national merger control rules. Over the past decade, the cross-border nature of mergers notified to the Commission has increased.

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<sup>40</sup> Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 Reference, OJ C 366, p. 4, 14.12.2013. 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. As part of the simplification exercise, not only the Notice on simplified procedure, but also the merger notification forms were reviewed. These are annexes to the Merger Implementing Regulation.

<sup>41</sup> "A review of merger decisions in the EU: What can we learn from ex-post evaluations?" report prepared by Peter Ormosi, Franco Mariuzzo, and Richard Havell at the request of DG Competition (October 2015), [http://ec.europa.eu/competition/publications/reports\\_en.html](http://ec.europa.eu/competition/publications/reports_en.html)

## Merger enforcement, Commission decisions 2006-2015

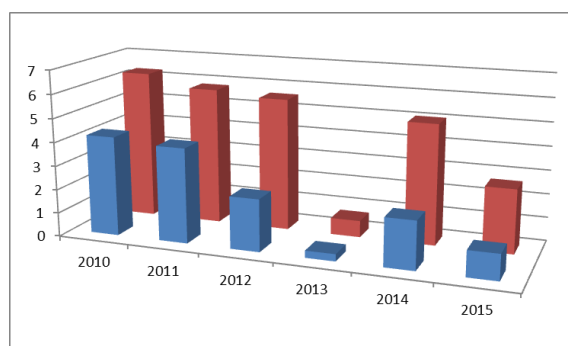


\* Includes prohibitions: one in 2007, 2011 and 2012 and two in 2013  
Source: Directorate-General for Competition

To assess the impact of its merger enforcement each year, DG Competition provides for a quantitative assessment of the results achieved by the Commission in protecting competition. The benchmark for the customer benefits resulting from Commission decisions estimates the benefits to consumers from horizontal merger interventions<sup>42</sup>. In 2015, the estimated customer benefits resulting from the Commission horizontal merger interventions amounted to between EUR 1.08-2.69 billion.

## 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 |



In 2016-2020, DG Competition will continue to remain vigilant in order to ensure that key markets in the EU economy are kept open and competitive in order to effectively underpin the Commission's priorities.

## Energy Union

EU merger control in the energy markets is especially important, since secure, affordable and sustainable energy would benefit every EU citizen and every business in the EU. For network industries, such as energy, it is essential to prevent the creation of market structures that could impede effective competition, thereby reducing the incentives to invest and innovate.

<sup>42</sup> Interventions include Commission prohibition decisions and decisions approving a merger subject to conditions removing the competition concern, after a first phase investigation or following an in-depth second phase investigation, and withdrawals of notification during the second phase investigation.

In recent years, DG Competition observes the continuation of the trend towards investments into European energy infrastructure by investment companies. This applies to development and production from renewable sources, such as wind parks, solar parks and waste-to-energy plants. Also some market players in oil and gas are streamlining their activities in the upstream segment of exploration and development of reservoirs while partially divesting their presence in the downstream/retail segment to other oil companies, traders or financial investors. The upstream segment for the exploration and development of reservoirs is fragmented with a significant number of players competing where also national oil companies play a significant role.

DG Competition's merger control activities in 2016-2020 will focus on keeping EU energy markets open and equipped to face the challenges of climate change and the modernisation of the energy supply. This will also translate in better outcomes for EU business and households.

### ***Digital Single Market***

The digital economy offers many opportunities and growth prospects to EU citizens and businesses; without open and competitive markets, such opportunities would not be exploited to the fullest. A well-functioning telecoms infrastructure is a pre-condition for a successful digital single market and benefits not only consumers but also business and the broader economy. In reviewing mergers, a case-by-case approach is followed, assessing each transaction on its own merits. Regardless of the industry and geography, the aim is to ensure that proposed mergers would not weaken competition to the detriment of consumers and businesses and that any remedies offered are sufficiently effective to address the specific competition concerns raised by the proposed merger.

Telecoms markets have to be competitive to create and maintain the incentive to improve services and keep prices down for consumers and businesses. As regards investments, in each notified merger transaction, the Commission carefully assesses any claims that the merger would lead to increased investment to the benefit of consumers – for example in terms of increased network coverage, choice and innovation – not only price. In practice, the Commission assesses whether post-merger investment plans are credible and likely, merger-specific, and with benefits for end-consumers as opposed to shareholders. In its assessment, the Commission compares post-merger investment plans with the likely investment scenario absent the merger (so-called counterfactual). The Commission's assessment of such efficiency claims in individual cases has indicated that those mergers were unlikely to lead to increased investment when compared to likely investments in a standalone scenario, absent the merger.

Telecoms are not the only important infrastructure for the digital single market. EU merger control ensures that competition is maintained in other markets essential to the functioning of the digital world, such as media (terrestrial and satellite television), IT infrastructure components from chips to storage, and even the music business. As technology evolves so do markets, but the goal of effective competition and its importance for the EU consumer remain at the core of our work. Throughout the 2016-2020 planning period, the Commission will continue to carry out its merger control on this basis, ensuring that competition in the ICT industries is strong enough to support a flourishing and innovative digital economy.

### ***Deeper and Fairer Internal Market***

EU merger control promotes growth in the internal market by facilitating market restructuring and scrutinising mergers across a wide range of sectors to avoid that they could lead to higher prices, reduced choice or less innovation in the EU. In its assessment, DG Competition also considers whether the anti-competitive effects of the merger can be offset by efficiencies realised by the combined entity that can be passed on to European consumers.

In 2016-2020, DG Competition will continue to review sectors of the economy that can stimulate Europe's growth potential and benefit EU citizens and businesses in addition to above-mentioned ICT

and energy sectors, such as the food sector, the financial services sector, transport, the pharmaceutical sector, and the manufacturing sector.

European manufacturing accounts for around 16% of GDP and an even larger part of the non-financial part of the economy. Moreover the sector has already gone through multiple waves of consolidation. As a result around 40% of merger notifications to the European Commission are from that sector. The one stop shop EU merger control system facilitates efficient industry restructuring while ensuring at the same time that downstream customers and final consumers do not suffer from higher prices or a reduction of choice and innovation caused by anticompetitive mergers.

### **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. Consequently, DG Competition holds under continued review competition rules in the field of merger control on substance and procedures, notably Merger Regulation, the respective Commission Regulation and "soft law" such as Guidelines, Communications and Notices.

These instruments play an important role in providing legal certainty and transparency for all stakeholders and informing companies of the criteria the Commission uses in assessing merger transactions. Review of these instruments has led to a considerable reduction of regulatory burden for companies through more streamlined handling of non-harmful merger transactions.

## **1.3.State aid control**

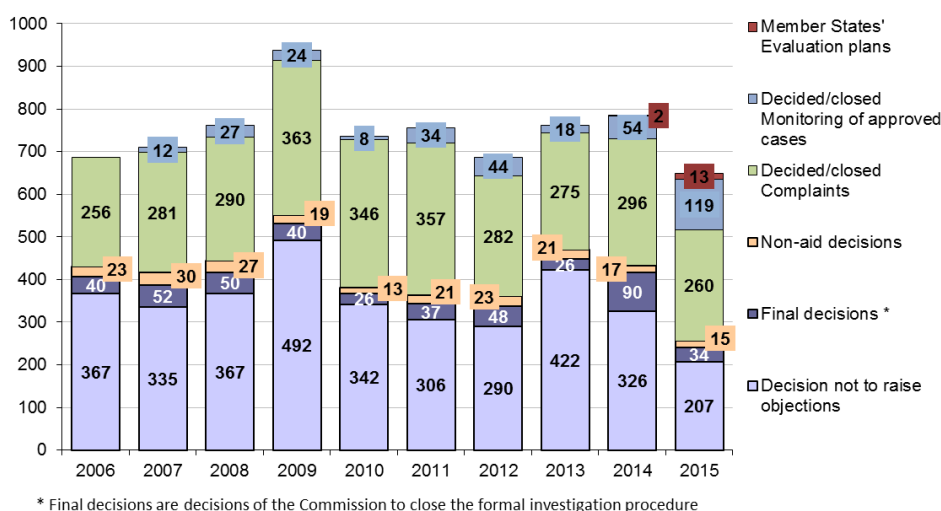
The Commission's task in State aid control, as laid down in Articles 107 to 109 TFEU, is to ensure that Member States' economic policies to boost jobs, growth, and investment, insofar as they rely on State aid, do not distort competition and trade between Member States to an extent contrary to the internal market. The State aid framework was recently modernised to help guide public support to areas where it matters most for growth and investment in Europe<sup>43</sup>. DG Competition's activities in the area of State aid control will focus on the following specific objectives to best underpin the Commission's general objective of "A New Boost for Jobs, Growth and Investment":

- Overall effectiveness of State Aid Modernisation, increasing the share of better targeted growth-enhancing aid;
- Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules;
- Stability and promotion of competition in the banking sector;
- Prevention and recovery of incompatible aid;
- EU competition law instruments aligned with market realities and contemporary economic and legal thinking.

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<sup>43</sup> State Aid Modernisation and its implementation,  
[http://ec.europa.eu/competition/state\\_aid/modernisation/index\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/index_en.html)

## 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 responsibility to conduct economic policies to boost jobs, growth, and investment lies mainly with the Member States which are supported by a multitude of EU measures, e.g. under the European Structural and Investment Funds, under the EU RDI Framework programmes, under sector specific EU programmes, or interventions financed or implemented by the European Investment Bank, e.g. via the European Strategic Investment Programme (mainly for infrastructure investment) or the European Investment Fund (finance for SMEs).

Where State aid is granted, DG Competition seeks to ensure that it does not distort competition and addresses market failures or equity objectives that have a beneficial impact on competitiveness, employment and growth, and thus on the welfare of society as a whole. Modernisation of State aid rules allows DG Competition to focus its enforcement activities on cases with the biggest impact on the internal market, streamlining rules and accelerating decisions.

The rules laid down in the new General Block Exemption Regulation (GBER 2014), and its extended scope, allow Member States to easier implement, normally without ex-ante notification<sup>44</sup> to the Commission, State aid measures to:

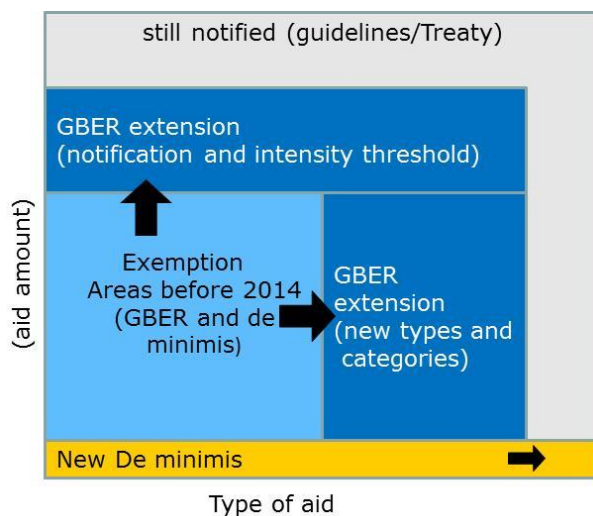
- strengthen the research and development effort of undertakings;
- foster the innovation process in the Union, to facilitate the access of SMEs to finance, including risk capital;
- support the creation of new, and in particular of small and innovative firms;
- support job creation, training efforts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

These rules facilitate also the granting of aid for certain infrastructure measures, e.g. for local business infrastructures, broadband, energy and research, development and innovation (RDI) infrastructures that are essential for overcoming bottlenecks to growth in Europe.

