



Annual Activity Report 2020

DG COMPETITION

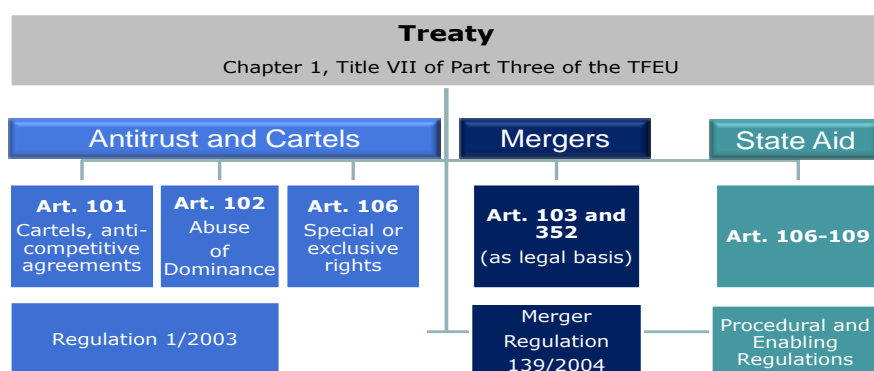
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THE DG IN BRIEF

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, thereby making markets more competitive and resilient, while generating higher productivity and growth.

The Commission is responsible for defining and implementing EU competition policy. The Commission, together with the national competition authorities (NCAs) and with national courts, enforce EU competition rules based on Articles 101-109 of the Treaty on the Functioning of the European Union (TFEU).



Within the Commission, DG Competition is primarily responsible for implementing these direct enforcement powers and performs the following functions to meet these obligations:

- Enforcement of antitrust and cartel policy;
- Merger control;
- State aid control;
- Development of EU competition policy, competition policy instruments and guidance to companies and Member States in all these areas; and
- Promotion of competition culture and international cooperation in the area of competition policy; maintaining and strengthening the Commission's reputation worldwide.

DG Competition carries out its mission mainly by taking **direct enforcement actions**¹ against companies or Member States when it finds evidence of unlawful behaviour – be it anti-competitive agreements between firms, abusive behaviour by dominant companies² or governmental action which leads to a distortion of competition in the internal market by giving some companies undue advantages over others.

¹ 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.

² 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.

EU merger control³ 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, EU competition policy encourages the granting of **better-targeted aid** that addresses market failure or equity objectives.⁴ Such aid has a beneficial impact on competitiveness, employment and growth, and thus on the welfare of the society as a whole.

In the **international context**, DG Competition strives to shape global economic governance by strengthening international cooperation in competition enforcement and making steps towards an increased convergence of competition policy instruments across the world.

Since January 2020, **Director-General Olivier Guersent** heads DG Competition. In 2020, a new **unit 01 Commission Priorities and Strategic Coordination** was created to foster a better integration of competition policy in the mainstream of the Commission's priorities and in view of the extended role of the Executive Vice-President Vestager responsible for competition. Also, **unit H.6 Agriculture and Fisheries** responsible for the development and the application of the State aid rules for the agriculture, forestry and fishery sectors joined DG Competition.

Towards 2020, EU competition policy, and in particular the State aid instrument, played a key role in supporting the Commission priorities in particular "**A European Green Deal**", "**A Europe fit for the digital age**" and "**An economy that works for people**" and supporting exit from the COVID-19 crisis. DG Competition also contributed to the preparations for the first pillar of the Next Generation EU, the **Recovery and Resilience Facility (RRF)**, aimed at facilitating a sustainable and resilient recovery of the EU economy.

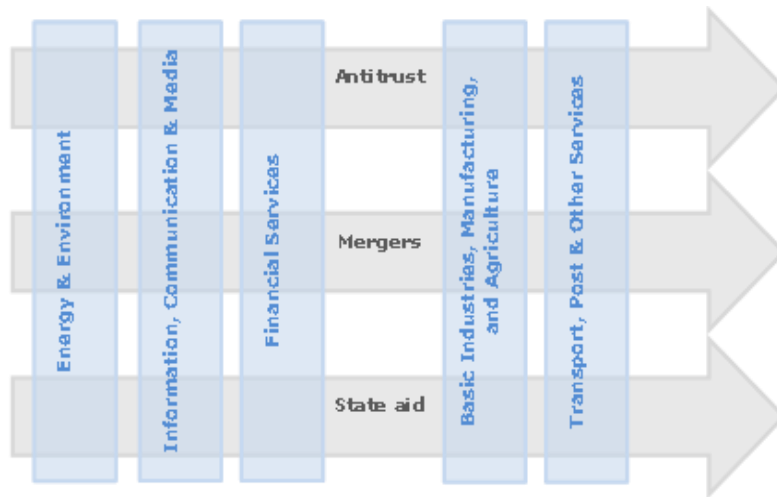
In 2020, approximately 70% of the staff of DG Competition⁵ was engaged in enforcement activities. DG Competition channeled its resources, where not bound by legal obligations, to the **most harmful practices** in the internal market and worked in partnerships with other Commission services to support, in a pro-competitive way, the delivery of key Commission objectives. The financial resources administered by DG Competition in 2020 came from the **administrative budget**.

DG Competition is organised in a **matrix structure** combining enforcements instruments under different sectors (Directorates B-F). This organisation structure is designed to promote instrument and sector knowledge, as well as the flexible and efficient use of human resources.

³ 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.

⁴ 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.

⁵ The staff of DG Competition consisted of 847 members on 31 December 2020.



Directorate A is responsible for policy and strategy of all competition enforcement instruments, as well as of the European Competition Network, private enforcement and international relations. 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. Directorate R is responsible for document management and IT business solutions including enforcement IT support, finance, strategic planning, internal controls, better regulation, and the management of issues related to security, ethics and business continuity. The Chief Economist and his team provide support in terms of economic analysis for individual competition cases and for DG Competition policy developments. The Chief Economist 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.

The enforcement of EU competition policy by DG Competition creates EU added value. In 2020, the total estimated customer savings from the cartel prohibitions and merger interventions by the Commission ranged between EUR 14.0-23.3 billion. The fines imposed by the Commission for infringements of EU competition law amounted to EUR 336 million in 2020. The imposed fines reduce Member States' contributions to the EU budget and act as deterrence for future infringements.

EXECUTIVE SUMMARY

This Annual Activity Report is a management report of the Director-General of DG Competition to the College of Commissioners. Annual Activity Reports are the main instrument of management accountability within the Commission and constitute the basis on which the College takes political responsibility for the decisions it takes as well as for the coordinating, executive and management functions it exercises, as laid down in the Treaties⁶.

A. Key results and progress towards the achievement of the Commission's general objectives and DG-specific objectives

In 2020, EU competition policy, and in particular the State aid instrument, supported the Commission's efforts to respond to the health and economic crisis due to COVID-19 pandemic, stabilising the EU economy. DG Competition contributed to the preparations for the implementation of the first pillar of the Next Generation EU, the Recovery and Resilience Facility (RRF), aimed at facilitating a sustainable and resilient recovery supporting the green and digital transition. In 2020, DG Competition also continued to ensure that competition policy and rules are fit for the modern economy, vigorously enforced and contribute to a strong European industry, both internally and on the global stage.⁷

In State aid control, the Temporary Framework⁸ adopted at the beginning of the crisis set out the conditions the Commission would apply to declare State aid compatible with Article 107(3)(b) TFEU (aid to “remedy a serious disturbance in the economy of a Member State”). In 2020, the Commission adopted 598 COVID-19 related State aid decisions authorising aid to support the economy estimated to EUR 3.08 trillion. In 2020, the Commission engaged with Member States to ensure that investment and reform projects supported by the RRF are compatible with State aid rules.

In antitrust, the Commission provided guidance to market participants in a Communication setting out the main criteria it uses when assessing cooperation projects aimed at addressing supply shortages of products and services essential during the COVID-19 outbreak, such as medicines and medical equipment. This Communication also introduced a new and temporary tool of ad hoc comfort letters allowing the Commission to provide adequate certainty to individual cooperation projects.

In merger control, the Commission was able to continue its activities without any major delay, while fully respecting legal obligations and deadlines. To ensure business continuity, the Commission has allowed merging parties to notify transactions electronically, followed by paper copies later on. In 2020, the Commission adopted 352 merger decisions and

⁶ Article 17(1) of the Treaty on European Union.

⁷ Mission letter to Executive Vice-President Vestager, responsible for the competition portfolio, 1.12.2019. See: https://ec.europa.eu/commission/commissioners/sites/comm-cwt2019/files/commissioner_mission_letters/mission-letter-margrethe-vestager_2019_en.pdf.

⁸ Communication from the Commission Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak C 91 I/01 C/2020/1863, OJ C 91I, 20.3.2020, p. 1–9.

intervened in 18 cases. The simplified procedure was used in 76% of all notified transactions in 2020.

Competition policy contribution to A European Green Deal

To understand better how [competition rules](#) and [sustainability policies](#) work together, DG Competition launched a call for contributions⁹ from stakeholders. The views and proposals from stakeholders fed into a conference held on 4 February 2021.

The [State aid](#) rules are a vital part of the green transition. In 2020, the Commission published the [Commission Staff Working Document](#) summarising the results of the Fitness Check of the State aid rules adopted as part of the [State Aid Modernisation](#) package.¹⁰ The Fitness Check concludes that, overall, the State aid control system and rules are fit for purpose. However, individual rules will need some adaptation including clarification, further streamlining and simplification, as well as adjustments to reflect a series of recent legislative developments.

The revised [Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2020](#) (ETS Guidelines) entered into force on 1 January 2021.

In 2020, the Commission approved a scheme to support electricity production from renewable sources in Ireland, the Renewable Electricity Support Scheme (ESS), a scheme to support projects reducing greenhouse gas emissions in the Netherlands (SDE++), aid facilitating the early closure of the coal power plant Hemweg in the Netherlands and aid supporting district heating based exclusively on renewable energy sources in Romania. Throughout 2020 discussions took place between 12 Member States and the Commission for a second Important Project of Common European Interest (IPCEI) on the battery value chain. The project was authorised in January 2021.

In [antitrust](#), the Commission sent a Statement of Objections to České dráhy, the incumbent railway operator in Czechia and continued its investigation against BMW, Daimler and VW (Volkswagen, Audi, and Porsche) for a cartel in emission cleaning technology.

Competition policy contribution to A Europe fit for the digital age

The Commission continued its [comprehensive review of the competition rules](#) to ensure they are fit for the changing market environment, including the accelerating digitalisation

⁹ Competition Policy supporting the Green Deal – Call for contributions, Commission memorandum of 13 October 2020. See: https://ec.europa.eu/competition/information/green_deal/call_for_contributions_en.pdf.

¹⁰ The Fitness check covered the following rules, which were adopted as part of the State Aid Modernisation: General Block Exemption Regulation (GBER); De minimis Regulation; Guidelines on regional State aid; Framework for State aid for research and development and innovation (RDI); Communication on important projects of common European interest (IPCEI); Guidelines on State aid to promote risk finance investments; Guidelines on State aid to airports and airlines; Guidelines on State aid for environmental protection and energy; Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. In addition, it also covered the Railways Guidelines from 2008 and the Short term export credit Communication from 2012. Those rules were not revised as part of the State Aid Modernisation, but an evaluation was relevant in the light of developments in EU law and the Commission's case practice.

of the economy.

In [antitrust](#), the Commission adopted a proposal for a [Digital Markets Act](#)¹¹ to address structural competition problems in the digital sector. As part of the digital package, the Commission also tabled a proposal for a [Digital Services Act](#).¹² The Commission also launched an antitrust inquiry into the sector of [Internet of Things](#). The Commission made legally binding a number of commitments offered by *Broadcom* which would remove competition concerns (agreements containing exclusivity-inducing provisions). The Commission also fined *NBCUniversal* for including anti-competitive clauses in licensing agreements. Moreover, the Commission fined *Orbia*, *Clariant* and *Celanese* (buying cartel for ethylene), *Brose* and *Kiekert* (car parts cartel), and *Teva* and *Cephalon* (pay-for-delay agreement for pharmaceuticals).

In [merger control](#), the Commission progressed to the final stages of its evaluation of selected procedural and jurisdictional aspects of EU merger control with the aim to publish the results in 2021. The Commission approved, subject to divestment commitments, the proposed acquisition of *Covage* by *SFR FTTH*, major fibre network operators in France. The Commission conditionally approved the acquisition of *Fitbit* by *Google*. Fitbit provides smartwatches and fitness trackers.

In [State aid control](#), the Commission launched a public consultation on the existing EU State aid rules on public support for the deployment of [broadband networks to support its evaluation of these rules](#). The Commission further approved a voucher scheme to help low-income families in Italy access high-speed broadband services, a voucher scheme to help students in Greece access broadband services and benefit from remote online learning, and a German scheme to support the deployment of very high capacity broadband networks in Germany.

Promoting a competition culture and international cooperation in the area of competition policy

To develop tools and policies to better tackle the distortive effects of foreign subsidies in the internal market, the Commission adopted a [White Paper on levelling the playing field as regards foreign subsidies](#).¹³ An impact assessment is currently being prepared.

In [bilateral relations](#), the EU concluded the EU-UK Trade and Cooperation Agreement (TCA) in December 2020. The agreement includes comprehensive competition and subsidies chapters ensuring that competition between the EU and the United Kingdom is not distorted. The EU and China concluded in principle the negotiations for a Comprehensive Agreement on Investment, including disciplines for state owned enterprises, transparency of subsidies and rules against the forced transfer of technologies. The Commission continued FTA negotiations with Australia, Azerbaijan, Chile, Indonesia, New Zealand and Uzbekistan.

¹¹ Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act), COM (2020) 842 final, 15.12.2020.

¹² Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, COM(2020) 825 final, 15.12.2020.

¹³ White Paper on levelling the playing field as regards foreign subsidies, COM(2020) 253 final, 17.06.2020.

In [multilateral relations](#), the EU, the US and Japan agreed in a common statement – in the context of the WTO – to strengthen the existing rules on industrial subsidies. The Commission continued its active engagement in competition-related international fora such as the OECD Competition Committee, the International Competition Network (ICN), the World Bank, and UNCTAD.

