

Procedure file

Basic information		
CNS - Consultation procedure Regulation	2000/0243(CNS)	Procedure completed
Implementation of the rules on competition		
Amended by 2003/0038(CNS) Amended by 2005/0264(CNS)		
Subject 2.60.01 Trade restrictions, concerted practices, dominant positions		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		06/11/2000
		PPE-DE EVANS Jonathan	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs and Internal Market		17/10/2000
		PPE-DE PALACIO VALLELERSUNDI Ana	
Council of the European Union	ITRE Industry, External Trade, Research, Energy		23/11/2000
		ELDR DE CLERCQ Willy C.E.H.	
	Council configuration	Meeting	Date
	Agriculture and Fisheries	2476	16/12/2002
	Competitiveness (Internal Market, Industry, Research and Space)	2467	26/11/2002
	Industry	2433	06/06/2002
European Commission	Energy	2394	04/12/2001
	Energy	2347	14/05/2001
	Industry	2318	05/12/2000
	Commission DG	Commissioner	
	Competition		

Key events			
27/09/2000	Legislative proposal published	COM(2000)0582	Summary
23/10/2000	Committee referral announced in Parliament		
05/12/2000	Debate in Council	2318	

14/05/2001	Debate in Council	2347	Summary
20/06/2001	Vote in committee		Summary
20/06/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0229/2001	
05/09/2001	Debate in Parliament		
06/09/2001	Decision by Parliament	T5-0444/2001	Summary
04/12/2001	Debate in Council	2394	Summary
06/06/2002	Debate in Council	2433	Summary
16/12/2002	Act adopted by Council after consultation of Parliament		
16/12/2002	End of procedure in Parliament		
04/01/2003	Final act published in Official Journal		

Technical information

Procedure reference	2000/0243(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by 2003/0038(CNS) Amended by 2005/0264(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 083
Stage reached in procedure	Procedure completed
Committee dossier	ECON/5/13845

Documentation gateway

Legislative proposal		COM(2000)0582 OJ C 365 19.12.2000, p. 0284 E	27/09/2000	EC	Summary
Economic and Social Committee: opinion, report		CES0410/2001 OJ C 155 29.05.2001, p. 0073	29/03/2001	ESC	
Committee report tabled for plenary, 1st reading/single reading		A5-0229/2001	20/06/2001	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0444/2001 OJ C 072 21.03.2002, p. 0236-0305 E	06/09/2001	EP	Summary
Non-legislative basic document		COM(2007)0033	31/01/2007	EC	Summary
Follow-up document		COM(2007)0556	25/09/2007	EC	Summary
Follow-up document		SEC(2007)1231	25/09/2007	EC	
Follow-up document		COM(2009)0206	29/04/2009	EC	Summary
Follow-up document		SEC(2009)0574	29/04/2009	EC	Summary
Follow-up document		COM(2014)0453	09/07/2014	EC	Summary

Follow-up document		SWD(2014)0230	09/07/2014	EC	
Follow-up document		SWD(2014)0231	09/07/2014	EC	
For information		SWD(2016)0070	18/03/2016	EC	

Additional information

European Commission

[EUR-Lex](#)

Final act

[Regulation 2003/1](#)

[OJ L 001 04.01.2003, p. 0001-0025](#) Summary

Implementation of the rules on competition

PURPOSE: to present a proposal on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and amending Regulations 1017/68/EEC, 2988/74/EEC, 4056/86/EEC and 3975/87/EC ("Regulation implementing Articles 81 and 82 of the Treaty"). **CONTENT:** The current Community rules regulating competition are no longer suited to an enlarged Community for a number of different reasons. Against this background, the subject of the proposal is the reform of the implementing regulations for Article 81 and 82 of the EC Treaty, i.e. Regulation No. 17 and the corresponding transport regulations. It is proposed to create a new enforcement system referred to as a "directly applicable exception system". In such a system, both the prohibition rules set out in Article 81(1) and the exception rules contained in Article 81(3) can be directly applied by not only the Commission but also national courts and national competition authorities. Agreements are legal or void depending on whether they satisfy the conditions of Article 81(3). No authorisation decision is required for enforcing agreements complying with Article 81(3). The characteristics of the proposed system are the following: - more efficient protection of competition; - refocusing the Commission's action; - increased powers of investigation for the Commission; - more level playing field; - more application of Community competition law; - consistent application of Community competition law; - an adequate level of legal certainty for companies and a reduction of bureaucracy. In conclusion, the Commission's proposal for a Council Regulation is fully in line with the principles of subsidiarity and proportionality.?