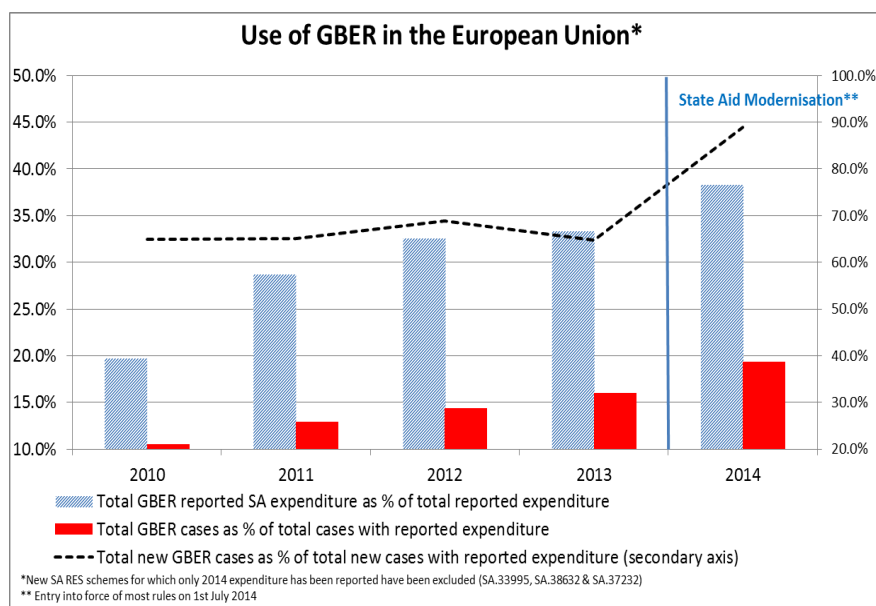
<sup>44</sup> The requirement to notify aid for assessment and ex ante approval by the Commission is to a large extent now limited to projects which due to their size, the aid amounts and aid intensities involved, or the specific characteristics under which they are to be implemented, are likely to have an important effect on competition, raise doubts as to the incentive effect or the transparency of the envisaged aid, or are likely to have strong locational effects leading to job losses in other Member States.

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 evaluation<sup>45</sup> requirements work. DG Competition continues in partnership to support the Member States meeting these obligations.

#### New architecture of State aid control (extended GBER and *de minimis*, reduced notification)



#### Use of GBER State aid cases 2010-2014



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

One of the headline targets of Europe 2020 Strategy is for RDI investments in the EU to reach 3% of GDP. Nevertheless, R&D spending in Europe has been lagging behind major global competitors, as it now stands a touch above 2% of GDP, compared to around 3% in the US and Japan. This is mainly the result of lower levels of private investment.

<sup>45</sup> 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.

The State aid rules in the area of RDI, which entered into force on 1 July 2014, aim at enhancing market efficiency and mobilising private investment in projects that would have not been implemented due to market failures, that is to say to projects that bring innovative products and services to the market and ultimately to consumers. The extension of the scope of the rules, as well as more flexible and simpler criteria under which the State aid is more likely to be found compatible with the internal market, allowed the Member States to implement easier RDI projects<sup>46</sup>.

### ***Aid to risk finance***

In addition to the new RDI State aid rules, the Commission has set up a simpler, more flexible and generous State aid framework for the provision of risk finance to SMEs and mid-caps. The new rules, contained in the new Risk Finance Guidelines and in the new GBER, entered into force on 1 July 2014.

SMEs across the EU remain heavily dependent on traditional bank lending which is still limited by the refinancing capacity, risk appetite and capital adequacy of banks. The new rules aim to enhance the incentives of private sector investors – including institutional investors – to increase their funding activities in this critical area of SME and mid-caps financing, mirroring other EU initiatives designed to promote wider use of financial instruments in the context of new support programmes such as Horizon 2020 or the Programme for the Competitiveness of Enterprise and SMEs (COSME). The new risk finance regime 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***

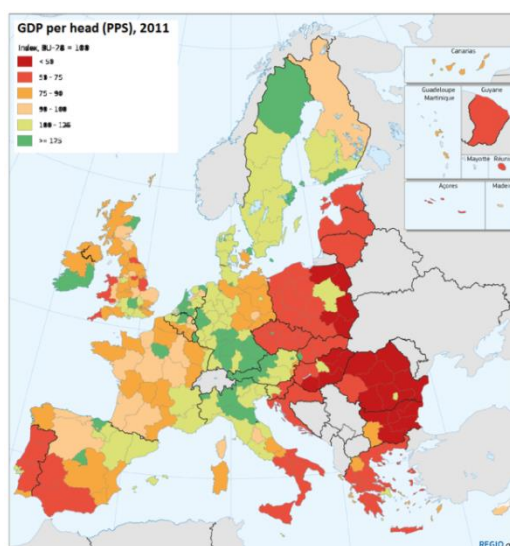
The promotion of greater economic and social cohesion is identified as one of the main aims of the EU. Regional State aid policy is an important instrument in the EU's toolbox to achieve greater cohesion. Spending on regional aid is also an important component of the overall State aid spending by Member 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.

Over the years, the Commission has become more targeted in approving regional investment aid measures, in an attempt to limit subsidy races, to promote greater cohesion in the poorest EU regions and to minimise distortions of competition. This has led the Commission to reduce regional aid intensity ceilings, except in the poorest regions, to become more restrictive on aid to large companies (particularly in the so-called 'c'-regions) and on the more distortive types of regional aid projects (e.g. relocation aid or very large investment projects). At the same time, the Commission has sought to facilitate the granting of less distortive types of regional aid by extending the scope of the GBER to cover less distortive regional aid measures.

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<sup>46</sup> Since July 2014, 685 block exempted measures with an objective linked to RDI were registered at the Commission (Case Management System ISIS), where the responsibility to assess the compatibility relies on the Member State. At the same time, the Commission took formal decisions in 10 cases and approved 9 evaluation plans linked to block-exempted measures.





Source: DG REGIO's Cohesion Report 2014

The latest reform of EU regional aid rules took place in 2013-2014 and entered into force on 1 July 2014. DG Competition expects from 2016 onwards a significant increase in the number of notifications of investment aid cases under the new rules (regional aid to large investments, investment involving new process innovations and relocation aid). For the period 2016-2020, priorities in the regional aid area are the following:

- Efficient and effective implementation of the new regional aid rules in notified regional investment aid cases (including operationalisation of concepts newly introduced in the RAG/GBER such as "diversification into new processes", "new process innovation" and relocation aid);
- Revision of operating aid rules for outermost regions of GBER by 2017;
- Preparation of the review of regional aid rules for the period post 2020.

### ***Aid for infrastructure***

In the follow-up to the Leipzig Halle judgment of the Court of Justice, the Commission has developed a policy line as regards the treatment of several types of infrastructure including broadband, airports, energy, ports and motorways. DG Competition will continue this effort of substantive clarification in order to enhance legal certainty whilst providing, in parallel, priority treatment for essential infrastructure like the State aid cases linked to the Investment Plan for Europe (EFSI).

### ***Energy Union***

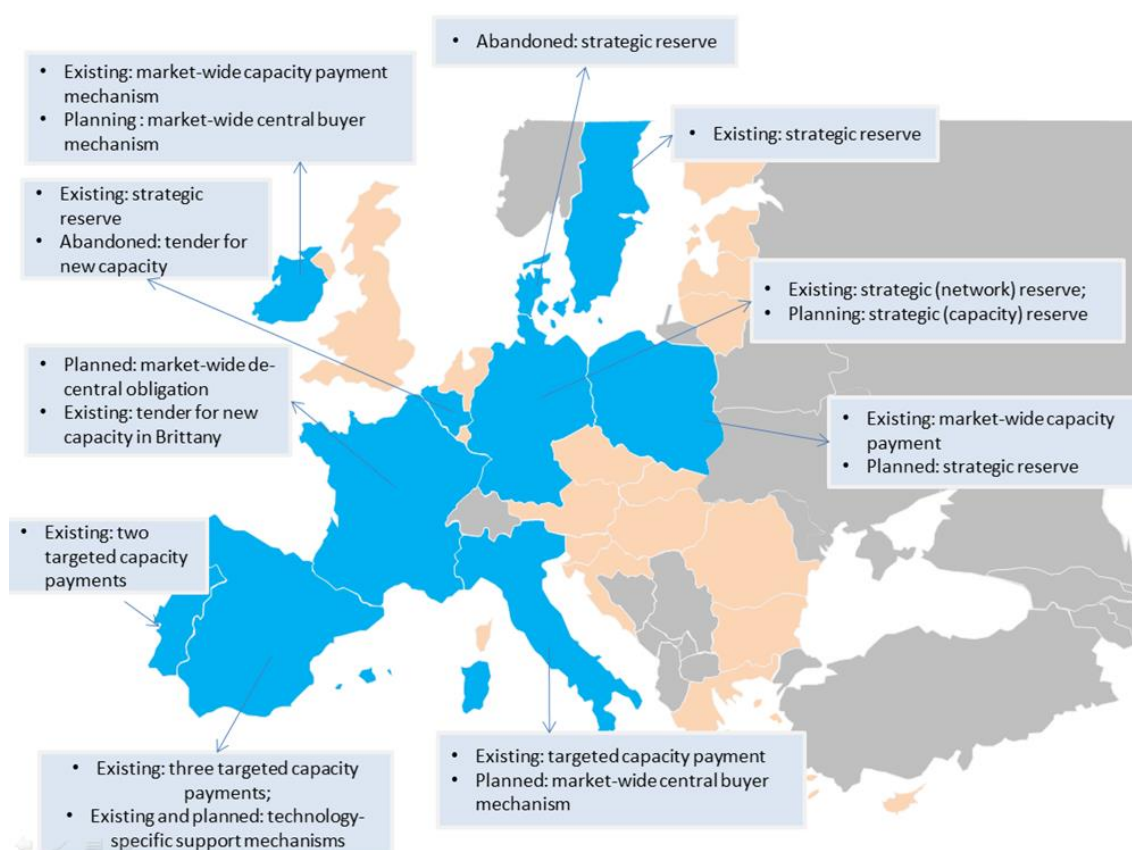
#### **Specific objective: Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules**

State aid control in the areas of energy and environment is an important part of competition policy, as it contributes to creating conditions for a resilient, sustainable and efficient EU energy market. A key principle underlying the Commission's State aid policy is that public support should result in a positive balance between the objectives achieved and the potential negative effects of State intervention on the European energy market. In this context, DG Competition pays special attention to any market distortions that may arise as a result of public financing – crowding out investment, negative effects on upstream or downstream markets and excessive profits which may lead to strengthened market position, deterrence of new entrants and ultimately market foreclosure.