For its [external communication](#), DG Competition uses mass media to reach a variety of audiences; this is achieved principally via the Executive Vice-President's press conferences, press releases and speeches, as well as social media. DG Competition produced 952 press releases related to competition cases in 2020. During 2020, Executive Vice-President Vestager delivered around 35 speeches to a variety of audiences. In 2020, DG Competition sent 1,056 tweets achieving more than 4.3 million impressions (that is to say the number of times a tweet appears in someone's feed).

Competition policy contribution to An economy that works for people

In 2020, the competition policy contributed to supporting this Commission headline ambition by promoting a pro-competition, level playing field and digital narrative in actions aimed at implementing the [Recovery package](#) in the context of the European Semester, the Capital Markets Union, the Banking Union, and effective taxation. The Commission also continued its assessment of the application of the [Interchange Fee Regulation \(IFR\)](#),¹⁴ and published a [Report to the European Parliament and the Council on the application of the IFR in 29 June 2020](#)¹⁵. The Commission collected additional views from stakeholders and national competent authorities during a public hearing on the IFR on 7 December 2020.

In [State aid](#), there were no new individual cases concerning [financial institutions](#). However, the Commission authorised a number of existing schemes supporting restructuring or market exit for very small banks and credit unions. The Commission approved such schemes in Poland, Italy and Ireland. The Commission also approved liquidity support schemes for viable banks with temporary liquidity issues, should the need arise in a concrete case in Greece and Italy. The Commission also approved funding for investment development banks in the Netherlands, France, the Czech Republic, Portugal and the United Kingdom. Finally, the Commission approved risk finance schemes in France and Germany.

The fight against [tax evasion and tax avoidance](#) continued. The Commission continued the investigation of its pending cases on alleged aid granted by the Netherlands to Inter IKEA, Starbucks and Nike, on alleged aid granted by Luxembourg to Huhtamäki and on alleged aid granted by Belgium to 39 individual aid beneficiaries of the Belgian excess profit scheme.

¹⁴ Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions, OJ L 123, 19.5.2015, pp. 1–15.

¹⁵ Report on the application of Regulation (EU) 2015/751 on interchange fees for card-based payment transactions of 29.6.2020, SWD (2020), 118 final.

B. Key Performance Indicators (KPIs)

The following key performance indicators measure the results of the main competition policy instruments: antitrust, 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 result indicators of the activities also contributing to the Commission priorities supporting the green and digital transition of the EU economy and the recovery from the COVID-19 pandemic:

- 1) Estimate of customer benefits resulting from cartel prohibition decisions;
- 2) Estimate of customer benefits resulting from merger interventions;
- 3) Total State aid expenditure for environmental protection, renewables and energy savings as a percentage of total State aid in the EU;
- 4) Total State aid expenditure for broadband as a percentage of total State aid in the EU;
- 5) Total State aid expenditure falling under the General Block Exemption Regulation as a percentage of total State aid in the EU.

KPI 1 and KPI 2

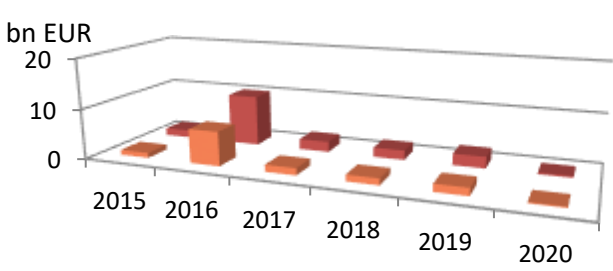
Each year, DG Competition publishes the number of the adopted enforcement decisions by the Commission adopted (or intervention rate) to indicate the level of activity and output for the preceding year. DG Competition also provides two estimates of the benefits to customers resulting from the Commission's cartel prohibition decisions (KPI 1) and from merger interventions (KPI 2). However, such estimates underestimate the overall impact of cartel and merger decisions, as they do not capture the deterrence and non-price effects of such decisions or other effects of competition policy.¹⁶

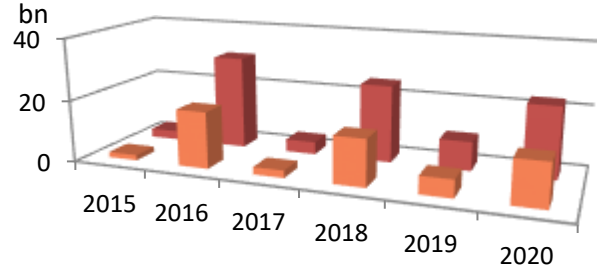
In 2020, the total estimated customer savings from cartel prohibitions and merger interventions varied between EUR 14.0 and 23.3 billion. The customer savings from cartel prohibitions were somewhat lower than in the two preceding years. The customer savings from cartel decisions (KPI 1) varied between EUR 0.2-0.3 billion¹⁷, depending on the

¹⁶ Since 2012, DG Competition systematically calculates the direct benefits of its competition policy interventions using the estimated customer benefits approach. For the methodology, see footnotes below. See also *OECD Guide helping competition authorities assess the expected impact of their activities* (April 2014) <http://www.oecd.org/daf/competition/Guide-competition-impact-assessmentEN.pdf>.

¹⁷ DG Competition calculation. The approach followed to estimate customer benefits from stopping a cartel (prevented harm) consists in multiplying (i) the assumed increased price brought about by the cartel in the past (called the "overcharge") by (ii) the value of sales by cartel members in the market directly affected by the cartel and (iii) 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 focused on the particular circumstances of each case as reflected in indicators of cartel stability, including the number of cartel participants, their market shares, the characteristics of the product concerned, the level of market entry barriers and other market conditions. 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. In the above graph, the lower boundary of the estimate is marked in blue and the higher boundary in red.

assumption made about the level of the avoided price overcharge. Total customer savings resulting from the 18 merger interventions by the Commission (KPI 2) varied between EUR 13.8-23.0 billion¹⁸, depending on the assumption made on the level of price increase avoided.

Impact indicator	Trend	Target (or milestones)	Latest known results					
KPI 1 The estimate of customer benefits resulting from cartel prohibition decisions	Stable (in line with markets affected)	Stable	EUR 0.2-0.3 bn (2020)					
								
		bn EUR	2015	2016	2017	2018	2019	2020
		Cartel	1.0-1.5	6.8-10.2	1.4-2.1	1.3-1.9	1.5-2.3	0.2-0.3

Impact indicator	Trend	Target (or milestones)	Latest known results					
KPI 2 The estimate of customer benefits resulting from merger interventions	Stable (in line with markets affected)	Stable	EUR 13.8-23.0 bn (2020)					
								
		bn EUR	2015	2016	2017	2018	2019	2020
		Merger	1.7-2.9	18.3-30.4	2.4-4.1	15.0-25.0	5.7-9.4	13.8-23.0

KPI 3

The key performance indicator for the contribution of competition policy towards the green transition supporting also the recovery from the crisis is measured by total State aid expenditure for environmental protection, renewables and energy savings as a percentage

Finally, the estimates obtained are conservative because other customer benefits, such as innovation, quality and choice are not taken into account.

¹⁸ DG Competition calculation. The approach followed to estimate customer benefits from Commission's interventions (a merger prohibition, a merger approval subject to conditions or a withdrawal of a merger notification in Phase II due to the intervention by the Commission) takes into account (i) the likely price increase avoided (3% and 5 % for the lower and upper boundary of the estimated customer benefits, respectively); (ii) the total size (by value) of the product market affected and (iii) the expected duration of the price increase avoided. This duration reflects the expected length of time that the affected product market would have taken to self-correct either by the arrival of a new entrant or by the expansion of existing competitors. In the graph above, the lower boundary of the estimate is marked in blue and the upper boundary in red. The prevention of anticompetitive effects such as the negative impact of the proposed merger on innovation and choice are not taken into account. The stable target is a planning assumption. Since the merger control activity is driven by notifications, it is not meaningful to provide a numerical target for this indicator.

of total State aid in the EU. According to latest information, this amounted to 51.2% (2019), a slight decrease from 2018 (55.9%).

KPI 4

The key performance indicator for the contribution of competition policy towards the digital transition supporting also the recovery from the crisis is measured by the total State aid expenditure for broadband as a percentage of total State aid in the EU. According to latest information, this amounted to 1.5% (2019), a slight increase from 2018 (1.2%).

KPI 5

The key performance indicator for the contribution of competition policy towards the objectives of the economy that works for people supporting also the recovery from the crisis is measured by the total State aid expenditure falling under the General Block Exemption Regulation as a percentage of total State aid in the EU. According to latest information, this amounted to 38.3% (2019), a slight increase from 2018 (36.8%).

C. Key conclusions on Financial management and Internal control (executive summary of section 2.1)

In accordance with the governance arrangements of the European Commission, the staff of DG Competition conducts its operations in compliance with the applicable laws and regulations, working in an open and transparent manner and meeting the expected high level of professional and ethical standards.

To ensure the achievement of policy and management objectives, the Commission has adopted a set of internal control principles, based on international good practice. The financial regulation requires that the organisational structure and the internal control systems used to implement the budget be set up in accordance with these principles. DG monitors its performance and effectiveness of its internal controls using a set of Internal Control Monitoring Criteria and indicators (35 in 2020).

An example of the internal control indicator:

% of concerned colleagues invited to entrance, career development and exit interviews

It serves for the purpose of monitoring and assessment of the existence and functioning of the Internal Control Principle 4:

The Commission demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.

DG Competition has assessed its internal control systems and has concluded that it is effective and the components and principles are present and functioning well overall, but some improvements are needed as minor deficiencies were identified related to the control environment, risk assessment, control activities, and information and communication. Please refer to AAR section 2.1.3 for further details. In addition, DG Competition has examined the observations and recommendations issued by the internal auditor and the European Court of Auditors. These elements have been assessed to determine their impact on management's assurance about the achievement of the control objectives. Please refer to Section 2.1 for further details.

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

D. Provision of information to the Commissioner

In the context of the regular meetings during the year between the DG and the Commissioner on management matters, the main elements of this report and assurance declaration, have been brought to the attention of Commissioner Executive Vice-President Margrethe Vestager, responsible for Competition.

E. Specific actions on COVID-19

In 2020, Europe was strongly impacted by the COVID-19 pandemic. The Commission has proposed a strong and coordinated response to the health crisis as well as to the impact on Europe's economy and society. COVID-19 has also posed challenges as regards performance, control, audit and assurance in relation to the 2020 EU budget. In an exercise coordinated at corporate level, all Commission services have promoted the consistent and rigorous protection of the EU budget ensuring that appropriate mitigating measures were put in place.

The [Temporary Framework](#) adopted at the beginning of the crisis by the Commission set out the conditions the Commission would apply to declare [State aid](#) compatible with Article 107(3)(b) TFEU (aid to "*remedy a serious disturbance in the economy of a Member State*"). In 2020, the Commission adopted 598 COVID-19 related State aid decisions and approved an estimated EUR 3.08 trillion in aid to stabilise the economy.¹⁹

In the area of [antitrust](#), the Commission provided guidance to market participants in a Communication setting out the main criteria it uses when assessing cooperation projects aimed at addressing supply shortages of products and services considered essential during the COVID-19 outbreak, such as medicines and medical equipment. This Communication also introduced a new and temporary tool of ad hoc comfort letters allowing the Commission to provide adequate certainty to individual cooperation projects. On 8 April 2020, the Commission issued a comfort letter to the European association of generic pharmaceutical manufacturers "Medicines for Europe".

In addition, the European Competition Network (ECN) issued a [joint statement](#)²⁰ [on the application of the antitrust rules during the Covid-19 crisis](#) and cooperated closely on Covid-19 related competition issues.

¹⁹ The amount includes State aid measures adopted under the Temporary Framework, all COVID-19 related State aid approved under other sets of State aid rules and adjusted amounts included in subsequent amendment decisions.

²⁰ Joint statement by the European Competition Network (ECN) on application of competition law during the Corona crisis. See: https://www.acceptance.ec.europa.eu/competition/ecn/202003_joint-statement_ecn_corona-crisis.pdf

In [merger control](#), the Commission was able to continue its activities without significant delays, while fully respecting legal obligations and deadlines. To ensure business continuity, the Commission provided guidance to market participants and has allowed merging parties to notify transactions electronically, followed by paper copies later on.

Considering the exceptional circumstances, DG Competition put in place procedures to ensure sound financial management and the continuity of financial transactions. The risk connected to DG Competition's transactions is low and the impact on the accounts of the Commission, should there be a mistake, is immaterial.

1. Key results and progress towards the achievement of the Commission's general objectives and DG's specific objectives

Throughout the first year of the von der Leyen Commission, EU competition policy contributed to the Commission's efforts to respond to and overcome the health and economic crisis and facilitate the path to recovery through the green and digital transitions of the EU economy. DG Competition continued to ensure that competition policy and rules are fit for the modern economy, vigorously enforced and contribute to a strong European industry, both internally and on the global stage.

General objective 1: A European Green Deal

EU competition policy is well placed to contribute to the EU's environmental objectives and climate targets. All instruments of EU competition policy – antitrust, merger control and State aid – contribute to the European Green Deal and the plan for a future-ready economy and a climate-neutral EU by 2050.

To understand better how competition rules and sustainability policies work together, DG Competition launched [a call for contributions](#)²¹ from stakeholders, industry, environmental groups, consumer organisations and competition experts. The views and proposals from stakeholders fed into [a conference](#) held on 4 February 2021.

Updating rules and policy guidance in support of the European Green Deal

The State aid policy is a vital part of the green transition. In this area, [the Guidelines on State aid for environmental protection and energy \(EEAG\)](#) enable Member States to support projects for environmental protection (including sustainable energy and measures for climate protection, like decarbonisation measures) and energy generation adequacy in a cost-effective and non-distortive manner. The current rules have been prolonged until end-2021, evaluated as part of the State aid Fitness Check, and will be revised before end-

²¹ Competition Policy supporting the Green Deal, Commission call for contributions of 13.10.2020.

2021.²² The two main building blocks for the review are the compatibility criteria for environmental protection, as well as an assessment of State aid to energy intensive users.

