

Competition

The legal basis of the Competition policy are Articles 81 to 89 of the Treaty establishing the European Community.

Effective competition is crucial to an open market economy. It cuts prices, raises quality and expands customer choice. Competition allows technological innovation to flourish.

For this to happen, fair play on the part of businesses and governments is essential. The main areas of competition policy are:

- » antitrust and cartels

- » merger control

- » liberalisation

- » state aids.

Antitrust and cartels

If a single company has a dominant position in a particular market, it may not abuse its market power to drive out competitors. Nor may a large company exploit the weaker negotiating position of its smaller customers and suppliers. This makes it illegal for a big firm to impose conditions on its suppliers which make it difficult for them to do business with other companies. The Commission can (and does) fine companies for all these practices.

Some exceptions are allowed. The Commission can allow companies to cooperate in developing technical standards if the end-result is an agreed single standard for the market as a whole. It can allow smaller companies to cooperate if this strengthens their ability to compete with larger ones.

Merger control

The Commission can ban mergers between two large companies or takeovers of one firm by another if the enlarged company would dominate the market.

The Commission generally only scrutinises large cross-border mergers. Unless more than two thirds of their combined sales is in a single EU country, companies must clear their mergers and takeovers with the Commission if they have a combined EU turnover of more than €250 million and a worldwide turnover of more than €5 billion. It makes no difference where they are headquartered. Mergers between major US-based corporations or other multinationals are a matter for the Commission if the companies concerned exceed the EU turnover threshold.

Liberalisation

In an open economy, monopolies are rarely justified. Exceptions and subsidies are allowed for inherently uneconomic services, which can be considered a basic right, such as postal deliveries in rural areas.

However, a monopoly supplier cannot use revenue from monopoly activities to cross-subsidise commercial operations in which it competes with other firms. If a company is awarded the monopoly over a public service that any one of a number of companies could provide, the selection process must be transparent. If the infrastructure constitutes a natural monopoly, like gas pipelines and some telecommunications infrastructure, then everyone must be allowed to use it on the same terms.

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State aids

The Commission monitors closely how much aid member state governments make available to business. It looks not just at obvious forms of aid, such as loans and grants, but also at tax breaks, goods and services made available at preferential rates and at loan guarantees which make the borrower a better credit risk.

There are public services, such as broadcasting, which governments may legitimately fund. The Commission watches carefully, however, to see that funding for public public services corresponds exactly to the need. Overpayment to the detriment of commercial competitors would be an illegal subsidy.

The challenge of globalisation

In an age of globalisation, global players must not be able to do as they please just because they escape any single government's control or to take advantage of gaps in the coverage of competition legislation in some countries. The EU is working through the World Trade Organisation (WTO) to get multilateral agreement on certain basic principles of competition law.