DG Competition will continue to work on ensuring that renewable support schemes are in line with the Environmental and Energy State Aid Guidelines 2014-2020. In particular, electricity from

renewable energy sources will gradually be part of the normal energy market. The cost-effectiveness of public support will also be enhanced through the use of open and transparent competitive bidding procedures. Support to renewable energy sources aids innovative energy technologies. Special provisions ensure in particular tailor-made support for demonstration projects.

In addition, through the State aid sector inquiry into national measures to ensure sufficient electricity supply (so-called "capacity mechanisms")<sup>47</sup>, DG Competition will 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.



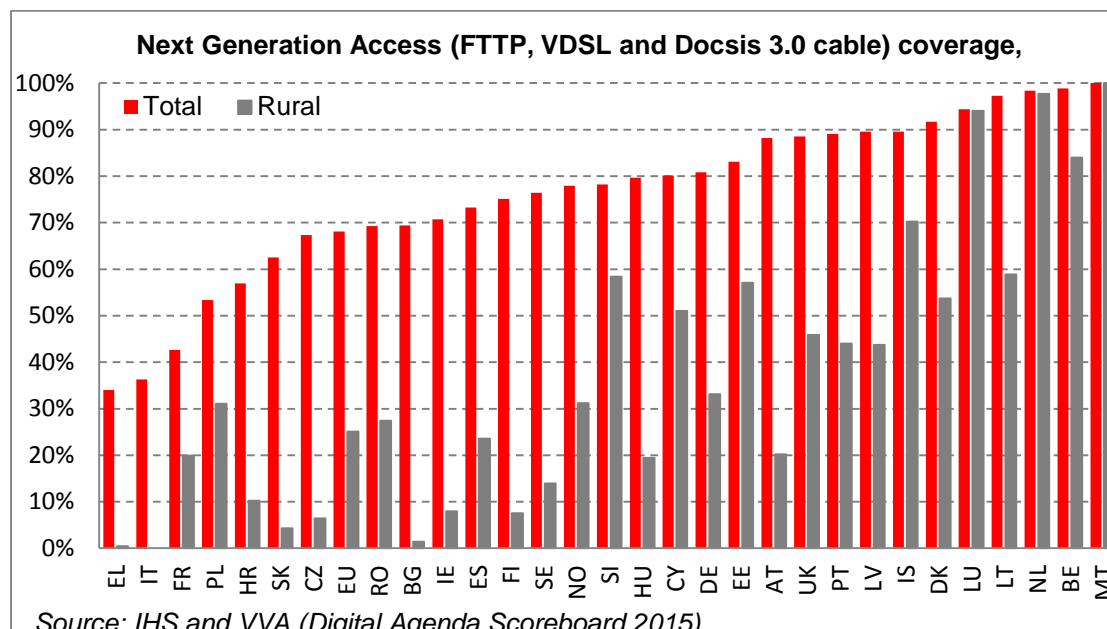
## Digital Single Market

In the area of broadband, the Commission's internal gap analysis on the funding needed to meet the EU broadband targets by 2020 estimates that, in the most optimistic scenario, the coverage target (30 Mbps for all citizens) will be reached if EUR 34 billion is invested<sup>48</sup>. The funding estimate to reach the take-up target (half of the European households with 100 Mbps subscription) is estimated at EUR 92.4 billion<sup>49</sup>.

<sup>47</sup> For further information see IP/15/4891 of 29 April 2015, [http://europa.eu/rapid/press-release\\_IP-15-4891\\_en.htm](http://europa.eu/rapid/press-release_IP-15-4891_en.htm)

<sup>48</sup> This estimate is based on Fibre-to-the-Cabinet (FTTC) coverage as a proxy for the achievement of universal coverage by 2020 in the EU 28 (on top of FTTC already in place).

<sup>49</sup> 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.



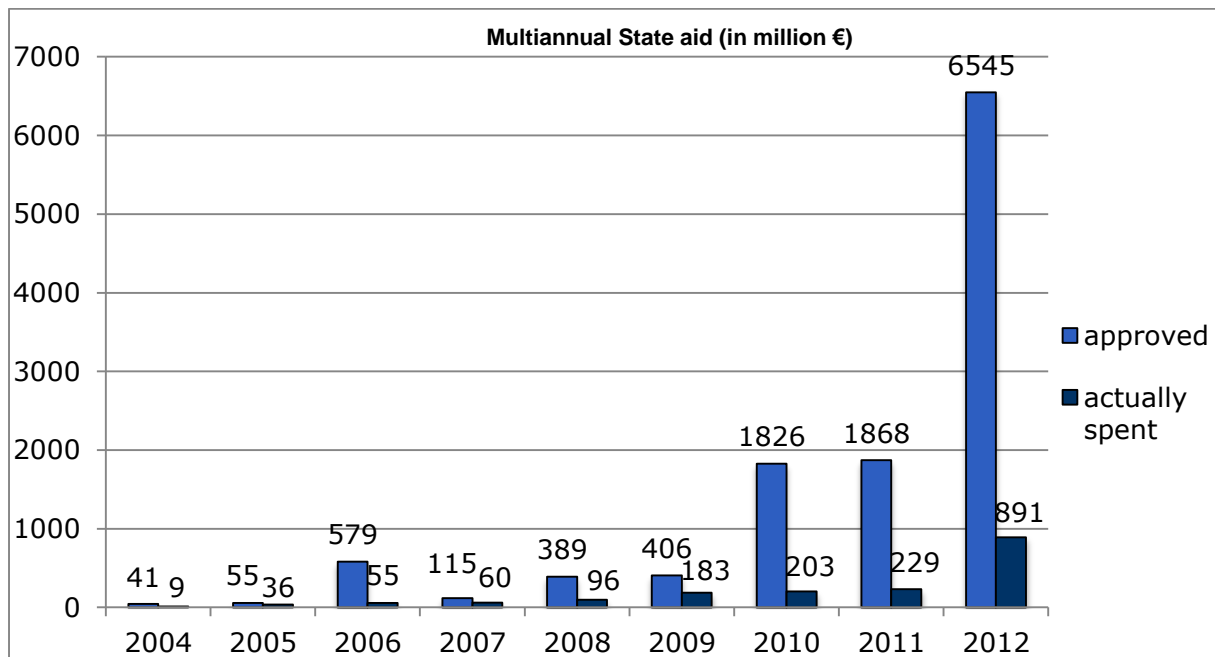
The broadband sector is highly commercial and most of the financing for the upgrade and new deployment of next generation networks should come from the private sector. However, due to economics of density, private companies tend to invest mostly in urban highly populated areas which can assure rapid 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. For this reason, State involvement (via State aid and regulation) has been very significant<sup>50</sup> and will continue in the coming years<sup>51</sup>.

State aid control has to ensure that publicly funded networks do not crowd out private investments. It should, moreover, contribute to develop a more competitive environment. Competition stimulates overall investment into Next Generation Access – NGA infrastructure and it ensures that consumers benefit from State intervention. Europe needs significant investment in broadband infrastructure for building high quality networks which will offer the widest customer choice. State aid is needed to stimulate roll-out, in particular in rural areas.

However, experience with more than 130 State aid decisions in the sector indicates that there exist numerous problems with the implementation of State aid projects. Data received suggest that actual spending of broadband aid lags behind the approved aid budgets (see chart below).

<sup>50</sup> Since 2003, the Commission adopted over 130 decisions approving more than EUR 13 billion of State subsidies across Europe.

<sup>51</sup> According to the above-mentioned Commission's analysis, the achievement of the coverage target (30 Mbps for all) will require EUR 21 billion from public sources.



Where a broadband infrastructure is built using State aid, wholesale access is an indispensable requirement to ensure that the positive effects of the aid measure in reaching an objective of common interest outweigh the potential negative effects. For that reason, broadband operators benefiting from State aid must fulfil a number of conditions, which include measures to ensure third parties' effective open wholesale access to the subsidised broadband infrastructure as foreseen in the Broadband State Aid Guidelines<sup>52</sup>. Public funding which complements private investments is necessary to roll out new broadband networks in areas where there are none (bridging the "rural divide") and to achieve the improvement of existing networks ("step change"). State aid control in individual cases ensures that private investors, alternative operators and competing technologies are protected.

The principle of technological neutrality is also important in digitisation of transmission technologies and the liberation of spectrum<sup>53</sup> and the Commission will continue to apply this principle in the State aid cases before it. The investment into areas other than broadband relevant to the Digital Single Market and which may raise State aid questions concern the audio-visual and press sectors. The Cinema Communication and the rules of the GBER in State aid have helped to clear many aid projects in 2015 and will continue to do so in 2016. Support for new technologies that are coming on stream for film distribution is likely to require further evaluation for their compliance with State aid rules.

### ***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. The focus Commissioner Vestager has put on fighting tax avoidance, as underscored in her Mission Letter of 1 November 2014<sup>54</sup>, echoes the priorities set by President Juncker to make Europe grow again and to increase the number of jobs. It also is in line

<sup>52</sup> Communication from the Commission EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>

<sup>53</sup> The judgments of the General Court on the appeals against the Commission's decision in the main Spanish digital terrestrial technology case confirmed this principle. The Court dismissed all the actions and confirmed the Commission's decision. The Court found in particular that the Commission was correct in holding that the Spanish measures at issue could not be considered as State aid compatible with the internal market, in particular since they did not respect the principle of technological neutrality.

<sup>54</sup> Mission letter to the Commissioner of Competition Vestager by President Juncker 1 November 2014, [http://ec.europa.eu/commission/sites/cwt/files/commissioner\\_mission\\_letters/vestager\\_en.pdf](http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/vestager_en.pdf)

with the efforts undertaken at the international level, namely by the OECD, to tackle tax base erosion and profit shifting for a better alignment of rights to tax with economic activity<sup>55</sup>.

State aid investigations into Member States' tax ruling practices, which began in 2013, are one of the tools the Commission has to address the problem. DG Competition set up a task force to investigate ex-officio whether Member States grant selective fiscal advantages to individual undertakings or groups of undertakings, in particular to multinational companies. While collecting taxes and combating tax evasion and tax avoidance are normally competencies 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 system<sup>56</sup> or individual tax rulings, like the cases of Starbucks (Netherlands) and Fiat Finance & Trade (Luxembourg)<sup>57</sup>. 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 ones<sup>58</sup>, are providing guidance to Member States and market participants on which preferential regimes the Commission considers problematic under State aid rules. They are likely to continue as long as Member States continue to allow for aggressive tax planning practices. Such practices do not only distort competition but also result in significant revenue losses for Member States. This in turn is likely to result in a heavier tax burden for citizens and other companies, in particular SMEs, given that the main tax burden is steadily shifted to less mobile income mainly coming from SMEs and labour. This is detrimental to jobs and growth as it takes resources away from SMEs which provide a pivotal contribution to the European economy, being responsible for more than two thirds of the total employment in the private sector and 85% of the net job growth<sup>59</sup>.