As part of the Fitness check, the [General Block Exemption Regulation \(GBER\)](#)²³ was also assessed in 2020 to bring it in line with the European Green Deal. The GBER was prolonged until end 2023 and will also be revised by end-2021.

Strengthening competition enforcement in support of the European Green Deal

State aid control

In 2020, the Commission continued to assess State aid by the Member States promoting the deployment of renewables, improving energy efficiency, supporting the rollout of zero/low emission mobility infrastructure, stimulating demand for zero/low emission vehicles for public and private transport, and reducing CO₂ and other emissions (including decarbonisation measures) or improving circularity. In addition, the Commission assessed capacity mechanisms ensuring adequate energy supply, closure aid for coal-fired power plants and State aid in agriculture, forestry and fisheries.

The Commission approved a scheme to support electricity production from renewable sources in Ireland, the Renewable Electricity Support Scheme (RESS)²⁴, aid facilitating the early closure of the coal power plant Hemweg in the Netherlands²⁵ and aid supporting district heating based exclusively on renewable energy sources.²⁶ The Commission also approved a EUR 30 billion Dutch scheme to support projects reducing greenhouse gas emissions in the Netherlands.²⁷ The scheme (Stimulerend Duurzame Energieproductie, “SDE++”) will contribute to the EU environmental objectives without unduly distorting competition. The scheme will be open to projects based on renewable electricity, gas and heat, the use of industrial waste heat and heat pumps, the electrification of industrial heat processes and electrification of hydrogen production, and carbon capture and storage for industrial processes, including hydrogen production and waste incineration.

Throughout 2020 discussions took place between 12 Member States and the Commission for a second Important Project of Common European Interest (IPCEI) on the battery value chain. The project, called European Battery Innovation, will support research and innovation for e-mobility and energy storage. The 12 Member States will provide up to EUR 2.9 billion in funding in the coming years. The public funding is expected to unlock an additional EUR 9

²² In its Communications on the “European Green Deal” and on the “Sustainable Europe Investment Plan”/“European Green Deal Investment Plan”, the Commission committed to revise the EEAG by 2021 to support a cost-effective transition of the economy and industry to climate neutrality by 2050.

²³ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

²⁴ Case SA.54683 Irish RES electricity support, Commission decision of 20.7.2020.

²⁵ Case SA.54537 – Netherlands – Prohibition of coal for the production of electricity in the Netherlands, Commission decision of 12.5.2020.

²⁶ Case SA.55433 Romania– RES District heating projects, Commission decision of 6.11.2020.

²⁷ Case SA.53525 – the Netherlands – SDE++ scheme for greenhouse gas reduction projects, including renewable energy, Commission decision of 14.12.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_53525.

billion in private investments. The project is consistent with the Commission's policies to shift from the use of environmentally harmful fossil fuels to alternative fuel technologies. In January 2021 the Commission adopted a decision authorising the IPCEI.²⁸

Antitrust enforcement

Antitrust enforcement can target not only company behaviour potentially aimed at restricting competition in the development of clean technologies but also deter conduct aimed at foreclosing access to essential infrastructures or to the free flow of resources that are necessary for the circular economy and the objectives of the Green Deal.

In 2020, the Commission sent a Statement of Objections to České dráhy, the incumbent railway operator in Czechia. The company is suspected of predatory pricing on the Prague-Ostrava passenger railway route, the backbone of the Czech rail network. The Commission continued its investigation against BMW, Daimler and VW (Volkswagen, Audi, and Porsche) for a cartel in emission cleaning technology²⁹.

Merger enforcement

In its merger assessments, the Commission pays attention to protecting competition for the benefit of customers, be they businesses or consumers, and preserving incentives to innovate. In the context of the European Green Deal, it is particularly important not to reduce the incentives to innovate in areas such as renewables, infrastructure essential for recycling, energy transportation and e-mobility and other aspects of the circular economy.

Supporting major initiatives and objectives forming part of the European Green Deal

Throughout 2020 discussions took place between 12 Member States and the Commission for a second Important Project of Common European Interest (IPCEI) on the battery value chain. In December 2020, Austria, Belgium, Croatia, Finland, France, Germany, Greece, Italy, Poland, Slovakia, Spain and Sweden jointly notified the second IPCEI on batteries for e-mobility and energy storage. The project, called [European Battery Innovation](#), approved by the Commission in January 2021, supports research and innovation in the battery value chain. In addition, the Commission continued to support several IPCEIs in development. One such project concerns public support for large cross-border integrated projects for hydrogen and fuels derived from hydrogen. The project would encourage the scaling up of new technologies for producing clean hydrogen as well as the development of transportation

²⁸ State aid: Commission approves EUR 2.9 billion public support by twelve Member States for a second pan-European research and innovation project along the entire battery value chain, Commission press release of 26.1.2021. The non-confidential versions of the decisions will be made available under the case numbers SA.55855 (Austria), SA.55840 (Belgium), SA.55844 (Croatia), SA.55846 (Finland), SA.55858 (France), SA.55831 (Germany), SA.56665 (Greece), SA.55813 (Italy), SA.55859 (Poland), SA.55819 (Slovakia), SA.55896 (Spain), and SA.55854 (Sweden).

²⁹ Case AT.40178, Car emissions, Statement of Objections of the Commission of 5 April 2019, https://ec.europa.eu/commission/presscorner/detail/en/IP_19_2008.

and transmission infrastructure. This IPCEI would be in line with the Commission's [Hydrogen strategy](#) for a climate-neutral Europe.³⁰

DG Competition also promoted pro-competitive rules and outcomes for example under the Climate Law³¹, the EU Emissions Trading System, the Circular Economy Action Plan,³² the Just Transition Fund³³, the Farm to Fork Strategy³⁴ and the Strategy for sustainable and smart mobility.³⁵

General objective 2: A Europe fit for the digital age

In competitive markets firms must innovate and become more efficient to prosper. This applies in particular to innovation-driven and fast-moving digital markets. Effective enforcement of the EU competition rules and regulatory reforms, even in COVID-19 pandemic, are of vital importance in the digital transformation of the EU economy contributing to a resilient recovery in the EU. By enforcing the EU competition rules, the Commission continued in 2020 to tear down remaining barriers to the single market.

Updating rules and policy guidance in support of A Europe fit for the digital age, including tackling systemic competition in the platform economy and beyond

In 2020, the Commission continued its [comprehensive review of the EU competition rules](#) to ensure they are fit for the changing market environment, including the accelerating digitalisation of the economy. This review follows the input provided by the three independent Special Advisers on digitisation and competition law (Report of April 2019).³⁶

Review of antitrust rules and guidance

As a centerpiece of the [European digital strategy](#)³⁷, presented by the Commission in February 2020, the Commission put forward two Digital Acts aimed at creating a safer digital space for all users where their fundamental rights are protected, as well as a level playing field to allow innovative digital businesses to grow within the Single Market and compete globally. The Commission adopted a proposal for a Regulation for a [Digital Markets Act \(DMA\)](#)³⁸ in addition to a Digital Services Act (DSA)³⁹, with a view to addressing

³⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A hydrogen strategy for a climate-neutral Europe, COM(2020) 301 final, 8.7.2020.

³¹ Proposal for a Regulation of the European Parliament and of the Council establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law) of 4 March 2020.

³² Commission Communication A New Circular Economy Action Plan for a cleaner and more competitive Europe COM(2020) 98 final 11.03.2020.

³³ Proposal for a Regulation of the European Parliament and of the Council establishing the Just Transition Fund, 14.1.2020 (COM 2020) 22 final.

³⁴ Communication from the Commission A Farm to Fork Strategy for a fair, healthy and environmentally friendly food system COM(2020) 381 final, 20.05.2020.

³⁵ Communication from the Commission Strategy for sustainable and smart mobility COM(2020) 789 final 09.12.2020.

³⁶ "Competition Policy in the Digital Era", 2019:
See: <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>.

³⁷ Shaping Europe's Digital Future, Commission publication of 19.2.2020, ISBN 978-92-76-16362-6.

³⁸ Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act) COM(2020) 842 final 15.12.2020.

more effectively the problems arising in digital markets, such as the gatekeeper power of large digital platforms. Both Commission proposals are subject to the ordinary legislative procedure and will be discussed in Parliament and Council during 2021 with a view to reaching an agreement on the final texts as swiftly as possible, mobilising important resources.

In 2020, the Commission concluded its evaluation⁴⁰ of the Vertical Block Exemption Regulation (“VBER”)⁴¹ and the Vertical Guidelines.⁴² The Commission continued its evaluation of the Research & Development Block Exemption Regulation (R&D BER)⁴³ and the Specialisation Block Exemption Regulation (Specialisation BER)⁴⁴, together referred to as the Horizontal block exemption regulations (HBER). Validity of Consortia Block Exemption Regulation (exemption from Article 101 TFEU for certain types of cooperation agreements among shipping operators) was prolonged on 24 March 2020 for another 4 years.⁴⁵

In 2020, the Commission initiated an evaluation of the [Market Definition Notice](#).⁴⁶ The Notice provides guidance on the principles and best practices of how the Commission applies the concept of relevant product and geographic market in its enforcement of EU competition law. The objective of the evaluation is to assess to what extent the Notice is still fit for purpose, notably in light of recent market developments across different sectors, including digital markets.

In June 2020, the Commission launched the initiative to ensure that EU competition law is not standing in the way of [collective bargaining](#) agreements for the solo self-employed who face an imbalance of power towards companies, both in the digital economy and beyond.

³⁹ Proposal for a Regulation of the European Parliament and of the Council a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC COM(2020) 825 final 15.12.2020.

⁴⁰ Commission Staff Working Document – Evaluation of the Vertical Block Exemption Regulation, SWD(2020) 173 final, 8.9.2020.

⁴¹ Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices, OJ L 102, 23.4.2010, p. 1–7.

⁴² Guidelines on Vertical Restraints, OJ C 130, 19.5.2010, p. 1–46.

⁴³ Commission Regulation (EU) No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements, OJ L 335, 18.12.2010, p. 36–42.

⁴⁴ Commission Regulation (EU) No 1218/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements, OJ L 335, 18.12.2010, p. 43–47.

⁴⁵ Commission Regulation (EU) 2020/436 of 24 March 2020 amending Regulation (EC) No 906/2009 as regards its period of application, OJ L 90, 25.3.2020, p. 1–2.

⁴⁶ Commission Notice on the definition of relevant market for the purposes of Community competition law, OJ C 372, 9.12.1997, p. 5.

Review of EU merger control rules and guidance

In 2020, the Commission work advanced on the [evaluation of selected procedural and jurisdictional aspects of EU merger control](#). The publication of a Staff Working Document summarising its main findings will be in spring 2021, instead 2020.⁴⁷

Review of State aid control rules and guidance

The Commission published the Commission Staff Working Document summarising the results of the [Fitness Check](#) of the State aid rules adopted as part of the State Aid Modernisation package.⁴⁸ The Fitness Check concludes that, overall, the State aid control system and rules are fit for purpose. However, individual rules will need some adaptation including clarification, further streamlining and simplification, as well as adjustments to reflect a series of recent legislative developments. To allow sufficient time to incorporate changes, the Commission has prolonged⁴⁹ the validity of those State aid rules, which would have expired at the end of 2020.

The revised [ETS Guidelines](#) were adopted in 2020 and entered into force on 1 January 2021 with the start of the new ETS trading period.⁵⁰ The Commission launched a public consultation in view of planned revision of the [Guidelines on State aid for environmental protection and energy](#).⁵¹ Moreover, the Commission finalised the evaluation of the 2014 Communication on Important Projects of Common European Interest (IPCEI)⁵² and of the 2014 [Risk Finance Guidelines](#).⁵³ In the context of the evaluation of the EU State aid rules on

⁴⁷ The evaluation focusses on four topics, namely (i) possible further simplification of EU merger control, (ii) the functioning of the jurisdictional thresholds, (iii) the functioning of the referral system, and (iv) specific technical aspects of the procedural and investigative framework for the assessment of mergers.

⁴⁸ The Fitness check covered the following rules, which were adopted as part of the State Aid Modernisation: General Block Exemption Regulation (GBER); De minimis Regulation; Guidelines on regional State aid; Framework for State aid for research and development and innovation (RDI); Communication on important projects of common European interest (IPCEI); Guidelines on State aid to promote risk finance investments; Guidelines on State aid to airports and airlines; Guidelines on State aid for environmental protection and energy; Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. In addition, it also covered the Railways Guidelines from 2008 and the Short-term export credit Communication from 2012. Those rules were not revised as part of the State Aid Modernisation, but an evaluation was relevant in the light of developments in EU law and the Commission's case practice.

⁴⁹ On 30 October 2020, the Commission decided to prolong the validity of the following State aid rules, which are due to expire by the end of 2020. Prolongation by one year (until end 2021): Guidelines on regional State aid for 2014-2020; Guidelines on State aid to promote risk finance investments; Guidelines on State aid for environmental protection and energy; Communication on the execution of important projects of common European interest (IPCEI); Communication on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (STEC). Prolongation by three years (until end 2023): General Block Exemption Regulation (GBER); De minimis Regulation; Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.

⁵⁰ Communication from the Commission - Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 202, SEC(2020) 320 final, SWD(2020) 190 final, SWD(2020) 191 final, SWD(2020) 192 final, SWD(2020) 193 final, SWD(2020) 194 final, SWD(2020) 195 final, 21.9.2020.

⁵¹ Commission statement inviting comments on revision of Guidelines on State aid for environmental protection and energy, Commission statement of 12.11.2020.

⁵² Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest OJ C 188, 20.6.2014, p. 4–12.

⁵³ Communication from the Commission — Guidelines on State aid to promote risk finance investments, OJ C 19, 22.1.2014, p. 4–34

public support for the deployment of **broadband networks**, the Commission also launched a public consultation inviting Member States and other stakeholders to provide their views and comments.⁵⁴ The Commission continued its evaluation of the package for Services of General Economic Interest (SGEI) adopted in 2012.⁵⁵

In 2020, the Commission continued its review of the agricultural and fisheries State aid rules. The review comprises the Agricultural Block Exemption Regulation (ABER)⁵⁶, the State aid Guidelines for agriculture, forestry and rural areas⁵⁷, the Fisheries Block Exemption Regulation (FIBER)⁵⁸, the Regulation on de minimis aid in the fishery and aquaculture sector⁵⁹ and the State aid Guidelines for fishery and aquaculture⁶⁰. Those instruments were prolonged in 2020, will expire now at the end of 2022 and are currently under evaluation.