Furthermore, due to harmful tax competition, Member States undermine each other's ability to collect legitimate revenues and to focus on EU 2020 growth-friendly tax incentives. This in turn affects the EU's goals of creating a stronger, more competitive Single Market.

## **Financial services**

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

DG Competition will also continue focusing its State aid control activities on the financial and banking sectors. The financial crisis has 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 contributed to 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 entered 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 to banks 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. DG Competition's goal over the next five

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<sup>55</sup> OECD (2013), Action Plan on Base Erosion and Profit Shifting, OECD Publishing, Paris.

<sup>56</sup> IP/16/42 of 12 January 2016, [http://europa.eu/rapid/press-release\\_IP-16-42\\_en.htm](http://europa.eu/rapid/press-release_IP-16-42_en.htm)

<sup>57</sup> IP/15/5880 of 21 October 2015, [http://europa.eu/rapid/press-release\\_IP-15-5880\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5880_en.htm)

<sup>58</sup> Other pending formal investigations concern Apple in Ireland and McDonald's and Amazon in Luxembourg.

<sup>59</sup> MEMO/12/11 of 16 January 2012, [http://europa.eu/rapid/press-release\\_MEMO-12-11\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-12-11_en.htm?locale=en)

years is to work towards a European financial sector in which competition is based on merit and not distorted by support received from the authorities. A banking sector working according to the principle of market-based competition is the best way to ensure better services and lower prices for customers, to optimise the allocation of loans to the real economy, including small and medium-sized enterprises (SMEs), and to restore the foundations for real growth. DG Competition will continue to work towards this goal, which also contributes to the Commission priority of a deeper and fairer internal market.

### ***Aid in the transport sector***

State aid control has an important role to play in achieving a modern, integrated, efficient and affordable EU transport system, which is a driver for growth and jobs. State aid control 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.

In this respect, aviation is a key 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. State aid control helps to ensure that airlines receive State aid 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 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. State aid control will help address such measures.

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 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. These interventions can be necessary to finance increasingly costly public services<sup>60</sup> entrusted to postal incumbents which are already confronted with the e-substitution phenomenon which reduces sharply the demand for letter services. 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.

Based on its 2012 SGEI package<sup>61</sup>, the Commission will pursue its enforcement of State aid rules in this sector, notably as regards the most significant cases (notifications and complaints) falling within the scope of the 2012 SGEI Framework which contains compatibility conditions to ensure a level

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<sup>60</sup> Mainly the universal postal services but these services can also comprise basic financial services, delivery of pension payments, distribution of newspapers for instance.

<sup>61</sup> IP/11/1571, [http://europa.eu/rapid/press-release\\_IP-11-1571\\_en.htm](http://europa.eu/rapid/press-release_IP-11-1571_en.htm)



playing field between postal incumbents and competitors. Due to the e-substitution phenomenon, over 2016-2020, the Commission anticipates an increase of such investigations with new State aid measures being granted by Member States on top of the renewal of the existing recurrent aid schemes.

### **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 force<sup>62</sup>. Overall, 86% of aid is granted on the basis of previously approved aid schemes or Block Exemption Regulations<sup>63</sup>. 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 2016-2020, 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.

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 moment, a total of roughly 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<sup>64</sup>. The Commission may use all legal means at its disposal to ensure that Member States implement their recovery obligations, including launching infringement procedures. During 2015, the Court of Justice condemned two Member States pursuant to Article 108(2) TFEU and imposed a lump-sum payment of EUR 30 million on one Member State pursuant to Article 260 TFEU. In 2016-2020, DG Competition aims to make further progress towards effective and rapid enforcement of recovery decisions.

### **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. State aid rules have recently been overhauled in the context of the State Aid Modernisation. The remaining building block of the new framework still to be put in place is

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<sup>62</sup> 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/](http://ec.europa.eu/competition/state_aid/scoreboard/)

<sup>63</sup> Ibid.

<sup>64</sup> DG Competition calculation.

Commission's guidance on the notion of State aid to take account of important evolutions in case law and enforcement practice. The reflection on the new regulatory framework for the period following 2020 will start in the second half of the period 2016-2020.

For the period 2016-2020, the key challenges for DG Competition in State aid control will be threefold:

- First, to maintain a robust level of enforcement and policing of this regulatory framework. To ensure that the provisions of the GBER are respected is a precondition for maintaining a level playing field between Member States and achieving the objectives of State aid control. This requires the continuation of DG Competition's strategic monitoring effort, a reinforced and well targeted *ex officio* investigation agenda, the efficient handling of complaints focused on key cases of relevance for the internal market and the continued recovery of incompatible aid. It further requires an intensive advocacy effort to strengthen the cooperation with national courts, which have an important role to play in enforcing the lawfulness of aid measures at national level, and which are called upon to protect the interest of competitors by recovering unlawful aid or ordering appropriate interim measures;
- Second, to guarantee in cooperation with the Member States an efficient and speedy process for the handling of notifiable aid that does not unduly impede the implementation of measures boosting jobs, growth, and investment, unless this is not justified by the potential distortive effect of the aid. This requires in particular flexibility in the depth of assessment of notified cases, and further methodological progress, and higher transparency and reinforced coordination and consistency in the assessment of different types of infrastructure aid;
- Third, the timely preparation of the new regulatory framework for the period after 2020. This new regulatory framework has to take account of changes in the economic environment and objectives, and has to depart from a sound evaluation both of the State aid control effort and the efficiency of State aid in achieving Union objectives. It will require a broad public consultation of stakeholders, and a comprehensive impact assessment effort.

#### **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. Promoting international cooperation in this area and maintaining and strengthening the Commission's reputation world-wide is also defined as a priority for the new Commission in the field of competition policy<sup>65</sup>. In order to best support the Commission's general objective of *A New Boost for Jobs, Growth and Investment*, DG Competition's activities in this respect will focus towards achieving the following specific objectives:

- Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level;
- Explaining competition policy and its benefits;
- Promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control;
- Ensuring the highest standards in the enforcement of competition policy.

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<sup>65</sup> Mission letter to the Commissioner of Competition Vestager by President Juncker 1 November 2014. [http://ec.europa.eu/commission/sites/cwt/files/commissioner\\_mission\\_letters/vestager\\_en.pdf](http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/vestager_en.pdf)



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

Competition advocacy entails communicating effectively the benefits of competition and the scope and impact of DG Competition's activities on citizens, businesses and policy makers in order to foster a competition culture, to facilitate compliance and to legitimise public resources spent.

In 2016-2020, DG Competition will continue to contribute to 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.

Furthermore, DG Competition will continue to work in close cooperation with other Commission services on a number of strategic policy initiatives and policy dossiers, notably the Digital Single Market, the Energy Union, the Banking Union, the Single Market Strategy and the fight against tax evasion and avoidance. 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.

DG Competition will also continue engaging in a fruitful and constructive dialogue with other institutions, in particular the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of Regions. DG Competition has a regular exchange with the European Parliament, in particular the Economic and Monetary Affairs Committee (ECON), on a multitude of topics and strives to provide timely and effective replies to parliamentary questions. It also cooperates with the Council and the Economic and Social Committee on various issues and in various fora.

Finally, DG Competition will participate in meetings organised by international organisations (such as the World Bank and the OECD), where it presents studies undertaken to assess the macroeconomic impact of competition policy on growth, employment and equality as well as its microeconomic impact on market functioning. Such studies are presented also at academic conferences.

### **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. Better understanding of the advantages of competition helps consumers make informed choices between products and services offered. It encourages businesses to refrain from anti-competitive agreements and behaviour. It makes public administrations better understand how competition can contribute to addressing wider economic problems.

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<sup>66</sup>. This is the reason why DG Competition has started research in collaboration with DG ECFIN and the JRC to be able to give an order of magnitude of the impact of competition policy on growth and macroeconomic performance more generally.

To examine EU citizens' perceptions of competition and possible lack of competition in certain sectors and knowledge about, and sources of information on, competition policies and decisions, DG

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<sup>66</sup> Ibid.

Competition launched in 2014 *Flash Eurobarometer 403 – Citizens' Perception about Competition Policy*<sup>67</sup>. 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<sup>68</sup>.

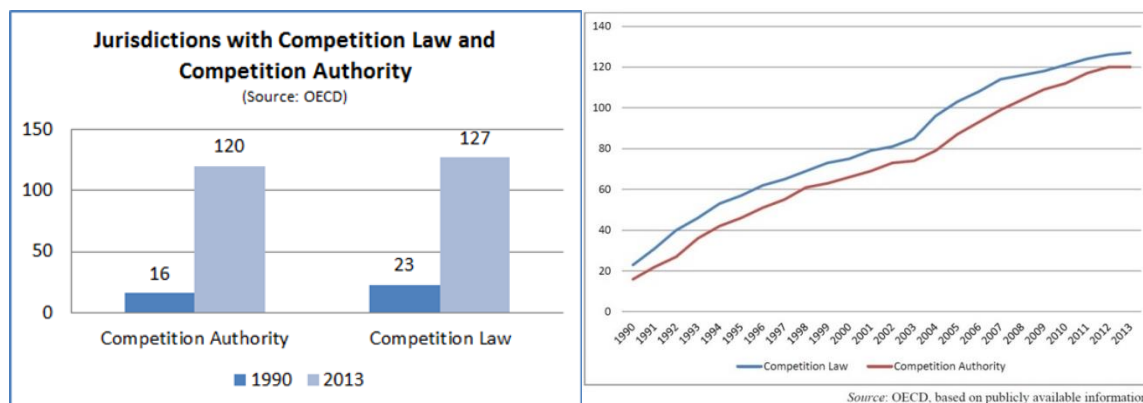
The citizens form their opinion based on information from multiple sources, mostly television and newspapers (over 60% according to the same survey), which also sets the framework for the Commission's communication efforts in this context. DG Competition shares the results of the survey with national competition authorities in the European Competition Network (ECN) for the benefit of competition advocacy efforts by the Commission and the national competition authorities. In 2016-2020, DG Competition will continue to monitor the perception and awareness of EU citizens of competition policy to measure its level of performance in this respect and plans to conduct these surveys again in 2019 to obtain updated information.

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

The globalisation of the world's economies calls for closer cooperation among competition authorities, not only in Europe but also across the globe. International cooperation among competition agencies promotes convergence on competition enforcement principles and practices implemented throughout the world, boosting consistency in the outcome of enforcement activities.