Strengthening competition enforcement in support of a Europe fit for the digital age

Antitrust enforcement

In 2020, the Commission continued to pursue a rigorous cartel and antitrust enforcement policy in all sectors, including digital ones. The Commission continued to develop **digital investigation methodologies** to detect and prosecute competition infringements and strengthen its cooperation with other national competition authorities. The Commission followed market developments to detect companies infringing the competition rules by taking advantage of the health crisis.

The Commission launched an **antitrust inquiry into the sector of Internet of Things (IoT)**⁶¹ for consumer-related products and services in the EU. The sector inquiry focuses on products and services related to digital voice assistants, smart home devices and wearables, the use of which is steadily growing in the EU. The sector will contribute to the Commission's enforcement of competition law in the area of IoT. The Commission intends to publish a preliminary report in the spring of 2021.

⁵⁴ Public consultations - Evaluation of State aid rules for broadband infrastructure deployment. See: https://ec.europa.eu/competition/consultations/2020_broadband/index_en.html

⁵⁵ Evaluation of State aid rules for health and social services of general economic interest (SGEI) and of the SGEI de minimis Regulation. See: https://ec.europa.eu/competition/state_aid/legislation/evaluation_sgei_en.html.

⁵⁶ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, 2014).

⁵⁷ Commission Communication – European Union guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 – 2020 (OJ C 204, 1.7.2014, p. 1).

⁵⁸ Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37).

⁵⁹ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

⁶⁰ Commission Communication — Guidelines for the examination of State aid to the fishery and aquaculture sector (OJ C 217, 2.7.2015, p. 1).

⁶¹ Antitrust: Commission launches sector inquiry into the consumer Internet of Things (IoT), Commission press release 16.7.2020.

The Commission continued to investigate potential anti-competitive agreements and practices in the e-commerce sector and followed up on competition concerns about "dual-role" platforms. This included the on-going investigation to assess whether *Amazon's* use of sensitive data from independent retailers who sell on its marketplace is in breach of EU competition rules,⁶² the investigations into *Apple's* App Store rules, cases in relation to the way that Facebook and Google obtain and use data in their products and a case relating to Facebook Marketplace.

In the financial sector, the Commission continued its antitrust investigation into Apple Pay. The investigation concerns *Apple's* terms and conditions for integrating Apple Pay in merchant apps and websites, *Apple's* limitation of access to the Near Field Communication (NFC) functionality on iPhones for payments in stores, and alleged refusals of access to Apple Pay.

The Commission made legally binding a number of commitments offered by *Broadcom*, which would remove competition concerns identified by the Commission.⁶³ The Commission imposed in 2019 interim measures on *Broadcom*, the world's leading supplier of chipsets used for TV set-top boxes and modems. The Commission suspected that *Broadcom* abused its dominant position in the markets of systems-on-chip (SoCs) for (i) TV set-top boxes, (ii) fibre modems, and (iii) xDSL modems by entering into agreements with manufacturers of TV set-top boxes and modems that contained exclusivity-inducing provisions.

The Commission fined several companies belonging to Comcast Corporation, including *NBCUniversal*, EUR 14.3 million for breaching EU antitrust rules.⁶⁴ *NBCUniversal* included clauses in licensing agreements for film merchandise prohibiting licensees from selling online, selling outside specific territories or beyond specific customers. These clauses partitioned the single market to the detriment of consumers.

The Spanish hotel group *Meliá* was fined EUR 6.7 million for including clauses in its agreements with tour operators according to which contracts were valid only for reservations of consumers who were resident in specified countries.⁶⁵ The Commission found that this partitioned the Single market preventing operators from selling hotel accommodation freely.

The Commission fined three energy suppliers (*Orbia*, *Clariant* and *Celanese*) a total of EUR 260 million for colluding to buy ethylene at the lowest possible price to the detriment of ethylene sellers.⁶⁶ Ethylene is used to make polyethylene, the most common plastic in use today.

The Commission fined car part manufacturers *Brose* and *Kiekert* EUR 18 million. *Magna* and *Brose* took part in a bilateral cartel concerning door modules and window regulators⁶⁷, while

⁶² Case AT.40462 - Amazon Marketplace, Commission decision of 17 July 2019.

⁶³ Case AT.40608 - Broadcom - Commitments under Article 9 of Regulation 1/2003, 7.10.2020.

⁶⁴ Case AT. 40433 - Film merchandise, Commission decision of 30.1.2020.

⁶⁵ Case AT. 40528 - Melia (Holiday Pricing), Commission decision of 21.2.2020.

⁶⁶ Case AT.40410 - Ethylene, Commission decision of 14.7.2020.

⁶⁷ Case AT.40299 - Closure Systems, Commission Decision of 29.9.2020.

Magna and Kiekert colluded in relation to latches and strikers. In both cartels, the companies fixed prices and exchanged commercially sensitive information.

The Commission fined the pharmaceutical companies Teva and Cephalon EUR 60.5 million for agreeing to delay for several years the market entry of a cheaper generic version of Cephalon's drug for sleep disorders, modafinil, after Cephalon's main patents had expired.⁶⁸ The agreement violated EU antitrust rules and caused substantial harm to EU patients and healthcare systems by keeping prices high for modafinil.

Merger control

In merger control, the Commission was able to continue its activities without significant delays, while fully respecting legal obligations and deadlines.⁶⁹ To ensure business continuity, the Commission introduced the eNotications tool, which allows firms to notify planned mergers online.

Despite the pandemic, 361 transactions were notified to the Commission in 2020. Most notified mergers did not raise competition concerns and could be processed speedily. The Commission adopted 352 merger decisions and intervened in 18 cases. In the latter category, 13 mergers were cleared subject to commitments in first phase, three⁷⁰ were cleared with remedies after a second phase investigations and one merger was cleared unconditionally in second phase. The simplified procedure was used in 76% of all notified transactions in 2020. At the end of 2020 there were 28 phase I investigations, 7 phase II investigations, 31 litigations and 2 infringement proceedings open.

The Commission approved, subject to commitments, the proposed acquisition of *Covage* by *SFR FTTH*, a company jointly controlled by Altice, Allianz and Omers.⁷¹ SFR FTTH and Covage are major fibre network operators in France. Covage sells fibre network accesses at the wholesale level while Altice is active both at the wholesale and retail levels. The transaction would have given the merged firms a very strong position in the market for wholesale fibre-to-the-office (FTTO) services. To resolve the Competition problems identified by the Commission the merging firms committed to to divest 95% of Covage's FTTO business.

The Commission conditionally approved the acquisition of *Fitbit* by *Google*.⁷² Fitbit provides smartwatches and fitness trackers. The Commission had concerns that Google could use Fitbit's databases (both the data and the technology behind it) to increase the already vast amount of data Google possesses to personalise ads. Google would also be able to restrict competitors' access to the Fitbit Web Application Programming Interface (API) and put competing manufacturers of wrist-worn devices at a disadvantage. Google committed not to use Fitbit data for Google ads and to keep such data separate. Google committed to

⁶⁸ Case AT.39686 – Cephalon, Commission decision of 26.11.2020. The illegal agreement was concluded before Cephalon became a subsidiary of Teva.

⁶⁹ To ensure business continuity in times of a pandemic, the Commission introduced the eNotications tool, which allows firms to notify planned mergers online.

⁷⁰ Case M.9014 PKN ORLEN/GRUPA LOTOS, Case M.9730 – FCA/PSA, Case M.9660 Google/Fitbit.

⁷¹ M.9728 – Altice/Omers/Allianz/Covage, Commission decision of 27.11.2020.

⁷² Case M.9660 Google/Fitbit, Commission decision of 17.12.2020.

continue to provide access to users' health and fitness data through the Fitbit Web API and to continue ensuring interoperability with Android smartphones to competing providers of wrist-worn devices.

Following an in-depth investigation the Commission approved subject to conditions, the merger between Fiat Chrysler Automobiles (FCA) and Peugeot SA (PSA).⁷³ The Commission concluded that the merger would have harmed competition in the market for small light commercial vehicles (LCVs) in several Member States. PSA produces Toyota vehicles for sale in the EU. The merging firms committed to extend the current cooperation agreement between PSA and Toyota for small LCVs, allowing Toyota to compete effectively in the EU market for small LCVs.

In rail transport, the Commission conditionally approved *Alstom's* acquisition of *Bombardier Transportation*.⁷⁴ Alstom and Bombardier compete in the supply of very high-speed rolling stock and signaling solutions. To resolve the competition problems identified by the Commission, the merging firms committed to divest train platforms and production facilities for very high-speed rolling stock and mainline rolling stock. Alstom and Bombardier also offered to supply to signaling competitors legacy on-board-units, necessary interfacing information and support.

The Commission conditionally approved the acquisition of *Grupa Lotos* by *PKN Orlen*, two large Polish integrated oil and gas companies.⁷⁵ The Commission found that the transaction would have harmed competition for motor fuels in Poland at both wholesale and retail level, for jet fuel in Poland and Czechia and for bitumen in Poland. PKN Orlen committed, among other things, to a stake in a refinery, storage depots, retail fuel stations and bitumen production facilities.

State aid control

Broadband infrastructure that meets the needs for very high digital speeds is key to meeting the EU 2025 connectivity objectives. State contributes to the rollout of high-capacity broadband networks when there is no incentive for commercial operators to provide sufficient broadband coverage. In such cases, the Commission continued to authorise State aid subject to certain conditions.⁷⁶ The COVID-19 outbreak underlined the need to invest in connectivity in rural and remote areas to bridge the digital divide. This is an EU priority, in line with the EU 2025 objectives and reflected in several EU programmes, including the Recovery and Resilience Facility, InvestEU and Connecting Europe Facility 2 (Digital).

In 2020, the Commission approved a number of measures authorising State aid for broadband measures. The Commission approved, among other things, a voucher scheme to

⁷³ Case M.9730 FCA/PSA, Commission decision of 21.12.2020.

⁷⁴ Case M.9779 Alstom/Bombardier Transportation, Commission decision of 31.7.2020.

⁷⁵ Case M.9014 PKN Orlen/Grupa Lotos, Commission decision of 14.7.2020.

⁷⁶ EU Guidelines for the application of state aid rules in relation to the rapid deployment of broadband networks, OJ C25, 26.01.2013, p.1.

help low-income families in Italy access high-speed broadband services,⁷⁷ a voucher scheme to help students in Greece access broadband services and benefit from remote online learning,⁷⁸ and a German scheme to support the deployment of very high capacity broadband networks in Germany.⁷⁹

Promoting a competition culture and international cooperation in the area of competition policy

Establishing a fair business environment - White Paper on foreign subsidies

To develop tools and policies to better tackle the distortive effects of foreign subsidies in the internal market, the Commission adopted a [White Paper on levelling the playing field as regards foreign subsidies](#).⁸⁰ An extensive consultation of stakeholders was carried out.⁸¹

Maintaining cooperation with the United Kingdom

In 2020, the Withdrawal Agreement between the European Union and the United Kingdom⁸² was applicable, including the provisions for State aid and competition cases. The Commission issued guidance concerning the application of the Withdrawal Agreement in competition matters.⁸³ In December 2020, the negotiations on [the EU-UK Trade and Cooperation Agreement \(TCA\)](#)⁸⁴ were finalised. The agreement provisionally applied from 1 January 2021. Like all EU trade agreements, it includes comprehensive competition and subsidies chapters ensuring that competition between the EU and the UK is not distorted after the UK left the EU.

Multilateral relations

The EU is a firm believer in the strength and value of multilateral cooperation and reforming international organisations like the WTO. To this end, the EU, the US and Japan agreed in a [common statement](#) in January 2020 to strengthen the existing rules on

⁷⁷ Case SA.57495 – Italy – Broadband vouchers for certain categories of families, COM(2020) 5269 final, Commission decision of 4.8.2020.

⁷⁸ Case SA.57357 – Greece – Broadband voucher scheme for students, COM(2020) 8441 final, Commission decision of 3.12.2020.

⁷⁹ Case SA.52732 – Germany – National gigabit scheme, COM(2020) 7859 final, Commission decision of 13.11.2020.

⁸⁰ White Paper on levelling the playing field as regards foreign subsidies, COM(2020) 253 final, 17.06.2020.

⁸¹ See Commission Work Programme 2021, available at https://ec.europa.eu/info/sites/info/files/2021_commission_work_programme_and_annexes_en.pdf
<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12621-Trade-investment-addressing-distortions-caused-by-foreign-subsidies>.

⁸² Notice to Stakeholders – Withdrawal of the United Kingdom and EU rules in the field of competition, Commission Notice of 2.12.2020. Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, 2019/C 384 I/01, XT/21054/2019/INIT, OJ C 384I, 12.11.2019, p. 1–177. See https://ec.europa.eu/info/relations-united-kingdom/eu-uk-withdrawal-agreement_en.

⁸³ Notice to Stakeholders – Withdrawal of the United Kingdom and EU rules in the field of competition, Commission Notice of 2.12.2020. See: https://ec.europa.eu/info/sites/info/files/brexit_files/info_site/eu-competition-law_en_0.pdf.

⁸⁴ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part, OJ L 444, 31.12.2020, pp. 14–1462. See: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2020.444.01.0014.01.ENG.

industrial subsidies.⁸⁵ In 2020 the Commission continued its active engagement in competition-related international fora such as the OECD Competition Committee, the International Competition Network (ICN), the World Bank, and UNCTAD.

Bilateral relations

The EU and China concluded in principle the negotiations for a [Comprehensive Agreement on Investment](#) (CAI).⁸⁶ The agreement includes disciplines for state owned enterprises, transparency of subsidies and rules against the forced transfer of technologies. The Commission continued FTA negotiations with Australia, Azerbaijan, Chile, Indonesia, New Zealand and Uzbekistan. The Commission continued its technical cooperation on competition policy and enforcement with the European Union's main trading partners and continued assisting EU candidate countries and potential candidate countries to fulfil the necessary requirements in the competition field for a future accession to the EU.

External communication

DG Competition's external communication uses mass media to reach a variety of audiences, including businesses, lawyers, researchers, academics, students and the general public. This is achieved principally via the Executive Vice-President's press conferences, press releases and speeches, as well as social media. DG Competition issues newsletters and other publications and its staff frequently participate in conferences, seminars etc.

DG Competition produced 952 press releases related to competition cases in 2020. Of these, 286 were longer, multilingual, press releases while a further 666 were shorter and monolingual ("midday express"). During 2020, Executive Vice President Vestager delivered around 35 speeches to a variety of audiences. The Director-General delivered 25 speeches at a variety of international events. In 2020 DG Competition sent 1,056 tweets achieving more than 4.3 million impressions (that is to say the number of times a tweet appears in someone's feed). The number of followers of DG Competition's Twitter account rose by 2,870 in 2020 to a total of 18,616. DG Competition's newsletter was 13,168 had subscribers in 2020.

Supporting major initiatives and objectives forming part of A Europe fit for the digital age

In 2020, DG Competition contributed proactively to several major initiatives and objectives forming part of the Europe fit for the digital age, building on the general market understanding stemming from competition cases and policy initiatives. Among others, DG Competition promoted a pro-competitive and digital narrative in the context of the [European Data Strategy](#)⁸⁷, the [Digital Services Act](#)⁸⁸, the [Shaping Europe's Digital Future](#)

⁸⁵ Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union, 14.1.2020. See: https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc_158567.pdf.

⁸⁶ EU-China Comprehensive Agreement on Investment - Agreement in Principle, 30.12.2020 See: https://trade.ec.europa.eu/doclib/docs/2020/december/tradoc_159242.pdf.

⁸⁷ Communication from the Commission A European strategy for data COM(2020) 66 final, 19.02.2020.

⁸⁸ Commission Work Programme 2020, as amended, 27.05.2020.

Strategy,⁸⁹ the Data Governance Act⁹⁰, the Cybersecurity Strategy⁹¹, the Revision of the Network and Information Systems,⁹² the Digital Education Action Plan⁹³, European Media and Audiovisual Action Plan⁹⁴, the White Paper on Artificial Intelligence⁹⁵, the Communication on a new Industrial Strategy⁹⁶, the SME Strategy⁹⁷, the Single Market Enforcement Barriers Report and Enforcement Action Plan⁹⁸, the European network of Broadband Competence Offices⁹⁹, the Review of the Recommendation on Relevant Markets¹⁰⁰, and the Recommendation on cost reduction of very high capacity and 5G deployment.¹⁰¹

General objective 3: An economy that works for people

In 2020, enforcement action by all EU competition policy instruments: antitrust, merger control and, in particular State aid control, supported this headline ambition, for example by facilitating and approving growth-enhancing horizontal aid in the common interest, intervening against distortive aid without any countervailing benefits or reviewing Member States' measures to alleviate the economic effects of the pandemic.

⁸⁹ Commission Communication Shaping Europe's Digital future, 19 February 2020.

⁹⁰ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European data Governance (Data Governance Act), COM(2020) 767 final, 25.11.2020.

⁹¹ JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL - The EU's Cybersecurity Strategy for the Digital Decade, JOIN(2020) 18 final, 16.12.2020.

⁹² Proposal for a Directive of the European Parliament and of the Council - on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148, COM(2020) 823 final, 16.12.2020.

⁹³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Digital Education Action Plan 2021-2027 - Resetting education and training for the digital age, COM(2020) 624 final, 30.9.2020; Commission Staff Working Document accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, SWD(2020) 209 final, 30.9.2020.

⁹⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Europe's Media in the Digital Decade: An Action Plan to Support Recovery and Transformation, COM(2020) 784 final, 3.12.2020.

⁹⁵ White Paper on Artificial Intelligence -A European approach to excellence and trust COM(2020) 65 final, 19.02.2020.

⁹⁶ A new Industrial Strategy for a globally competitive, green and digital Europe COM(2020) 102 final, 10.03.2020.

⁹⁷ Commission Communication An SME Strategy for a sustainable and digital Europe COM(2020) 103 final, 10.3.2020.

⁹⁸ Commission Communication Long term action plan for better implementation and enforcement of single market rules 10.3.2020 COM(2020) 94 final.

⁹⁹ For further information see <https://ec.europa.eu/digital-single-market/en/broadband-competence-offices>.

¹⁰⁰ Commission Recommendation of 18.12.2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, C(2020) 8750 final, 18.12.2020.

¹⁰¹ Commission Recommendation of 18.9.2020 on a common Union toolbox for reducing the cost of deploying very high capacity networks and ensuring timely and investment-friendly access to 5G radio spectrum, to foster connectivity in support of economic recovery from the COVID-19 crisis in the Union, C(2020) 6270 final, 18.9.2020.

Strengthening competition enforcement in support of An Economy that works for people

State aid control facilitated aid in the common interest

Aid for horizontal objectives in the common interest accounted for the overwhelming majority of all aid. Much of horizontal aid fell under the General Block Exemption Regulation (GBER)¹⁰². The GBER allows Member States to implement a wide range of public support measures in areas such as research and development, environmental protection or support to SMEs.

Banking aid necessary to safeguard financial stability, while protecting competition

In 2020, there were no new individual cases of State aid to financial institutions. Nevertheless, the Commission authorised the prolongation of already existing schemes under which Member States can assist, should the need arise in a concrete case, the orderly market exit of very small financial institutions or credit unions in distress. The Commission approved such schemes in Poland, Italy and Ireland.¹⁰³ The Commission also approved liquidity support schemes for viable banks with temporary liquidity issues, should the need arise in a concrete case, in Greece and Italy.¹⁰⁴

Member States continued to promote the creation or expansion of development banks. From a State aid perspective, publicly funded development banks can be active within a well-defined remit that addresses market failures and provided that they do not crowd out commercial financial institutions. In 2020, the Commission approved funding for Invest International, a new development finance institution in the Netherlands.¹⁰⁵ The Commission

¹⁰² Aid for horizontal objectives in the common interest have accounted for the overwhelming majority of all aid, while much of the horizontal aid fell under the GBER. Leaving aside the largest State aid scheme in 2018, the share of GBER in State aid spending (49% and 45.0 billion EUR) was at a comparable level as spending for notified schemes (51% and 46.8 billion EUR) in 2018. Other categories of horizontal aid included research, development and innovation (9%) and regional development (9%).

¹⁰³ Case SA.58389 Fifth prolongation of the resolution scheme for cooperative banks and small commercial banks, commission decision of 29.10.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_58389. Case SA.56635 Tenth prolongation of the Credit Unions Orderly Liquidation Scheme, Commission decision of 8.6.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_56635. Case SA.57053 11th prolongation of the Credit Union restructuring and stabilisation scheme, Commission decision of 8.5.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_57053; Case SA.58819 12th prolongation of Credit Union restructuring and stabilisation scheme, Commission decision of 30.10.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_58819; Case SA.57378 16th prolongation of the Credit Union Resolution Scheme 2020-2021, Commission decision of 12.6.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_57378; Case SA.57516 Italian orderly liquidation scheme for small banks. See https://ec.europa.eu/competition/elojade/isef/index.cfm?fuseaction=dsp_result&policy_area_id=3.

¹⁰⁴ See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_55767; SA.57262 Prolongation of the Greek State Guarantee Scheme for banks 01.06.2020- 30.11.2020 (Art. 2 of Law 3723/2008), Commission decision of 16.06.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_57262. Case SA.57515 COVID-19 – Italian bank liquidity support scheme, Commission decision of 10.11.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_57515.

¹⁰⁵ Case SA.55465 Invest International, Commission decision of 29.5.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_55465.

also authorised funding for the setup of the Scottish National Investment Bank.¹⁰⁶ Finally, the Commission approved the setting up of a new national development bank in Portugal, Banco Português de Fomento.¹⁰⁷

State aid enforcement in the area of taxation: Taking actions against selective tax advantages

The fight against tax evasion and tax avoidance remained high on the Commission's agenda. In 2020, the Commission continued the investigation of its pending cases on alleged aid granted by the Netherlands to Inter IKEA, Starbucks and Nike, on alleged aid granted by Luxembourg to Huhtamäki and on alleged aid granted by Belgium to 39 individual aid beneficiaries of the Belgian excess profit scheme.

On 15 July 2020, the General Court annulled¹⁰⁸ the Commission decision on State aid granted by Ireland to Apple on the basis that the Commission had not shown the existence of a selective advantage in favour of Apple to the requisite legal standard. However, it upheld the Commission decision on the applicability of important legal principles. The Commission appealed the judgment to the European Court of Justice as the judgment raises important legal issues that are of relevance to the Commission in its application of State aid rules to tax planning cases.

Temporary support of the economy through COVID-19 aid

The Temporary Framework adopted at the beginning of the crisis set out the conditions the Commission would apply to declare State aid compatible with Article 107(3)(b) TFEU (aid to “remedy a serious disturbance in the economy of a Member State”).¹⁰⁹ The Temporary Framework was amended several times in 2020 as the crisis developed. In 2020, the Commission adopted 598 COVID-19 related State aid decisions.¹¹⁰

As the EU moves from crisis management to economic recovery, State aid control accompanies and facilitates the implementation of the Recovery and Resilience Facility (RRF). In 2020, the Commission engaged with Member States to ensure that investment and reform projects supported by the RRF are compatible with State aid rules. The Commission provided guidance to Member States as regards the investment and reform projects contained in their national Recovery and Resilience Plans, reviewing and updating the State aid guiding templates¹¹¹ published in December 2020. In 2020, the Commission started to assess in which areas State aid rules, including the GBER, could be further streamlined in view of achieving the recovery objectives.

¹⁰⁶ Case SA.54780 Scottish National Investment Bank, Commission decision of 5.11.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_54780.

¹⁰⁷ Case SA.55719 Banco Português de Fomento, Commission decision of 4.8.2020. See: https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_55719.

¹⁰⁸ General Court judgment in Cases T-778/16, Ireland v Commission, and T-892/16, Apple Sales International and Apple Operations Europe v Commission of 15 July 2020.

¹¹⁰ The figure includes decisions, adopted under the exceptional legal basis supporting the Temporary Framework as well under State aid rules applying in non-exceptional circumstances. It also includes subsequent amendments to previously adopted decisions.

¹¹¹ Available at https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html.

Supporting major initiatives and objectives forming part of An Economy that works for people

DG Competition contributed proactively to several major initiatives and objectives forming part of the Europe that works for people, building on the general market understanding stemming from competition cases and policy initiatives. It promoted a pro-competition, level playing field and digital narrative in inter alia, actions aimed at completing the implementation of [the Recovery package in the context of the European Semester](#), the [Capital Markets Union](#) and the [Banking Union](#), actions relating to Anti-Money Laundering, [effective taxation](#)¹¹² DG Competition worked closely with DG FISMA and other institutions, such as the ECB, on the implementation of the [Digital Finance Strategy](#)¹¹³, which sets out general lines on how Europe can support the digital transformation of finance in the coming years, while regulating its risks, and of the [Retail Payments Strategy](#)¹¹⁴, which lays down key actions to foster a competitive European payments market.

Examples of EU added value

The activities of DG Competition create EU added value. When DG Competition prioritises its enforcement actions and decides whether or not to initiate investigations *ex-officio*, one of the main decision criteria is the impact on the internal market and EU economy. By pursuing high-impact cases, DG Competition can maximise the added value of its interventions but it also pursues cases for their precedence value, providing signals to the market participants.

EU added value is also an important factor when deciding whether a case should be investigated by DG Competition or by one or several national competition authorities (NCAs). DG Competition concentrates on cases where intervention at EU level generates added value. The objective of EU State aid policy is also to create EU added value by stimulating better targeted and more effective State aid while minimising its market-distorting effects in the internal market.

DG Competition also uses key performance indicators in its external communication illustrating the results of its actions to EU consumers, citizens and businesses, as well as to the EU economy. In 2020, the total estimated customer savings from the cartel prohibitions and merger interventions by the Commission ranged between EUR 14.0 and 23.3 billion. The fines imposed by the Commission for infringements of EU competition law amounted to EUR 336 million in 2020. The fines reduce Member States' contributions to the EU budget and act as deterrence for future infringements.

¹¹² Communication from the Commission. Action Plan to fight tax evasion and to make taxation simple and easy (Q2 2020) included in the Adjusted Commission Work Programme 2020 COM(2020) 440 final Annex 1 and 2, 27.05.2020.

¹¹³ Communication from the Commission: Digital Finance Strategy for the EU, 24.09.2020, COM(2020) 591 final.

¹¹⁴ Communication from the Commission: Retail Payments Strategy for the EU, 24.09.2020, COM(2020) 592 final.

2. Modern and efficient administration and internal control

2.1 Financial management and internal control

Assurance is provided on the basis of an objective examination of evidence of the effectiveness of risk management, control and governance processes.

This examination is carried out by management, who monitors the functioning of the internal control systems on a continuous basis, and by internal and external auditors. The results are explicitly documented and reported to the Director-General. The following reports have been considered:

- Contribution of the Internal Control Coordinator, including the opinion and the observations of the ex-post controls of financial transaction; and the results of internal control monitoring at the DG level;
- Register of exceptions and non-compliance events;
- Risk assessment and risk register presented to and approved by the Senior Management;
- Note on the results of ex-post review of financial transactions;
- Notes on inadvertent disclosure of sensitive information;
- Observations, recommendations and limited conclusions issued by the Internal Audit Service (IAS) and recommendations by the European Court of Auditors;
- Financial reports on budget execution, expenditures, payment delays, procurement and contract management;
- Observations and the recommendations issued by the Accounting Officer;
- Litigation note of the Commission's Legal Service.

These reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director-General of DG Competition.