By 1990, there were 23 jurisdictions with a competition law and 16 with a competition authority. As of October 2013, about 127 jurisdictions had a competition law, of which 120 had a functioning competition authority (80 in 2004). The speed and breadth of the proliferation of competition laws and competition enforcers around the globe is the single most important development in the competition area over the last 20 years.

#### Increase in the number of jurisdictions enforcing competition law 1990-2013 (OECD)



<sup>67</sup> Eurobarometer Flash 403 *Citizens' Perception about Competition Policy* (2014) published in March 2015, [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html) See also Flash Eurobarometer 264 *EU citizens' perceptions about competition policy* (2009), [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html)

<sup>68</sup> Eurobarometer Flash 403 *Citizens' Perception about Competition Policy* (2014) published in March 2015 p. 7, [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html) According to the survey, across the EU as a whole, problems resulting from a lack of competition are most likely to have occurred in the energy sector (28%), followed by transport services (23%) and pharmaceutical products (21%). Lower numbers are identified in the telecommunications and Internet sector (18%), food distribution (14%) and financial services (12%).

DG Competition aims at promoting international convergence of competition policy and contributes actively towards this goal, in particular by creating effective tools for bilateral and multilateral co-operation with the Union's main trading partners and with other third-country competition agencies.

In accordance with the mission letter by President Juncker to Commissioner Vestager, DG Competition bases its actions in the international context, in particular on the following policy orientations:

- *'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;*
- *Maintaining and strengthening the Commission's reputation world-wide and promoting international cooperation in this area.'*

These orientations are reflected in three key principles which underpin DG Competition's external actions. They take into account that the international aspects of competition policy relate to a broader EU agenda including the EU trade policy.

The first principle is to improve the efficiency of DG Competition's enforcement actions and safeguard the effectiveness of DG Competition's enforcement decisions by developing and implementing frameworks for more effective enforcement cooperation in the field of mergers, cartels and unilateral conduct through guidance, best practices, bilateral or multilateral agreements and second generation agreements with most trusted competition partners. The second principle is to promote DG Competition's core principles worldwide by exporting and advocating them. This comprises a competition assessment without interference of industrial policy considerations and respect for the fundamental principles of procedural fairness and transparency. These principles are enshrined in DG Competition's model of strong and rigorous enforcement of competition law.

The second principle is to promote DG Competition's core values worldwide by exporting and advocating, through our external contacts, our model of strong and rigorous enforcement of competition law, which is based on competition assessment without interference of industrial policy considerations and which is anchored in the fundamental principles of procedural fairness and transparency. The third principle seeks to promote greater transparency and basic disciplines on subsidies control internationally with the aim of turning international markets into a global level playing field (including the application of the competition and subsidies rules to State owned Enterprises).

In the implementation of its international policy DG Competition cooperates with competition authorities bilaterally as well as through international fora, such as OECD, UNCTAD and International Competition Network (ICN). In 2016-2020, DG Competition will continue to participate actively in international fora such as the Competition Committee of OECD, International Competition Network (ICN) and UNCTAD. In OECD, DG Competition will maintain its leading role and where possible actively contribute amongst others to its long term strategic projects and the development of Recommendations and Best Practices stimulating policy convergence. DG Competition will also continue its active involvement in ICN, in particular by co-chairing the ICN Cartels Working Group (either at group or sub-group level). In UNCTAD DG Competition will continue to participate actively in the competition related activities by sharing its experience with other delegates (by means of written contributions and its participation in oral discussions) and by being actively involved in country peer reviews.

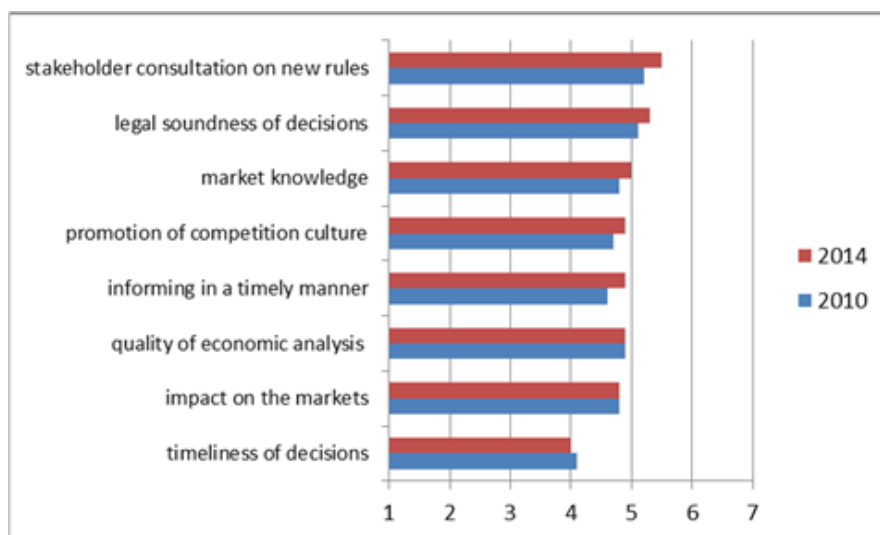
### **Specific objective: Ensuring the highest standards in the enforcement of competition policy**

DG Competition is committed to ensuring competition policy enforcement of the highest standards. A fair, impartial, efficient and transparent enforcement of competition policy strengthens the ability to deliver results to with respect to consumer welfare, efficient markets, growth and advocacy. This also contributes to compliance with competition rules and allows market players to obtain timely relief and compensation where needed.

The staff of DG Competition is committed 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. DG Competition also strives to ensure transparency, due process and predictability for its stakeholders and private enforcement of EU competition law. In light of this DG Competition also increases its capacity to carry out ex-post evaluations of both the regulatory framework and specific enforcement decisions.

DG Competition compares over time its performance in this context and has conducted Eurobarometer Standard Qualitative surveys among its professional stakeholders on some key quality parameters<sup>69</sup> related to DG Competition's work<sup>70</sup>. In 2014, there was 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. The Study found the sectorial focus of the activities of DG Competition well balanced, which also corresponded to sectors where European citizens identified competition concerns in Eurobarometer Flash survey of 2014. DG Competition aims to continuously monitor its level of performance in this respect in 2016-2020 and plans to conduct such surveys again in 2019 to obtain updated information.

#### DG Competition Stakeholder Survey (Eurobarometer 2010/2014)



<sup>69</sup> 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).

<sup>70</sup> Eurobarometer Standard Qualitative Study – Qualitative Eurobarometer survey about the perceived quality of DG Competition's actions (2014), published in 2015, [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](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](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), latest June 2015, <http://globalcompetitionreview.com/surveys/article/38830/european-commissions-directorate-general-competition>

## Key performance indicators (KPIs)

Three of the four key performance indicators measure the performance of the main competition policy instruments: Antitrust and Cartels, Merger control and State aid control. While these indicators do not deliver an exhaustive account of DG Competition's work or its impact on markets, they constitute the core quantifiable indicators of the work. To understand impact on the market and progress in improving our organisational management each year, DG Competition monitoring the following key performance indicators:

- 1) Estimate of customer benefits resulting from cartel prohibition decisions;
- 2) Estimate of customer benefits resulting from horizontal merger interventions;
- 3) The share of GBER expenditure over total expenditure on State aid;
- 4) The implementation of case management rationalisation, measures the progress of the DG-Competition-lead ICT project to develop a new Case Management system for the participating DGs and thus contribute to the modernisation and rationalisation of case and document management in the Commission.

## PART 2. Organisational management

### A. Human Resource Management

The structure of DG Competition has remained largely unchanged by the new Commission's structure. Its strategic HRM objectives are, therefore, designed to contribute more broadly to the attainment of the entire set of its business objectives, rather than being limited to one business objective each, as would be the case with objectives relating to a change of scope of business.

**Objective 1: 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**

**Indicator 1: Percentage of female representation in middle management**

**Source of data:** Sysper

|                 |  |
|-----------------|--|
| Baseline (2015) | Target: 2019, as adopted by the Commission on 15 July 2015 – SEC(2015)336 and communicated to each Directorate-General |
| 30.2%           | 45%  |

**Indicator 2: Percentage of staff who feel that the Commission cares about their well-being**

**Source of data:** Commission staff survey

|                 |   |
|-----------------|---|
| Baseline (2014) | Target: 2020, agreed by internal discussion and presented to senior management. |
| 36.5% (EC=35%)  | Maintain it above the Commission average  |

**Indicator 3: Staff engagement index**

**Source of data:** Commission staff survey

|                 |   |
|-----------------|---|
| Baseline (2014) | Target: 2020, agreed by internal discussion and presented to senior management. |
| 68.4%           | Above 70% and maintain it above the Commission average                          |

The HRM objectives of DG Competition focus on quality and sustainability of our workforce so as to ensure that the right people are in the right place at the right time to deliver on our organisational goals to the best of their abilities. Attract, develop and retain staff is a key priority.

Below there are the main HRM deliverables during 2016-2020 in connection with the strategic objective identified above, as underpinned by the three indicators.

- Ensure an adequate female representation in management (in line with the 45% target for middle managers), via adequate succession planning and talent management<sup>71</sup>
- Maintain a healthy workforce, via reinforced fit at work initiatives, and continue to promote a coherent implementation of flexible working arrangements across the DG<sup>72</sup>

<sup>71</sup> The number of female Heads of Unit should rise by 2 every year from 2016 to 2019, so as to reach the final target. 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% and 50% of newly appointed deputy Heads of Units were women. 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. 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.

<sup>72</sup> 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 (8 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

- Further increase staff satisfaction, engagement and motivation, via several initiatives (e.g. career development interviews, return interviews and internal mobility brochure)
- Further enhance the partnership between human resources team, line managers, and staff, via improved two-way communication
- Build the right set of skills needed to reach the DG's objectives, via tailor-made learning and development initiatives, including a follow-up of the 180° feedback exercise for all managers in DG Competition
- Advance the people management culture, via initiatives (e.g. 10 DOs<sup>73</sup>, 180°) to develop and embed managerial good/best principles and practices that apply to the particular work patterns and challenges in DG Competition
- Raise the impact and effectiveness of DG Competition HRM policies, via improved communication, continuous association and support from the top management, and by integrating available qualitative and quantitative data in the policy-making

**Objective 2: Motivate, train and retain highly qualified staff and promote equal opportunities within DG Competition**

**Indicator: Turnover (% of statutory staff leaving DG Competition before three years in DG Competition)**

**Source of data:** Sysper

|                    |  |
|--------------------|--|
| Baseline (2015)    | Target: 2020, agreed by internal discussion and presented to senior management |
| 3.4% latest update | Less than 3.4%   |

As set out in its mission statement, people are the greatest asset of DG Competition. In its high-skill knowledge-intensive work environment, the success of DG Competition is the success of the people and the synergy of their expertise, experience and skills.

Particular challenges include a very young workforce, increased staff turnover and an anticipated in-flow and out-flow mobility for managers specialised in competition-related matters, in a context of staff cuts without compensation in the years to come.

In parallel, DG Competition makes continuous efforts to improve internal communication. The Internal Communication Strategy and Action plan for 2014-2016 focuses on ensuring fluid information flow at all levels (top-down, bottom-up and horizontal), improving staff's understanding of Commission and DG Competition's policy strategy and priorities and helping them see the connection between their job and those priorities. DG Competition measures the results with the following two indicators:

**Objective 3: Information flows effectively both top-down and bottom-up and that staff understand Commission and DG Competition's objectives and how their individual work relates to these objectives**

**Indicator 1: Understanding by the staff of DG Competition's priorities**

**Source of data:** Commission staff survey

|                 |   |
|-----------------|---|
| Baseline (2014) | Target (2016-2020)  |
| 89%             | Improve the level of staff understanding of DG Competition's priorities |

**Indicator 2: Understanding by the staff of DG Competition of their objectives and tasks**

**Source of data:** Commission staff survey

|                 |                      |
|-----------------|----------------------|
| Baseline (2014) | Target (2016-2020)   |
| 85%             | Maintain or increase |

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.

<sup>73</sup> The 10 DOs are a code of conduct for people management developed by DG Competition.



## B. 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.

DG Competition has put in place the organisational structure and the internal control systems suited to the achievement of the policy and control objectives, in accordance with the standards and having due regard to the risks associated with the environment in which it operates. As regards financial management, the objective is to ensure that the budget is implemented in compliance with the requirements of legality and regularity and in accordance with the principle of sound financial management.

|  |                     |
|--|---------------------|
| <b>Overarching objective: The Authorising Officer by Delegation should have reasonable assurance that resources have been used in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions including prevention, detection, correction and follow-up of fraud and irregularities</b> |                     |
| <b>Objective 1: Effective and reliable internal control system giving the necessary guarantees concerning <u>the legality and the regularity</u> of the underlying transactions</b>  |                     |
| <b>Indicator 1: Estimated residual error rate</b>  |                     |
| <b>Source of data:</b> European Commission, Financial Transaction Review performed by Internal Audit Service   |                     |
| Baseline (2014)  | Target (2016-2020)  |
| 0%   | < 2%                |
| <b>Indicator 2: Estimated overall amount at risk for the year for the entire budget under the DG's responsibility.</b>   |                     |
| <b>Source of data:</b> European Commission   |                     |
| Baseline (2014)  | Target              |
| EUR 126 800  | None                |
| <b>Indicator 3: Estimated future corrections</b>   |                     |
| <b>Source of data:</b> European Commission   |                     |
| Baseline (2014)  | Target (2016-2020)  |
| EUR 0  | EUR 0               |
| <b>Objective 2: Effective and reliable internal control system in line with <u>sound financial management</u></b>  |                     |
| <b>Indicator 1: Conclusion reached on cost effectiveness of controls</b>   |                     |
| <b>Source of data:</b> European Commission   |                     |
| Baseline (2014)  | Target              |
| Yes  | Yes                 |
| <b>Indicator 2: Overall cost of controls in relation to payments</b>   |                     |
| <b>Source of data:</b> European Commission   |                     |
| Baseline (2014)  | Target              |
| n/a  | Maintain efficiency |
| <b>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, Code on Ethics and Security Guidelines</b>  |                     |
| <b>Indicator 1: Updated Anti-Fraud Strategy (elaborated on the basis of the methodology provided by OLAF) and Code on Ethics</b>   |                     |
| <b>Source of data:</b> DG's Anti-Fraud Strategy and Code on Ethics   |                     |
| Baseline   | Target              |
| 2013   | Every 3 years       |



|  |  |
|--|--|
| <b>Indicator 2: Fraud and ethics awareness is increased for target population as identified in the DG's Anti-Fraud Strategy and Code on Ethics</b> |  |
| <b>Source of data:</b> SYSLOG  |  |
| Baseline (2015)  | Target   |
| 85% of newcomers attending ethics trainings  | Close to 100% of newcomers attending ethics training             |
| <b>Indicator 3: Regular monitoring of the implementation of the Anti-Fraud Strategy and Code on Ethics, and reporting to Director General</b>      |  |
| <b>Source of data:</b> DG's Anti-Fraud Strategy and Code on Ethics   |  |
| Baseline   | Target   |
| 2014 (first reporting)   | Maintain reporting once per year                                 |
| <b>Indicator 4: Knowledge and respect by staff of DG Competition's security rules and incident reporting procedures</b>                            |  |
| <b>Source of data:</b> DG's Security Guidelines  |  |
| Baseline (2015)  | Target   |
| 8 reported incidents   | Reduction of inadvertent disclosures of confidential information |

DG Competition drafted its Anti-Fraud Strategy and updated its Code on Ethics in 2013. The Security Guidelines were reviewed in 2014. The DG intends to continue to monitor inadvertent disclosures of confidential information (reported twice a year to the Commissioner), and report to the Director General on the implementation of the Anti-Fraud Strategy and Code on Ethics each year. In light of the new methodology to be provided by OLAF, DG Competition will review its Anti-Fraud Strategy in 2016 and update its Code on Ethics accordingly. Compulsory training for newcomers will be maintained.

### C. Better Regulation

The Commission's Better Regulation policy is implemented in de-centralised way in DG Competition. While the operational units are responsible for conducting impact assessments, ex-post evaluations, external studies and public consultations, the Better Regulation Network of DG Competition is supervised by Unit 04 and i) coordinates the five-year rolling evaluation plan, ii) strengthens the link between DG Competition's activities and evaluations, impact assessments and public consultations, iii) organises trainings to build up further capacity and iv) supports the teams performing evaluations with practical advice on procedural and methodological aspects.

In 2016-2020, DG Competition will finalise ex-post evaluations relating to State aid decisions regarding bank restructuring, the Damages Directive and the State Aid Modernisation Package. Some further evaluations and evaluation-related projects are under consideration.

|  |  |  |
|--|--|--|
| <b>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</b>  |  |  |
| <b>Indicator 1: Percentage of Impact assessments submitted by DG Competition to the Regulatory Scrutiny Board that received a favourable opinion on first submission</b>   |  |  |
| <b>Explanation:</b> The opinion of the RSB will take into account the better regulation practices followed for new policy initiatives. 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 |  |  |
| <b>Source of data:</b> EC  |  |  |
| Baseline (2015)  | Interim Milestone (2016)                       | Target (2020)                                  |
| For DG Competition: 87.5%, IAB positive opinions on 7 of the 8 IA submissions in 2014 (68% Commission average in 2014)   | Positive trend compared to DG's 2014 situation | Positive trend compared to DG's 2016 situation |

**Indicator 2: Percentage of the DG's regulatory acquis covered by ex-post evaluations and Fitness Checks not older than five years**

**Explanation:** Better Regulation principles foresee that regulatory acquis is evaluated at regular intervals. As evaluations help to identify any burdens, implementation problems, and the extent to which objectives have been achieved, the availability of performance feedback is a prerequisite to introduce corrective measures allowing the acquis to stay fit for purpose

**Relevance of Indicator 2:** The application of better regulation practices would progressively lead to the stock of legislative acquis covered by regular evaluations to increase

**Source of data:** EC

| Baseline (2015)   | Interim Milestone (2016)            | Target (2020)                                |
|---|-------------------------------------|--|
| 25% <sup>74</sup> (Percentage of the DG's regulatory acquis covered by ex-post evaluations and Fitness Checks not older than seven years) | Positive trend compared to baseline | Positive trend compared to interim milestone |

## D. Information management aspects

This activity consists of putting in place and maintaining an effective document management system so that any document connected with the DG's official functions can be electronically filed, stored and retrieved at any moment irrespective of its original form and document management system in place. 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.

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.

Since 2013, in collaboration with DGs AGRI, MARE, TRADE and OLAF, DG Competition is leading the development of a new Case Management system to contribute to the modernisation and rationalisation of case management in the Commission. In addition to reinforcing further the security of the participating DGs sensitive case data, this new system aims at improving ICT and Document Management support to case teams, among others for handling (very) voluminous case files (cfr Annex 5).

In addition, DG Competition 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.

<sup>74</sup> Access to file/complaints study/evaluation finalised in 2015 (Reg. 1/2003); Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 4.1.2003, p. 1-25; 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; Council Regulation (EU) No 733/2013 of 22 July 2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid, OJ L 204, 31.7.2013, p. 11-14. For the State Aid Modernisation see also [http://ec.europa.eu/competition/state\\_aid/modernisation/index\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/index_en.html)

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

**Indicator 1 (data provided by DG DIGIT): Percentage of registered documents that are not filed<sup>75</sup> (ratio)**

**Source of data:** Hermes-Ares-Nomcom (HAN)<sup>76</sup> statistics

|                           |  |                          |
|---------------------------|--|--------------------------|
| Baseline (2015)           |  | Target                   |
| 2.10% (Ares)<br>0% (EDMA) |  | N.A. (Ares)<br>0% (EDMA) |

This number reflects only filing and registration in Ares of documents exchanged with other DGs, because 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 (technically not possible to save a document into the system EDMA without filing)

**Indicator 2 (data provided by DG DIGIT): Percentage of HAN files readable/accessible by all units in the DG**

**Source of data:** HAN statistics

|                 |  |                     |
|-----------------|--|---------------------|
| Baseline (2015) |  | Target              |
| 99.19%          |  | Maintain the same % |

For this indicator it is not useful to refer to HAN, because 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. Note however that inside the DG security is implemented in EDMA also at the attachment level, and individual attachments can be and are protected. The target here is not a quality measure, but reflects a policy decision taken in DG Competition on accessibility

**Indicator 3 (data provided by DG DIGIT): Percentage of HAN files shared with other DGs**

**Source of data:** HAN statistics

|                 |  |                                  |
|-----------------|--|----------------------------------|
| Baseline (2015) |  | Target                           |
| 2 (0.04%)       |  | 0% (to be determined by each DG) |

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), no file is shared 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

**Indicator 4: Percentage of units using collaborative tools to manage their activities**

|                 |                   |        |
|-----------------|-------------------|--------|
| Baseline (2015) | Interim Milestone | Target |
| 95%             | 100%              | 100%   |

The percentage represents the proportion of units using either the COMP Collaborative Platform or e-Discovery

**Indicator 5: 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)**

**Source of data:** DG Competition

|               |  |        |
|---------------|--|--------|
| Baseline      |  | Target |
| New indicator |  |        |

0. There was no report of such a case in DG Competition (100% could be retrieved)

**Indicator 5 (additional Specific objective): Timely and effective handling of requests for information under Regulation 1049/2001**

**Output Indicator: Respect of the time-limits for replies.**

**Source:** GESTDEM – corporate application managing access to document requests

|                        |  |
|------------------------|--|
| <b>Baseline (2014)</b> | Target: Annual Target. According to the regulation, it is mandatory to reply within the deadline |
| 87% <sup>77</sup>      | 100%   |

<sup>75</sup> 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.