This section covers the control results and other relevant elements that support management's assurance. It is structured into (a) Control results, (b) Audit observations and recommendations, (c) Effectiveness of internal control systems, and resulting in (d) Conclusions on the assurance. The financial resources of DG Competition derive from its moderate administrative budget and other resources:



2.1.1 Control results

This section reports and assesses the elements identified by management which support the assurance on the achievement of the internal control objectives¹¹⁵. The DG's assurance building and materiality criteria are outlined in AAR Annex 5. Annex 6 outlines the main risks together with the control processes to mitigate them and the indicators used to measure the performance of the relevant control systems.

DG Competition is committed to ensuring EU competition policy enforcement of the highest standards respective regulations, guidelines and best practices aligned with market realities and contemporary economic and legal thinking and advocacy activities.

The Internal Control Framework of DG Competition governs the internal controls related to the main inherent risks in DG Competition, which concern procedures leading to Commission enforcement actions (Commission decisions) and policy initiatives in the field of EU competition policy, handling of confidential information as well as attracting and maintaining highly qualified staff and the necessary IT support and tools.

Considering the impact that competition enforcement decisions can have on EU citizens, companies and the Member States, DG Competition cannot focus any less on its non-financial than its financial controls.

In 2020, the financial management played a minor part in DG Competition's overall activity. This is reflected in the Internal Control Framework and the controls in place. The implementation of EU competition policy involves a modest administrative budget (12.3 million in 2020¹¹⁶) supporting organisational management and functioning of the DG.

¹¹⁵ 1) Effectiveness, efficiency and economy of operations; 2) reliability of reporting; 3) safeguarding of assets and information; 4) prevention, detection, correction and follow-up of fraud and irregularities; and 5) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments (FR Art 36.2). The 2nd and/or 3rd Internal Control Objective(s) (ICO) only when applicable, given the DG's activities.

¹¹⁶ This amount reflects DG COMP's administrative expenditures (see annex 3).

Moreover, the DG had none of the following cases: 'confirmation of instructions' (Article 92.3 FR), financing not linked to costs (Article 125.3 FR), Financial Framework Partnerships >4 years (Article 130.4 FR), flat rates >7% for indirect costs (Article 181.6 FR), or "Derogations from the principle of non-retroactivity of grants pursuant to Art 193 FR" (Article 193.2 FR).

The main conclusions on the internal control system are summarised in the following table:

Activity/ Indicator	Legality & regularity	Cost- Effectiveness of controls	Anti-Fraud Strategy	Reliability of information and reporting	Safeguard of Assets	Reputational risk	Reservations
Enforcement and policy action taken in the area of EU competition policy	Positive conclusion	Positive conclusion	Area covered by the AFS	Positive conclusion	n/a	Positive conclusion	No
Safeguard of information and IT systems	n/a	Positive conclusion	Area covered by the AFS	Positive conclusion	Positive conclusion	Positive conclusion	No
Fines imposed in the area of competition	Positive conclusion	Positive conclusion		Positive conclusion	Positive conclusion	Positive conclusion	No
Prevention, detection, correction and follow-up of fraud and irregularities		Positive conclusion	Area covered by the AFS	Positive conclusion	n/a	Positive conclusion	No
Management administrative expenditure	Error rate below 2%	Positive conclusion	Area covered by the AFS	Positive conclusion	n/a	n/a	No

Governance structures

The internal control processes in DG Competition are based on the Commission Internal Control Framework, guidance, best practices and materials distributed via the Internal Control Correspondents Network and the adopted Internal Control Framework of DG Competition. These consist, among others, of internal control effectiveness review, internal control criteria and indicators, review templates, and ad-hoc advice of the coordinating unit.

The Communication C(2017) 2373 on the Revision of the Internal Control Framework prompted the Directors General and the Directors of the Executive Agencies to formally appoint a Director in charge of Risk Management and Internal Control. For DG Competition, the Director of the Horizontal Management Directorate is nominated the Director in charge of risk management and internal control taking responsibility for the completeness and reliability of management reporting on the results and on the achievement of objectives. (see Annex 1 for the Statement of the Director in charge of Risk Management and Internal Control).

1. *Effectiveness = the control results and benefits*

In order to be considered effective, controls are expected to meet the internal control objectives detailed hereafter and result in benefits. DG Competition has set up internal control processes aimed to ensure the adequate management to mitigate the various risks encountered in its operations.

- Legality and regularity of the transactions

DG Competition is using internal control processes to ensure the adequate management of the risks relating to the legality and regularity of the underlying transactions it is responsible for, taking into account the nature of the payments concerned.

The control objective is to ensure that the Director-General has reasonable assurance that the total amount of any financial operation authorised during the reporting year, which would not be in conformity with the applicable contractual or regulatory provisions, does not exceed 2% of the total expenditure.

As regards the legality and regularity of the underlying transactions, the objective is to ensure that the estimated annual risk of errors in commitments and payments at the time of authorisation of the transaction is less than EUR 290 000. All corrections take place before the actual payment is made (ex-ante), and there are no errors left at the moment of payment. As regards the error rate, DG Competition applied the approach recommended by DG BUDG and assumed the average error rate of 0.5%, which is the most conservative estimate.

During the reporting year, there were a limited number of recorded deviations, which had no impact on the legality and regularity of the transaction. The DG's grants programme is very small and ex-post controls and audits are not obligatory, thus COVID-19 has not had an impact.

In 2020, two procurement procedures were subject to a supervisory desk review by the local Advisory Committee for Procurements and Contracts, prior to the signature of the contract.

Furthermore, a representative (65.73% of the commitments, 43.79% of the total value of payments) sample of the financial transactions of DG Competition was subject to an ex-post control. Overall, during the reporting year the controls carried out by DG Competition for the management of the budget appropriations were efficient and cost effective.

The total amount of payments in 2020 was EUR 14.5 million and the observed error rate was 0%. The controls and the measures taken comply with the baseline requirement and give the management sufficient assurance of sound financial management, in particular, as the prevention of potential errors in procurement procedures is less expensive than costs of potential litigations and/or legal proceedings.

In addition, there are a number of non-quantifiable benefits resulting from the controls aimed to ensure that the financed projects contributed to the achievement of the policy

objectives. The benefits of controls in non-financial terms cover: better value for money, deterrence, efficiency gains, system improvements and compliance with regulatory provisions.

DG Competition's portfolio consists of segments with a low error rate, ie mainly in the area of procurement with strong ex-ante and ex-post controls.

This is, respectively, thanks to the inherent risk profile of the DG and the performance of the related control systems. Therefore the risk at payment, estimated future correction and risk at closure remains stable.

The analysis of the available control results has not unveiled any weakness that could have a material impact as regards the legality and regularity of financial operations. DG Competition therefore concludes that it reaches full assurance that the effectiveness of the internal control objective has been achieved.

DG Competition's relevant expenditure, estimated overall risk at payment, estimated future corrections and risk at closure are disclosed in Table X - Estimated risk at closure.

The estimated overall risk at payment for 2020 expenditure amounts to EUR 0.074 million, representing 0.5% of the DG's total relevant expenditure for 2020 (EUR 14.5 million). This is the AOD's best, conservative estimation of the amount of relevant expenditure during the year not in conformity with the contractual and regulatory provisions applicable at the time the payment was made.

This expenditure has been subject to ex-post controls and the observed error rate was 0%. The conservatively estimated future corrections¹¹⁷ for 2020 expenditure are close to zero.

In the context of the protection of the EU budget, the DGs' estimated overall risk at payment, estimated future corrections and risk at closure are consolidated at Commission level in the AMPR.

¹¹⁷ Even though to some extent based on the 7 years historic Average of Recoveries and financial Corrections (ARC), which is the best available indication of the corrective capacity of the ex-post control systems implemented by the DG over the past years, the AOD has not adjusted this historic average. Any ex-ante elements, one-off events, (partially) cancelled or waived ROs, and other factors from the past years that would no longer be relevant for current expenditures have been adjusted in order to come to the best but conservative estimate of the ex-post future corrections to be applied to the reporting year's relevant expenditure; cf.note 8 in the table.

Table X - Estimated risk at closure

DG Competition	"payments made" (FY; M€)	minus new prefinancing (in FY; M€)	plus cleared prefinancing (in FY; M€)	= "relevant expenditure" (for the FY; M€)	Average Error Rate (weighted AER; %)	estimated risk at payment (FY; M€)	Average Recoveries and Corrections (adjusted ARC; %)	estimated future corrections (for FY; M€)	estimated risk at closure (FY; M€)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Administrative expenditure	14.18	0.0	0.0	14.18	0.5%	0.071	0.0%	0.0	0.071
Grants programme - Training of Judges	0.32	0.05	0.31	0.58	0.5%	0.003	0.0%	0.0	0.003
DG total	14.5	0.05	0.31	14.76	0.5%	0.074	0.0%	0.0	0.074

- (2) Payments made or equivalent, e.g. expenditure registered in the Commission's accounting system, accepted expenditure or cleared pre-financing. In any case, this means after the preventive (ex-ante) control measures have already been implemented earlier in the cycle.
In all cases of Co-Delegations (Internal Rules Article 3), "payments made" are covered by the Delegated DGs. For Cross-SubDelegations (Internal Rules Article 12), they remain with the Delegating DGs.
- (3) New pre-financing actually paid out by the department itself during the financial year (i.e. excluding any pre-financing received as a transfer from another department). "Pre-financing" is covered as in the context of note 2.5.1 to the Commission annual accounts.
"Pre-financing paid/cleared" are always covered by the Delegated DGs, even for Cross-SubDelegations.
- (4) Pre-financing actually cleared during the financial year (i.e. their 'delta' in the Financial Year 'actuals', not their 'cut-off' based estimated 'consumption').
- (5) For the purpose of equivalence with the ECA's scope of the EC funds with potential exposure to legality & regularity errors (*see the ECA's Annual Report methodological Annex 1.1*), DG Competition's concept of "relevant expenditure" includes the payments made, subtracts the new pre-financing paid out, and adds the previous pre-financing actually cleared during the FY. This is a separate and 'hybrid' concept, intentionally combining elements from the budgetary accounting and from the general ledger accounting.
- (6) In order to calculate the weighted Average Error Rate (AER) for the total relevant expenditure in the reporting year, the detected error rates have been used – or an equivalent.
For low-risk types of expenditure, where there are indications that the equivalent error rate might be close to 'zero' (e.g. *administrative expenditure, operating subsidies to agencies*), it is nevertheless recommended that 0.5% be used as a conservative estimate.
- (8) Even though to some extent based on the 7 years historic Average of Recoveries and financial Corrections (ARC), which is the best available indication of the corrective capacity of the ex-post control systems implemented by the DG over the past years, the AOD has not adjusted or replaced this historic average.
Any ex-ante elements, one-off events, (partially) cancelled or waived Recovery Orders, and other factors from the past years that would no longer be relevant for current programmes (e.g. higher ex-post corrections of previously higher errors in earlier generations of grant programmes, current programmes with entirely ex-ante control systems) in order to come to the best and most conservative estimate of the ex-post future corrections to be applied to the reporting year's relevant expenditure for the current programmes.
The DG has strong ex-ante and ex-post controls, the observed error rate is 0% and recoveries and corrections are assumed to be close to zero.
- (9) For some programmes with no set closure point (e.g. EAGF) and for some multiannual programmes for which corrections are still possible afterwards (e.g. EAFRD and ESIF), all corrections that remain possible are considered for this estimate.

- **Fraud prevention, detection and correction**

DG Competition has developed and implemented its own anti-fraud strategy since 2013, on the basis of the methodology provided by OLAF. It was last updated on 18 December 2020 in line with the Commission Anti-Fraud Strategy¹¹⁸, with the support and endorsement of OLAF. The Anti-Fraud Strategy takes into account the DG's relatively limited budget and that the share of grants continues to be small, and puts great importance on the non-spending activities, in particular staff ethics. Its implementation is being monitored and will be reported to the management annually. Some of the actions included in the action plan are ongoing (such as the training on ethics) and others have already started. A large part of the actions will be completed in the course of 2021. In 2020, DG Competition did not receive any financial recommendations from OLAF. No case of fraud was transmitted to OLAF for investigation and OLAF did not initiate any case concerning the activities of DG Competition based on other sources of information.

85% of the staff that joined DG Competition in 2020 participated in one of the six training sessions on "Ethics and Integrity for newcomers". The remaining 15% were invited to the first session in 2021. The questions raised by staff and declarations on possible conflicts of interest demonstrate the existence of ethical awareness among staff.

On the basis of the available information, DG Competition has reasonable assurance that the anti-fraud measures in place are effective.

- **Other control objectives: safeguarding of information and IT systems**

The control objective is to ensure that confidential and/or sensitive information is not disclosed or its integrity breached (data altered) due to security of IT systems and/or information processes not being fully effective.

As regards IT systems, the controls in place include the yearly review of the IT Risk Register and the requirement for new information systems¹¹⁹ to have a security plan.

IT Risk Management ensures visibility, accountability and regular monitoring of IT risks, in order to address them in the best possible ways. Security plans ensure that new information systems comply with the highest standards for cybersecurity.

The benefit with these controls is to reduce the risks both of sensitive information being disclosed or the integrity of sensitive information being breached, thus avoiding events that could potentially harm the reputation of the Commission.

¹¹⁸ Communication from the Commission "Commission Anti-Fraud Strategy: enhanced action to protect the EU budget", COM(2019) 176 of 29 April 2019 – 'the CAFS Communication' – and the accompanying action plan, SWD(2019) 170 – 'the CAFS Action Plan'.

¹¹⁹ Information systems released for the first time into production after 1 January 2019.

As regards information processes the controls in place include the implementation of procedures to protect information, awareness raising of staff on the importance of information security and a reporting/risk assessment mechanism for disclosures.

The benefits of these controls include constant awareness of staff, and a reporting system that triggers follow-up actions to prevent similar events from happening in the future.

The analysis of the available control results has not shown any weakness that could have a material impact on the security of IT-systems or information held by DG COMP. DG Competition therefore concludes that it reaches full assurance that the effectiveness of the internal control objective has been achieved.