<sup>76</sup> Suite of tools designed to implement the e-Domec policy rules.

<sup>77</sup> DG Competition is one of the Commission services receiving most requests for access to documents under Regulation 1049/2001. DG Competition aims to handle all requests for access to documents efficiently and

| Indicator 6 (additional specific objective): Enhance paperless document exchanges (e-Commission) with 3rd parties  |                           |
|--|---------------------------|
| Result Indicator: Incrementing paperless exchanges with Member States and external stakeholders<br><b>Source:</b> DG Competition's document management and electronic communication systems (EDMA) |                           |
| Baseline (end November 2015)   | Maintain the same target: |
| 95%  | 95%                       |

| Objective: IT rationalisation in sub-domain for Case Management Systems (led by DG Competition)   |   |   |
|---|---|---|
| <b>Indicator: Implementation of a common Case Management System for the Commission services participating in the Case Management Rationalisation project</b><br><b>Source of data:</b> Reports to the Inter-Service Steering Committee of the project |   |   |
| Baseline (2015)   | Milestone (2016)  | Target (2017)   |
| Conclusion of the Inception phase, start of the tender process  | Conclusion of the tender process, signing of Framework contract | Completion of State Aid and Horizontal Projects pilots with the new common Case Management System |

## E. External communication activities

DG Competition's external communication strategy aims 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 decisions. This contributes to increased legal certainty and compliance in the areas of antitrust and cartels, mergers and State aid.

| 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   |                                |
|--|--------------------------------|
| <b>Indicator 1 (provided by DG COMM): Percentage of EU citizens having a positive image of the EU</b><br><i>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</i><br><i>Definition:</i> 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<br><b>Source of data:</b> Standard Eurobarometer (DG COMM budget) <i>monitored by DG Communication</i> |                                |
| Baseline: November 2014  | Target: 2020                   |
| Total "Positive": 39%<br>Neutral: 37%<br>Total "Negative": 22%   | Positive image of the EU ≥ 50% |
| Indicators: Help understanding of EU competition rules by stakeholders   |                                |
| <b>Indicator 2: Number of people reached with communication actions directly supporting EU competition policy as a result of the DG's actions</b><br><b>Source of data:</b> Collated monitoring data collected by DGs from their actions, monitoring and evaluation contractors; from Opinion polls etc.   |                                |
| Baseline (2015)  | Target (2016-2020)             |
| DG Competition's printed publications were sent to 6452 subscribers/readers and the digital publications to 34880  | Increasing trend               |

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within the time-limits set in the Regulation. In 2015 DG Competition managed more requests than during the previous year (392 compared to 342 in 2014), continuing at the same time to ensure clarity in application of the public access principles through explanations provided in any access refusal letters.

## Annex to the Strategic Plan

### Annex 1. Performance tables

| General objective: A New Boost for Jobs, Growth and Investment |  |                      |
|--|--|----------------------|
| <b>Impact indicator 1: GDP growth</b>                          |  |                      |
| <b>Source of the data:</b> Eurostat                            |  |                      |
| <b>Baseline (2012)</b>   |  | <b>Target (2020)</b> |
| 1.4%   |  | Increase             |
| <b>Planned evaluations:</b> -                                  |  |                      |

### Antitrust and cartels

| Specific objective 1: Effective enforcement of antitrust rules with a view to protecting consumer welfare (Antitrust and cartels)      |  | Related to spending programme(s): -                               |
|--|--|---|
| <b>Result indicator 1: Estimate of customer benefits resulting from the Commission decisions prohibiting cartels</b>                   |  |   |
| Rationale: Quantitative indicator to ensure positive impact of competition enforcement on consumer welfare                             |  |   |
| <b>Source of data:</b> DG Competition calculation  |  |   |
| <b>Baseline (2015)</b>   |  | <b>Target (2016-2020)</b>   |
| EUR 0.99-1.49 bn <sup>78</sup>   |  | No target   |
| <b>Result indicator 2: Deterrent effect of the Commission's fines</b>  |  |   |
| Rationale: Qualitative indicator to measure the perception of the stakeholders on the deterrence of our fines in antitrust and cartels |  |   |
| <b>Source of data:</b> DG Competition Stakeholder Survey 2014  |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>  |
|  |  | Senior Management decision to repeat the survey once in a mandate |
| > 50% <sup>79</sup>  |  | Maintain  |
| <b>Planned evaluations:</b> -  |  |   |

<sup>78</sup> 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).

<sup>79</sup> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014), Aggregate Report 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.", [http://ec.europa.eu/competition/publications/reports/surveys\\_en.html](http://ec.europa.eu/competition/publications/reports/surveys_en.html)

|   |  |                                    |
|---|--|------------------------------------|
| <b>Specific objective 2: Effective and coherent application of EU competition law by the national competition authorities (Antitrust and cartels)</b> |  | Related to spending programme(s) - |
| <b>Result indicator 1: Number of cases signalled to the European Competition Network (ECN)</b>  |  |                                    |
| Rationale: Benchmark for the level of the ECN activity to ensure coherent application of EU competition law   |  |                                    |
| <b>Source of data:</b> ECN case system  |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2016-2020)</b>          |
| 179   |  | No target                          |
| <b>Result indicator 2: Number of envisaged enforcement decisions and similar case consultations in the European Competition Network (ECN)</b>         |  |                                    |
| Rationale: Benchmark for the level of the ECN activity to ensure coherent application of EU competition law   |  |                                    |
| <b>Source of data:</b> ECN case system  |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2016-2020)</b>          |
| 100   |  | No target                          |
| <b>Planned evaluations:</b> -   |  |                                    |

|   |  |  |
|---|--|--|
| <b>Specific objective 2: Effective and coherent application of EU competition law by national courts (Antitrust and cartels)</b>  |  | Related to spending programme(s) -   |
| <b>Result indicator 1: Compliance rate of national judgments with Commission replies to requests for opinions (Article 15(1) of Regulation 1/2003)</b>  |  |  |
| Rationale: Benchmark for coherence of the activities by the courts and the Commission to ensure coherent private enforcement of EU competition law  |  |  |
| <b>Source of data:</b> DG Competition statistics on the basis of national judgments transmitted   |  |  |
| <b>Baseline (2004-2015)</b>   |  | <b>Target (2016-2020)</b>  |
| 18/21: 100% compliance rate possible <sup>80</sup>  |  | Maintain 100% compliance rate in the long term to ensure coherent application of EU competition rules. |
| <b>Result indicator 2: Compliance rate of national judgments with Commission 'amicus curiae' briefs (Article 15 (3) of Regulation 1/2003)</b>   |  |  |
| Rationale: Benchmark for coherence of the activities by the courts and the Commission to ensure coherent private enforcement of EU competition law  |  |  |
| <b>Source of data:</b> DG Competition statistics on the basis of national judgments transmitted   |  |  |
| <b>Baseline (2006-2015)</b>   |  | <b>Target (2016-2020)</b>  |
| 12/12   |  | Maintain 100% compliance rate in the long term to ensure coherent application of EU competition rules. |
| <b>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</b> |  |  |
| Rationale: Benchmark for ensuring equal opportunities to obtain compensation for competition law infringements in all Member States   |  |  |
| <b>Source of data:</b> DG Competition statistics based on evaluation  |  |  |
| <b>Baseline (2014)</b>  |  | <b>Target (2016) (Directive 2014/104/EU)</b>   |
| - MS  |  | 100% of Member States implemented by 27 December 2016  |
| <b>Planned evaluations:</b> Antitrust/cartels: Private enforcement: Evaluation of the Directive on Damages actions in 2020  |  |  |

<sup>80</sup> In three cases the respective national courts have not yet issued their decision.

|   |  |                                    |
|---|--|------------------------------------|
| <b>Specific objective 3: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking (Antitrust and cartels)</b> |  | Related to spending programme(s) - |
| <b>Result indicator 1: Stakeholder consultation on new rules (Eurobarometer 2014)</b>   |  |                                    |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work   |  |                                    |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)  |  |                                    |
| <b>Baseline (2014)</b>  |  | <b>Target (2019)</b>               |
| 5.5/7.0 <sup>81</sup>   |  | Stable trend                       |
| <b>Planned evaluations:</b> Eurobarometer DG Competition Stakeholder Survey to be conducted in 2019   |  |                                    |

## Merger Control

|   |  |                                    |
|---|--|------------------------------------|
| <b>Specific objective 4: Facilitating smooth market restructuring by assessing non-harmful mergers in a streamlined manner (Merger control)</b> |  | Related to spending programme(s) - |
| <b>Result indicator 1: Ratio of merger decisions adopted in a simplified procedure</b>  |  |                                    |
| Rationale: Quantitative indicator demonstrating reduced regulatory burden facilitating smooth market restructuring                              |  |                                    |
| <b>Source of data:</b> DG Competition calculation   |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2016-2020)</b>          |
| 70%   |  | Stable trend                       |
| <b>Planned evaluations:</b> -   |  |                                    |

|   |  |                                    |
|---|--|------------------------------------|
| <b>Specific objective 5: Prevention of anticompetitive effects of mergers with a view to protecting consumer welfare (Merger control)</b> |  | Related to spending programme(s) - |
| <b>Result indicator 1: Estimate of customer benefits resulting from horizontal merger interventions</b>                                   |  |                                    |
| Rationale: Quantitative indicator to ensure positive impact of competition enforcement on consumer welfare                                |  |                                    |
| <b>Source of data:</b> DG Competition calculation   |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2016-2020)</b>          |
| EUR 1.08-2.69 bn <sup>82</sup>  |  | No target                          |
| <b>Planned evaluations:</b> -   |  |                                    |

<sup>81</sup> 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](http://ec.europa.eu/competition/publications/reports/surveys_en.html)

<sup>82</sup> 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 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.



| 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) - |
|---|--|------------------------------------|
| <b>Result indicator 1: Stakeholder consultation on new rules (Eurobarometer 2014)</b>   |  |                                    |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work   |  |                                    |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)  |  |                                    |
| <b>Baseline (2014)</b>  |  | <b>Target (2019)</b>               |
| 5.5/7.0 <sup>83</sup>   |  | Stable trend                       |
| <b>Planned evaluations:</b> Eurobarometer DG Competition Stakeholder Survey to be conducted in 2019   |  |                                    |