- ***Other control objectives: enforcement and policy actions taken in the area of EU competition policy***

Enforcement actions in the field of EU competition law are taken in the public interest assessing objectively evidence and other factual elements of information pursuant to the principle of rule of law. The process is characterised by impartiality vis-à-vis the parties at all stages of the process and respecting their rights of defence governed by the respective regulations, guidelines and best practices issued for competition proceedings, which are aligned with market realities and contemporary economic and legal thinking. Commission decisions can also be subject to appeals or claims for damages, which could lead to substantial financial or reputational loss for the Commission.

The implementation of the internal controls in DG Competition during 2020 contributed to the high quality of enforcement decisions taken by the Commission in the various instruments of competition policy (antitrust, merger control and State aid control). The risk management process has helped to identify and address the main risks that can prevent the achievement of the objectives. Potential weaknesses or errors have been mitigated and corrected through ex-ante controls involving among other things step-by-step procedures and consultations to be followed in the daily operations. A dedicated team in DG Competition continuously updates internal instrument-specific Manuals of Procedures to take account of developments and recent jurisprudence.

The control objective is to ensure that the Commission's enforcement actions in the area of EU competition policy are of high quality and withstand the scrutiny of the EU courts, if appealed on procedural or substantive grounds. This contributes to deterrent effect of competition policy enforcement and avoids undermining the Commission as an enforcer of EU competition policy, by avoiding reputational damage or claims for damages.

Ex-ante controls include management structures and procedures for enforcement actions and policy initiatives, involving the highest political level, expert economic advice of the Chief Economist Team, peer review panels, consultations with other Commission services, opinions by the Legal Service, independent Hearing Officers, Principal Adviser, a tailored governance structure, comprehensive knowledge sharing tools and IT systems and support. (See annex 6 for details). The ex-post controls of the effectiveness as regards enforcement in the area of the EU competition policy include the Commission's Legal Service yearly

analysis and assessment notes on the litigation of the Union and EFTA Courts, including cases lodged, pending and concluded. The analysis of the external audit results has unveiled some weaknesses. A comprehensive set of recommendations has been agreed with the Court to be implemented until 2024. These weaknesses however could not have a material impact on the performance of the Directorate General in terms of the effectiveness of the controls. DG Competition therefore concludes that the effectiveness of the internal control objectives has been achieved.

- **Other control objectives: *finances imposed in the area of competition***

The control objective is to ensure that the Commission establishes its legal rights in terms of revenue entitlements in Commission decisions and that EU accounting rules are respected and reflect the reality.

The amount of fines and penalties issued in 2020 was EUR 396,95 million (EUR 369,56 million in antitrust, and EUR 27,39 million in State aid), which is 3,69 billion less than in 2019. Fines amounting to EUR 29.85 million were cancelled due to Court judgements. There were no waiver decisions adopted. The controls in place ensured that the related decisions were free of errors, that the amounts have been correctly registered and that the reporting at the year-end is true and fair. Follow-up of outstanding amounts in cooperation with DG Budget and the Legal Service was performed 3 times during the year.

The analysis of the available control results has not unveiled any weakness that could have a material impact on the legal rights in terms of revenue. DG Competition therefore concludes that it reaches full assurance that the effectiveness of the internal control objective has been achieved.

Conclusion

Considering the conclusions of the review of the elements supporting assurance, it is possible to conclude that the internal controls systems implemented by DG Competition provide sufficient assurance to adequately manage the risks related to its operations as well as to the legality and regularity of the transactions. Furthermore, it is also possible to conclude that the internal control systems provide sufficient assurance regarding the achievement of the other internal control objectives.

2. *Efficiency = the Time-to- indicators and other efficiency indicators*

The principle of efficiency concerns the best relationship between resources employed and results achieved. This section outlines the indicators used to monitor the efficiency of the control systems. DG Competition continuously reviews its control strategy¹²⁰ to ensure the cost-effectiveness of controls.

a. Control efficiency as regards enforcement and policy actions taken in the area of EU competition policy

¹²⁰ DG Competition Internal Control Strategy endorsed on 9 December 2019.

Considering the impact the enforcement actions of the Commission can have on companies, Member States and finally on consumers, it is essential that DG Competition invests considerable effort to ensure correct application of EU competition law in full respect of rights of defence and the principle of the rule of law. This necessarily entails effective management supervision and controls as well as providing sufficient internal guidance. Due to the complexity of competition policy enforcement, some of the controls supporting this area are relatively labour-intensive. On the other hand, for example templates are a control element that, besides built-in guidance and alignment, provide time savings.

Much of the delivery of the strategic objectives depends on the staff of DG Competition. DG Competition continuously reviews its resource allocation within its matrix structure to promote the flexible and efficient use of human resources to ensure delivery of its priorities and therefore closely monitors workload and time management indicators in this context. It also takes action to find further efficiencies in its working methods across the instruments, most recently in the context of its Smarter Working Initiative. DG Competition thus constantly reviews its working arrangement, workload and tools to ensure that the resources are allocated where they are mostly needed and that the controls in place are efficient.

Ex-ante controls include enforcement structures and procedures, arrangements with the Commissioner, expert economic advice of the Chief Economist Team, peer review panel, review by the Legal Service, independent Hearing Officers, Principal Adviser, a tailored governance structure, comprehensive knowledge sharing tools and IT systems and support. (See annex 6 for details)

The ex-post controls of the effectiveness as regards enforcement in the area of the EU competition policy include the Commission's Legal Service yearly analysis and assessment notes on the litigation of the Union and EFTA Courts, including cases lodged, pending and concluded.

Regarding the efficiency of its policy and enforcement actions, the DG Competition also relied on the external audits performed by the European Court of Auditors.

a. Control efficiency as regards safeguard of information and IT-systems

DG Competition's IT governance body (Document and IT management committee) reviews the IT Risk Register on a yearly basis, evaluating the likelihood and impact of IT risks and discussing mitigation actions.

Moreover, each IT project is subject to risk management throughout the project cycle in accordance with the Commission's PM2 methodology. IT projects' risk logs are regularly updated and project status reports are submitted to the EC IT governance at the required intervals.

Regarding security plans for new information systems, DG Competition is piloting, with the support of DG DIGIT, the application of the new EC IT Security Risk Management

Methodology (ITSRM2) for new information systems. Existing security plans based on the previous Commission Decision and methodology will be gradually updated to align with the new ITSRM2.

Many of the guidance and controls on information flows are embedded in the Manuals of Procedures and other existing guidance, to ensure they are routinely implemented in the course of investigations. When information security incidents were detected, staff take action swiftly, and procedures are adapted in line with lessons learned.

b. Control efficiency as regards fines imposed in the area of competition

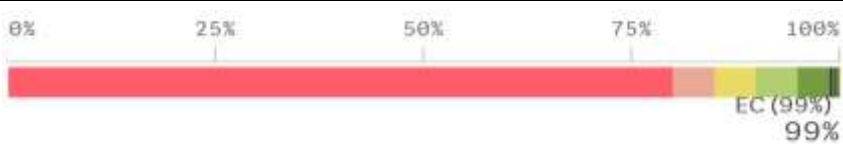
Fines imposed in the field of EU competition law can have a high monetary value. However, the stable regulatory environment relating to their processing and collection reduces the risk of encoding errors significantly. An automatically generated monthly list of fine decisions is circulated to ensure a timely encoding in ABAC.

In 2020, fines imposed were introduced into the accounting system in correct and timely manner and the accounts therefore reflects the value of the rights concerned.

c. Control efficiency as regards prevention, detection and correction of fraud and irregularities

The controls in place for ethics processes provide an added value and are efficient in the use of resources. For instance, the annual declaration of awareness of conflicts of interest rules, the compulsory half-day course on ethics for new and returning staff, and the automatic conflict of interest declaration when staff is appointed to a case. With few resources, all these specific tools provide with full coverage of the intended audience.

d. Control efficiency as regards legality and regularity in financial management

Timely Payments	DG Score	EC Score
	99%	99%

The average payment delay in 2020 was less than 20 days¹²¹, which is in line with the average payment delay in 2019. Furthermore, 99% of all payments were executed within the contractual limit, which is slightly better than in 2019 (97.4%) and in line with the overall performance of the Commission (99%).

DG Competition did not award any grants in 2020 and therefore the AAR 2020 does not include any information about the average time to grant and average time to inform applicants of the outcome of the evaluation of the application (Art. 194.2 FR).

¹²¹ Cf. table 6 in Annex 3.

In 2020, DG Competition launched analysis and assessment of its financial management in order to prepare for the implementation of the new Competition programme in the next Multiannual Financial Framework 2021-2027. The work continues in 2021 particularly to examine whether there is scope to further improve the efficiency of its financial operations without risking the legality and regularity of its transactions.

3. *Economy = the estimated cost of controls*

The principle of economy requires that the resources used by the institution in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The activities of DG Competition are specific, so are the risks. Despite the relatively limited volume of payments (EUR 14.5 million) and budget (EUR 16.9 million), the financial stakes affected by the quality of decisions prepared by DG Competition are significantly higher:

Funds managed	
Payments (Expenditure) 2020	14.5 M€
Total budget (Administrative and co-delegation)	16.9 M€
Decisions with fines adopted in 2020	397 M€
Total amount of pending fines	14.5 B€
Number of pending fines on 31 December 2020	111

The risk exposure is also coupled with risks associated with:

- potential claims for damages of significant value, and
- high reputational risk related to Commission's enforcement decisions challenged before courts and annulled by courts.

The exposure related to those risks cannot be monetarised but is considered high - significantly higher than the payments and the total budget. In this situation, the cost of controls cannot be measured against the payments (or budget) and needs to be commensurate with the combined exposures related to risks affecting recovery decisions, amounts recovered and on-going efforts on pending recovery cases.

These considerations need to be taken while reading this sub-chapter and related information in the annexes.

a. Cost of control as regards enforcement and policy actions taken in the area of EU competition policy

Enforcement of EU competition policy is the core activity of DG Competition and an obligation for the Commission laid down by the Treaty. The cost of controls as regards Commission decisions taken in the area of competition policy (non-spending activity) are difficult to estimate but need to be at sufficient level to ensure the correct application of EU competition law and a comprehensive and impartial review of the cases, as well as to

counterweigh the potentially high reputational or monetary impact of a Commission decision potentially overturned by the EU courts and in view of any resulting successful damages claim.

The coordination units of each competition instrument serve as centres of expertise that apply quality controls. Their unique role is recognised in DG Competition estimates of the costs of controls: DG Competition estimates that 51 full time equivalents (EUR 8 010 800) from these units can be allocated to the quality control of the enforcement and policy actions taken in the area of EU competition policy.

b. Cost of control as regards safeguard of information and IT-systems

The cost of controls as regards both the follow-up of the IT Risk Register, as well as the definition of security plans for new information systems, (as described above in the section on control efficiency for the security of IT-systems) can be estimated at about zero. One AD and 0.2 AST full time equivalents plus EUR 110.000 on contracts for External Service Providers.

The costs of control regarding security of information are estimated to be 0.26 of a full time equivalent, which includes the tasks of local security officer and local informatics security officer. The lower cost this year is explained because some of the controls have been integrated under the increased business continuity work in 2020, and the precise time spent in security-specific tasks cannot be quantified. The overall cost is EUR 195.155.

c. Cost of control as regards fines imposed in the area of competition

The controls of a fine decision before it is adopted ensure that the decision does not include weaknesses that would undermine the Commission's legal rights in terms of revenue entitlements. The cost of these controls are intrinsically linked to controls in the area of enforcement and policy actions taken in the area of EU competition policy and therefore difficult to extract and measure (cf. 3.a)

Once the decision is adopted, the cost of controls to ensure a correct registration of a fine decision corresponds to less than 10% of a full time equivalent as the number of fines decisions in a year is limited.

d. Cost of control as regards prevention, detection and correction of fraud and irregularities

The cost of control remains stable and is estimated at 0.27 of a full time equivalent (EUR 45 781), which includes the tasks related to anti-fraud and ethics by the local ethics/anti-fraud contact point and the HR Business correspondent.

e. Cost of control as regards legality and regularity in financial management

As regards financial management, it is estimated that two full time staff are attributed to ex-ante controls of procurement and grants procedures, in addition to the base line controls as required by the Financial Regulation such as the "four eyes" principle. Ex-post controls

accounts for 0.59 of one full time post.

The ex-post review of procurements, grants, financial transactions and reported exceptions performed by Unit R4 is estimated to be equivalent to 0.3 of one full time staff.

In total, the cost of controls represents 2.89 full time staff e.g. approximately EUR 340 849 (EUR 222 800 for ex-ante controls and EUR 118 049 for ex-post controls) or equivalent to 2.34% of total expenditure. This is lower than in 2019 when the total costs of controls represented 3.42% of total expenditure.

4. Conclusion on the cost-effectiveness of controls

Based on the most relevant key indicators and control results, DG Competition has assessed the effectiveness, efficiency and economy of its control system and reached a positive conclusion on the cost-effectiveness of the controls for which it is responsible.

The rules of EU competition policy and enforcement have been in place for more than 60 years and the control strategy has been elaborated and tested over a long period of time. The controls and the measures taken comply with the baseline requirement and give the management sufficient assurance, in particular, as the prevention of potential errors is less expensive than costs of potential litigations and/or legal proceedings. The Commission decisions in the area of competition policy are complex and, consequently, some of their controls labour-intensive. DG Competition has a stable control environment and its control strategy is consistent with previous years. Overall, during the reporting year the controls carried out by DG Competition for the management of its operations were efficient and cost effective.

Taking into account the obligations resulting from the regulatory framework, the total costs of controls and both the quantifiable and non-quantifiable benefits, DG Competition considers that the controls performed today are efficient and necessary. DG Competition continues to reflect on its control model and examines whether it is possible to make it even more cost-effective and efficient

2.1.2 Audit observations and recommendations

This section sets out the observations, opinions and conclusions reported by auditors – including the limited conclusion of the Internal Auditor on the state of internal control. Summaries of the management measures taken in response to the audit recommendations are also included, together with an assessment of the likely material impact of the findings on the achievement of the internal control objectives, and therefore on management's assurance.

In 2020, DG Competition was audited by both external and internal independent auditors: the European Court of Auditors (ECA) and the Commission internal audit service (IAS).

A. European Court of Auditors (ECA)

In 2020, the ECA published two special reports on its performance audits in DG Competition: one on the Commission's control of State aid to EU financial institutions

(October), the second on the EU merger control and antitrust proceedings (November). The ECA auditors confirmed that DG Competition made good use of its powers and addressed competition concerns with its decisions.

The audit observations and recommendations with respect to the audit on merger control and antitrust proceedings refer, among others, to the coordination and cooperation with the European Competition Network, monitoring of digital markets and effectiveness of fines. Concerning the audit related to State aid in the banking sector, the recommendations refer to evaluation of enforcement of State aid rules in the financial sector, the efficiency of the document management, Member States' respecting best practices on, for example, pre-notification contacts, and performance indicators in management reports.

See the details in Annex 8.

B. Internal Audit Service (IAS)

In 2020 the IAS conducted a limited review of the Internal Control Framework (ICF) in DG Competition. In its report, the IAS finds that the Internal Control Strategy of DG Competition sets out control environment, inherent risks, control framework and monitoring mechanisms for the internal control system. DG Competition had performed an assessment of the presence and functioning of all internal control principles and components and had reported its results. However, the IAS found (recommendation 1, very important) that not all sources of potential deficiencies that had a potential impact on the effectiveness of the ICF had been described, rated and reported accordingly. In particular, the IAS found that the Internal Control Strategy had not included a description on how the different sources of information had been used during the identification of deficiencies. The IAS and DG Competition have agreed on an Action Plan to be implemented in 2021 and 2022.

In its contribution to the AAR of DG Competition, the IAS concludes that the internal control systems in place for the audited processes are effective, except for the observations giving rise to the 'very important' recommendation from the audit "*Limited review of the Internal Control Framework (2020)*". This recommendation will be addressed in line with the agreed action plan.

In consequence, DG Competition considers that, in view of the action plans agreed for risk mitigation, the residual risk related to the above-mentioned very important recommendation does not affect in a material way the achievement of the internal control objectives, and therefore the assurance provided in the AAR.

2.1.3 Assessment of the effectiveness of internal control systems

The Commission has adopted an Internal Control Framework based on international good practice, to ensure the achievement of its policy and management objectives. Compliance with the internal control framework is a compulsory requirement.

DG Competition uses the organisational structure and the internal control systems suited to achieving its policy and internal control objectives in accordance with the internal control

principles and has due regard to the risks associated with the environment in which it operates.

DG Competition has assessed in a structured review process the effectiveness of its internal control system in the reporting year and noted relatively high number of internal control principles with minor deficiencies. DG Competition however has concluded that the controls are effective and the Internal Control components and principles are present and functioning as intended whereas some improvements are needed and are being implemented by the relevant services in 2021.

2.1.4 Conclusions on the assurance

This section reviews the assessment of the elements already reported above (in Sections 2.1.1, 2.1.2 and 2.1.3), and the sub-conclusions already reached. It draws an overall conclusion to support the declaration of assurance and whether it should be qualified with reservations.

The information reported in section 2.1 stems from the results of the management and auditors monitoring. The reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director-General of DG Competition.

The intrinsic risk for expenditures managed by DG Competition, including procurement and grants, is relatively low because of the limited budget as well as the centralised and direct mode of budget implementation. The risks are effectively mitigated by means of controls put in place. The Authorising Officer by Delegation's best estimation of the risks relating to the legality and regularity for the expenditure authorised during the reporting year (EUR 0.07 million) is below 0.5%.

Further assurance is obtained by the risk management process put in place, and the very limited number of significant exceptions and non-compliance events reported in 2020. Management has obtained satisfactory evidence that the internal control system in its entirety is implemented effectively in the DG.

Results from audits during the reporting year give an overall positive feedback and did not include any critical findings. As for the very important recommendation, the agreed action plan foresees the implementation of the recommendation in 2021. The residual risk from audit recommendations remaining open from previous years is not considered to have an impact on the declaration of assurance.

DG Competition has put in place suitable control measures to limit risks of errors and guarantee that assets and information are safeguarded to prevent, detect and correct fraud and irregularities. Comprehensive ex-ante controls were put in place within the financial circuits. Their effectiveness has been positively assessed in an independent quarterly ex-post review and received an independent assurance in an independent yearly review and report. Where necessary, improvements of the overall control strategy and processes were made in the course of the year.

Regarding the very important recommendation of the IAS (see section 2.1.2.B) DG Competition, in line with the IAS action plan, has adopted an agenda to be completed in December 2021. Initial steps of the agenda (including the assessment of the 2020 internal control system taking into consideration additional sources of information, review and upgrade of the internal control monitoring indicators for 2021) have already been implemented by the signing date of this report.

In consequence, DG Competition assures that the content of this report does not omit any significant information, gives a true and fair view of its operations, risks and controls in place and the results of their assessment, and proves that the resources have been used legally, regularly and for the intended purpose in respect of best financial management practices.

Overall Conclusion

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

Declaration of Assurance

I, the undersigned, Olivier Guersent

Director-General of DG Competition

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view¹²².

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and 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.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here which could harm the interests of the institution or those of the Commission.

Brussels, 30 March 2021

(signed)

Olivier Guersent

¹²² True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG/Executive Agency.

2.2 Modern and efficient administration – other aspects

2.2.1 Human resource management

In order to ensure the effective management of human resources and to optimise the capacity to deliver on priorities, DG Competition started, in 2020, developing a local HR strategy consistent with the overall corporate HR strategy. In line with the Strategic HR Plan, the management plan and the annual Risk Register of DG Competition, the main HRM challenges were related to: (1) attracting and retaining high-quality staff, (2) developing a balanced workplace, (3) ensuring a solid learning and development agenda for executive and non-executive staff, and (4) strengthening internal communication on HRM. The HRM policies and processes to address these four challenges were incorporated into the draft local HR strategy. DG Competition's senior management discussed and endorsed the outline of the local HR strategy mid-September 2020 and in January 2021. Moreover, a staff survey was launched mid-October 2020 to have staff's views on specific topics to be elaborated further in the local HR strategy.

In September 2020, a 180° feedback development exercise was launched for Deputy Heads of Unit. The aggregate results of the exercise were presented to the staff of DG Competition in a virtual all staff meeting. Furthermore, based on the results of the feedback exercise of Heads of Unit in 2019, a dedicated training course covering the area of 'coaching and developing others' was organised in autumn 2020. Moreover, regular lunchtime sessions for managers on people management matters were organised in 2020. During 2020, five Directors, seven Heads of Unit and one Advisor were available to provide career guidance to all categories of staff upon request.

The compliance with the 10 DOs for people management was further monitored in 2020, amongst others in the context of the local HR Strategy and through different interviews with staff members.

On 1 April 2020, the Commission adopted measures to reach gender equality at all levels of management by the end of 2024 (Decision SEC (2020)146). Accordingly, DG Competition should make two first female appointments until 2022 and reach a female representation of 50%¹²³. Following the nomination of two first female Heads of Unit, DG Competition reached the intermediate target of first female appointments at the end of 2020. Female representation in middle management rose to 45.24 % on 1 January 2021 (against 44% on 1 January 2020).

The main HRM outputs linked to specific indicators are listed in Annex 9.

DG Competition updated its Internal Communication Strategy and Action plan for 2020-22, drawing on the results of the 2018 staff survey and DG Competition's Sounding Board exercise. The Sounding Board gave colleagues across the DG the opportunity to set priorities for internal communications, including developing further the use of video messages, and more direct communication by senior management, as well as activities that foster team building.

¹²³ The target will be reviewed for the period 2023-2024 by January 2023.

2020 presented its particular challenges for internal communication. In addition to the “COMP This Week” weekly e-newsletter, and daily updates of news items on MyCOMP, DG Competition continued with video communication, including short introductions of new Directors, as well as a video introducing the new Cabinet of EVP Vestager, and weekly video debriefs on the Senior Management Meetings. As a result of the teleworking situation, DG Competition held four online All Staff events, enabling staff to ask questions directly to the Director General. The Director General also sent weekly emails to all staff during the first lockdown, underlying the common challenges facing everyone, and focussing on the human dimension of the workplace and other challenges.

2.2.2 Digital transformation and information management

Digital transformation

In 2020, DG Competition started implementing its five-year digital modernisation plan to become a data-driven organisation equipped with state-of-the-art digital tools to support EU competition enforcement, in line with the principles and objectives of the European Commission Digital Strategy. Due to COVID-19 pandemic, DG Competition needed to re-shuffle priorities in favour of rapidly improving remote connectivity to DG Competition's current applications. In addition, DG Competition made significant progress on the development of transformative digital solutions in the following main clusters.

First, in the area of case management solutions, DG Competition has completed a pilot for the common case management system CASE@ECState Aid. This covers all State Aid workflows as well as core document and case management functions, and integrations with many other solutions. At DG Competition, CASE@EC will replace the technologically obsolete case and document management systems.

Moreover, in response to the teleworking needs of its staff during the pandemic, DG Competition has upgraded remote accessibility of its applications in terms of convenience and security, including the tools used for co-authoring legal documents and for knowledge sharing. In addition, the remote server capacity allowing connection to DG Competition's legacy case management systems was upgraded at short notice in March 2020. DG Competition also smoothly completed the migration from traditional telephony to digital unified communication and collaboration in April, providing additional support for colleagues working remotely.

Second, as regards digital solutions facilitating digital exchanges with Member States' administrations, companies and citizens, DG Competition achieved significant progress in preparing the release of the new eConfidentiality and eRFI tools. Case teams and a number of law firms piloted eConfidentiality that, once launched in early 2021, will achieve efficiencies in confidentiality negotiations with undertakings in Antitrust, Cartels and Merger proceedings. As regards eRFI, user acceptance testing started with case teams and law firms. eRFI will vastly improve the drafting of DG Competition's requests for information and of respondents' replies in market investigations. Finally, DG Competition has further

improved the State aid family of tools¹²⁴ as well as the secure platform for communicating with national competition authorities (ECN2).

Third, with respect to the area of data analytics and artificial intelligence tools, DG Competition has harnessed data analytics tools and supported the ongoing antitrust sector inquiry. Moreover, technology assisted review (machine learning applied to document review) has been piloted in selected competition cases. New dashboards for management notably for COVID-19 related State Aid notifications and merger proceedings have been built.

Finally, in a context where moving towards a digital enforcement requires competition authorities to deploy new skills and methodologies, DG Competition continued to invest in its capability to perform Intelligence and Investigative analysis (including Forensic IT) to obtain leads and evidence to successfully detect and prosecute anticompetitive conduct.

Data protection

As regards Data Protection, DG Competition continued to follow up on the implementation of the Commission's Data Protection Action Plan (C(2018) 7432 final) by reviewing its data processing operations in order to ensure their conformity with the new legal framework, notably with the general principles laid down in the regulation. DG Competition finalised the transformation of legacy notifications under the former rules into records in the DPMS (Data protection records management system), and published privacy statements meeting the new standards on its webpage.

In addition, Data Protection Coordinators (DPC) team raised awareness on data protection through centrally organised courses and specific actions: presentations in internal meetings, internal blog posts, and regular contacts with colleagues involved in processing charge of processing operations and regularly updated Intranet section. Information about data protection principles is also included in the training sessions for newcomers in view of ensure full embedding of data protection rules in the daily work of all staff.

2.2.3 Sound environmental management

DG Competition takes full account of its environmental impact in all its actions and actively promotes measures to reduce the related day-to-day impact of the administration and its work. Having its offices in one of the Commission buildings participating in the Eco-Management and Audit Scheme (EMAS), DG Competition performed its actions in line with the EMAS and contributed to the reduction of the building's energy consumption, CO₂ emissions, waste generation, water use and office paper consumption.

DG Competition moved towards more efficient waste management in its premises by enrolling in the "Waste sorting stations" pilot project of the Commission: the individual waste bins were replaced in the entire MADDO building, and the obsolete bins will be donated to schools and NGOs in coherence with the OIB policy.

¹²⁴ These tools include SANI2, SARI, the Scoreboard, the Transparency Award Module and the Recovery Interest Calculator.

A group of enthusiasts joined around the idea of building an EMAS team at DG Competition. Regular meetings in the first half of the year laid a base for knowledge and ideas collection. The group decided to organise a call for EMAS ambassadors and volunteers in the fourth quarter.

EMAS corporate campaigns were promoted locally via MyIntracom, COMP Newsletter and COMP-EMAS webpage. Local EMAS initiatives were disseminated to all staff via email. These led to e.g. continuation of staff's participation in the VeloMai campaign, Green Christmas initiative, informing and discussing the waste sorting stations' introduction and a successful call for building the Green-Dream-Team @COMP, yielding 25 volunteers.

The COVID-19 pandemic has been a crucial accelerator towards 100% teleworking of the staff. This led to a drastic reduction of the office paper consumption and CO₂ reduction due to almost complete lack of missions and a number of inspections performed remotely. Furthermore, internal and external meetings were held via various video-conferencing tools.

2.2.4 Examples of initiatives to improve economy and efficiency of financial and non-financial activities

In 2020, DG Competition continued to review and propose adjustments to its working methods to identify additional efficiencies and synergies during and following the COVID-19 confinement period. In April, following the announcement by Commissioner Hahn of the Action Plan for a Gradual Return to the Office, a virtual sounding group representing the staff of DG Competition was appointed to reflect about the practical aspects of DG Competition's new way of working in the first phases of deconfinement. The group's proposals were discussed and endorsed by the senior management of DG Competition and shared with DG HR. Some will be reflected in DG Competition's local Human Resources Strategy, which is explained more in detail in section 2.2.1.

The European Court of Auditors (ECA) published two performance audit Special Reports on DG Competition in 2020. In October 2020, the ECA published the conclusions and recommendations related to its audit of the Commission's control of State aid to EU financial institutions. In November 2020, the ECA published a Special Report on EU merger control and antitrust proceedings in the period 2010-2017. Both of these reports contain recommendations for the Commission to implement. For some recommendations, the implementation work has already started. For example, the Commission has revisited the existing performance indicators in its management reports to increase accuracy of the monitoring of its enforcement action in the relevant areas.