## 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) - |
|---|--|------------------------------------|
| <b>Result indicator 1: The share of GBER expenditure over total expenditure on State aid</b>  |  |                                    |
| <b>Source of data:</b> State Aid Scoreboard   |  |                                    |
| Link: <a href="http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html">http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html</a>   |  |                                    |
| <b>Baseline (2014)</b>  |  | <b>Target (2016-2020)</b>          |
| 38.2%   |  | Maintain or increase               |
| <b>Result indicator 2: Percentage of State aid granted by Member States for horizontal objectives of common interest</b>  |  |                                    |
| 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  |  |                                    |
| <b>Source of data:</b> 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: <a href="http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html">http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html</a>   |  |                                    |
| <b>Baseline (2014)</b>  |  | <b>Target (2016-2020)</b>          |
| 84.9%   |  | Maintain or increase               |
| <b>Planned evaluations:</b> Ex-post evaluation of State Aid Modernisation, 2020   |  |                                    |

| Specific objective 8: Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules (State aid control)   |  | Related to spending programme(s) - |
|---|--|------------------------------------|
| <b>Result indicator 1: Number of EEAG-based decisions<sup>84</sup> on operating support schemes for renewable electricity</b>                 |  |                                    |
| Rationale: The compliance of the renewable energy support schemes with EEAG ensures a level playing field in the internal electricity market. |  |                                    |
| <b>Source of data:</b> DG Competition calculation <sup>85</sup>   |  |                                    |
| Link: <a href="http://ec.europa.eu/competition/elojade/isef/index.cfm">http://ec.europa.eu/competition/elojade/isef/index.cfm</a>             |  |                                    |
| <b>Baseline (2014/2015)</b>   |  | <b>Target (2016-2020)</b>          |
| 11 decisions as at 01/01/2016   |  | Increase                           |

<sup>83</sup> 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](http://ec.europa.eu/competition/publications/reports/surveys_en.html)

<sup>84</sup> 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))

<sup>85</sup> 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.



| <b>Result indicator 2: Number of EEAG-compatible capacity mechanisms as share of all existing capacity mechanisms</b><br>Rationale: The compliance of the capacity mechanisms with EEAG ensures a level playing field in the internal electricity market.<br><b>Source of data:</b> DG Competition calculation<br>Link: <a href="http://ec.europa.eu/competition/elojade/isef/index.cfm">http://ec.europa.eu/competition/elojade/isef/index.cfm</a> |                   |      |               |
|---|-------------------|------|---------------|
| Baseline (2014/2015)  | Interim Milestone |      | Target (2020) |
|   | 2017              | 2018 |               |
| 5% of capacity mechanisms   | 30%               | 50%  | 100%          |
| <b>Planned evaluations:</b> -   |                   |      |               |

| Specific objective 9: Stability and promotion of competition in the banking sector   |  | Related to spending programme(s) - |
|--|--|------------------------------------|
| <b>Result indicator 1: For each stress test carried out by the SSM and 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</b>  |  |                                    |
| 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.  |  |                                    |
| <b>Source of data:</b> For the numerator DG Competition calculation – State aid granted in 2014 to banks in EBA sample. For the denominator EBA 2014 stress tests' website <a href="http://www.eba.europa.eu/-/eba-publishes-2014-eu-wide-stress-test-results">http://www.eba.europa.eu/-/eba-publishes-2014-eu-wide-stress-test-results</a> <sup>86</sup> |  |                                    |
| <b>Baseline (2014)</b>   |  | <b>Target (2016-2020)</b>          |
| 6.1%   |  | Decrease                           |
| <b>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</b>  |  |                                    |
| 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   |  |                                    |
| <b>Source of data:</b> For the numerator DG Competition calculation. For the denominator ECB data under: <a href="http://sdw.ecb.europa.eu/reports.do?node=1000003506">http://sdw.ecb.europa.eu/reports.do?node=1000003506</a> <sup>87</sup>   |  |                                    |
| <b>Baseline (2014)</b>   |  | <b>Target (2016-2020)</b>          |
| 0.2%   |  | Decrease                           |
| <b>Planned evaluations:</b> State Aid: retrospective study of competition distortions from aid in the banking sector   |  |                                    |

| Specific objective 10: Prevention and recovery of incompatible aid (State aid control)  |  | Related to spending programme(s) - |
|---|--|------------------------------------|
| <b>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)</b><br>Rationale: Qualitative indicator on the effectiveness and enforcement of recovery decisions<br><b>Source of data:</b> DG Competition case management system (ISIS) |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2019)</b>               |
| 33% <sup>88</sup>   |  | Increase                           |
| <b>Planned evaluations:</b> -   |  |                                    |

<sup>86</sup> For the stress test whose results were announced in October 2014, the observation date was 31 December 2013 and the total capital shortfall identified was EUR 24.6 billion (i.e. the total capital shortfall based on the balance sheet of 31 December 2013 and before the additional capital raising measures implemented in 2014).

<sup>87</sup> The denominator is calculated as the sum of the total value for Eurozone credit institutions' capital and reserves (Liabilities -> Column 7; 2014: EUR 2403.8 billion) and the corresponding values for each non-Eurozone EU member state (MFI Balance Sheets -> National Tables -> Aggregated Balance Sheet -> Liabilities, Column 8; 2014 in billion EUR: BG 5.5, CZ 23.4, DK 70.0, HR 11.4, HU 9.1, PL: 56.9, RO 16.3, SE 74.2, UK 792.4). For 2014, this sum was EUR 3463 billion.

<sup>88</sup> Total number 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: Monitoring of aid measures (State aid control)   |  | Related to spending programme(s) - |
|---|--|------------------------------------|
| <b>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)</b><br>Rationale: Stable indicator ensuring a reasonable number of aid measures (mainly schemes) subject to <i>ex-post</i> monitoring in every annual monitoring cycle<br><b>Source of data:</b> DG Competition calculation |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2019)</b>               |
| At least 75 aid measures (mainly schemes) subject to <i>ex-post</i> monitoring  |  | Stable                             |
| <b>Planned evaluations:</b> -   |  |                                    |

| Specific objective 12: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking (State aid)  |  | Related to spending programme(s) - |
|--|--|------------------------------------|
| <b>Result indicator 1: Stakeholder consultation on new rules (Eurobarometer 2014)</b><br>Rationale: Benchmark for a key quality parameter related to DG Competition's work<br><b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |                                    |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>               |
| 5.5/7.0 <sup>89</sup>  |  | Stable trend                       |
| <b>Planned evaluations:</b> Eurobarometer DG Competition Stakeholder Survey to be conducted in 2019  |  |                                    |

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

| Specific objective 13: Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level   |  | Related to spending programme(s) - |
|---|--|------------------------------------|
| <b>Result indicator 1: Readiness to engage and contribute with high quality input to other DG's policy projects (Ensuring collegiality)</b><br>Rationale: Benchmark for a key quality parameter related to DG Competition's work<br><b>Source of data:</b> Other DGs' Survey by DG Competition (2014) |  |                                    |
| <b>Baseline (2014)</b>  |  | <b>Target (2019)</b>               |
| 5.0/7.0   |  | Stable trend                       |
| <b>Result indicator 2: Relevance of input to other DGs' policy projects (Ensuring collegiality)</b><br>Rationale: Benchmark for a key quality parameter related to DG Competition's work<br><b>Source of data:</b> Other DGs' Survey by DG Competition (2014)   |  |                                    |
| <b>Baseline (2014)</b>  |  | <b>Target (2019)</b>               |
| 5.2/7.0   |  | Stable trend                       |
| <b>Planned evaluations:</b> Other DGs' Survey by DG Competition (2019)  |  |                                    |

| Specific objective 14: Explaining competition policy and its benefits   |  | Related to spending programme(s) - |
|---|--|------------------------------------|
| <b>Result indicator 1: Percentage of positive replies in surveys conducted among citizens agreeing that effective competition has a positive impact on them as consumers</b><br>Rationale: Indicator to measure citizens' perception of competition and competition policy<br><b>Source of data:</b> Eurobarometer Flash Citizens' Survey |  |                                    |
| <b>Baseline (2015)</b>  |  | <b>Target (2019)</b>               |
| 74% <sup>90</sup>   |  | Increasing trend                   |

<sup>89</sup> 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](http://ec.europa.eu/competition/publications/reports/surveys_en.html),

|  |
|--|
| <b>Planned evaluations:</b> Eurobarometer Flash survey to be conducted in 2019 |
|--|

|   |  |                                     |
|---|--|-------------------------------------|
| <b>Specific objective 15: Promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control internationally</b> |  | Related to spending programme(s): - |
| <b>Result indicator 1: Promotion of competition culture and policy convergence at international level</b>   |  |                                     |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work   |  |                                     |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014)  |  |                                     |
| <b>Baseline (2014)</b>  |  | <b>Target<sup>91</sup> (2019)</b>   |
| 4.9/7.0   |  | Increasing trend                    |
| <b>Planned evaluations:</b> Eurobarometer DG Competition Stakeholder Survey to be conducted in 2019   |  |                                     |

|  |  |   |
|--|--|---|
| <b>Specific objective 16: Ensuring the highest standards in the enforcement of competition policy</b>      |  | Related to spending programme(s): -                               |
| <b>Result indicator 1: Legal soundness of Commission decisions in competition cases</b>                    |  |   |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work                          |  |   |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>  |
|  |  | Senior Management decision to repeat the survey once in a mandate |
| 5.3/7.0 <sup>92</sup>  |  | Stable trend  |
| <b>Result indicator 2: Quality of economic analysis</b>  |  |   |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work                          |  |   |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>  |
|  |  | Senior Management decision to repeat the survey once in a mandate |
| 4.9/7.0 <sup>93</sup>  |  | Increasing trend  |
| <b>Result indicator 3: Market knowledge</b>  |  |   |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work                          |  |   |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>  |
|  |  | Senior Management decision to repeat the survey once in a mandate |
| 5.0/7.0 <sup>94</sup>  |  | Stable trend  |
| <b>Result indicator 4: Impact on the markets</b>   |  |   |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work                          |  |   |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>  |
|  |  | Senior Management decision to repeat the survey once in a mandate |
| 4.8/7.0 <sup>95</sup>  |  | Increasing trend  |
| <b>Result indicator 5: Timeliness of decisions</b>   |  |   |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work                          |  |   |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b>  |
|  |  | Senior Management decision to repeat the survey once in a mandate |
| 4.0/7.0 <sup>96</sup>  |  | Increasing trend  |

<sup>90</sup> Ibid.

<sup>91</sup> Senior Management decision of 1 February 2016: Increasing trend for <5/7 and stable trend ≥ 5/7.

<sup>92</sup> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014), Aggregate Report, p. 12.

<sup>93</sup> Ibid. p. 19.

<sup>94</sup> Ibid. p. 17.

<sup>95</sup> Ibid. p. 42.

|  |  |   |
|--|--|---|
| <b>Result indicator 6: Informing in a timely manner</b>  |  |   |
| Rationale: Benchmark for a key quality parameter related to DG Competition's work                          |  |   |
| <b>Source of data:</b> Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (2014) |  |   |
| <b>Baseline (2014)</b>   |  | <b>Target (2019)</b><br>Senior Management decision to repeat the survey once in a mandate |
| 4.9/7.0 <sup>97</sup>  |  | Increasing trend  |
| <b>Planned evaluations:</b> Eurobarometer DG Competition Stakeholder Survey to be conducted in 2019        |  |   |

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<sup>96</sup> Ibid. p. 37.

<sup>97</sup> Ibid. p. 24.