Implementation of the rules on competition

The Council held an orientation debate on the proposal for a Council Regulation on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and amending Regulations 1017/68, 2988/74 and 3975/87, on restrictive agreements and abuse of dominant position.?

Implementation of the rules on competition

The committee adopted the report by Jonathan EVANS (EPP-ED, UK) amending the proposal under the consultation procedure. It was concerned to strengthen legal certainty for market operators and tabled a number of amendments for that purpose. For example, on the question of when the Commission could intervene to take positive decisions for reasons of the Community public interest, the committee felt that the relevant article could be applied to any agreement having an effect on trade between EU Member States, in certain circumstances. In this way, policy guidance would be available from the Commission before an undertaking entered into an agreement. The committee also wanted to ensure consistency in the application of the rules, and proposed that the form and level of sanctions (such as fines and other penalties) for breaches of competition law be harmonised at EU level to avoid "forum shopping". It also proposed to delete the provision introducing a registration requirement for certain types of agreement, arguing that the value of the proposed registration system had not been satisfactorily established and that such a system would increase red tape for business. Lastly, the report proposed that there should be a two-year transition period and regular reviews of the Regulation.?

Implementation of the rules on competition

The House voted 409 to 54 with 25 abstentions in favour of a Commission proposal to reform competition policy procedures relating to restrictive agreements and abuse of dominant position. (Please refer to the previous text). Amendments made to the report by Mr Jonathan EVANS (EPP-ED, UK) and which were approved seek to introduce an element of harmonisation as far as the fines are concerned and a clearer definition of public interest, while another amendment aims to limit the right to interview staff in an investigation to representatives in order not to jeopardise the individual's position in the company. MEPs also voted to delete the Commission's proposal for a registration system to replace the current notification and authorisation system on the grounds that the value of the proposed new system had not been demonstrated. Other detailed amendments relating to investigative procedures were also approved. ?

Implementation of the rules on competition

The Council held a debate on major points of the proposal for a Regulation and drew the following conclusions: The Presidency welcomes the further progress made on the basis of the work done under the French and Swedish Presidencies and notes with satisfaction that the text of a number of provisions of the proposal is close to consensus. The objective of Article 3 of the proposal, insofar as it endeavours to guarantee undertakings a level playing-field in the European Union and to open the way to optimum operation of the network, seems to be largely shared by the delegations. It confirms, however, the need to continue discussions on Article 3, with particular reference to its implications for national legislation. The Council considers that the main operating principles of the network should be enshrined in a joint Council and Commission statement, whereas the detailed arrangements could be set out in a Commission communication prepared in close cooperation with the Member States. It reaffirms the need to press ahead with work in order to secure adoption next year and enable the new arrangements to be introduced prior to the accession to the Union of the first candidate countries.?

Implementation of the rules on competition

The Council noted progress with the proposal for the introduction of a new system of implementing the competition rules in Articles 81 and 82 of the Treaty. It also heard the Commission present its 31st report on competition (2001). The President drew the following conclusions on reform of the competition rules: The Presidency : - notes that all delegations and the Commission remain fully committed to work towards an effective, viable new system for the application of Articles 81 and 82 of the Treaty; - welcomes the substantial progress made in different areas, especially on the key issue of the functioning of the network of competition authorities where it elaborated a stabilized text, as laid down in the draft Joint Statement of the Council and the Commission; - acknowledges that delegations' positions on main issues to be tackled in the second semester of 2002 have been identified in order to meet the target date set by the Barcelona European Council for the adoption of the Regulation. The proposed reform is intended to make for more effective implementation and decentralised application of Community competition law, while maintaining consistency and preserving the special responsibility of the Commission. In particular it provides for the introduction of a system of legal exception, based on the principle that agreements not contravening the rules on competition are automatically lawful. The Barcelona European Council of 15 and 16 March 2002 gave absolute priority to proceedings on this issue and called on the Council to adopt the new legislative framework by the end of 2002.?

Implementation of the rules on competition

PURPOSE : to reform the rules on competition. COMMUNITY MEASURE : Council Regulation 1/2003/EC on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty. CONTENT : the Council adopted the Council Regulation introducing a new system for the implementation of the competition rules laid down in Articles 81 and 82 of the Treaty. The Regulation is aimed at enabling more effective application of Community competition law - with a decentralised system allowing for implementation by both the Commission and the competition authorities and courts of the Member State - while preserving the Commission's specific role in its implementation. The Regulation introduces a system of legal exception, based on the principle whereby agreements not contravening the competition rules are automatically considered lawful, replacing the current system based on the principle of prohibition. The Regulation is thus aimed at lightening the Commission's workload, in particular by removing the requirement for individual agreements to be notified, so as to enable the Commission to concentrate on the most important cases. ENTRY INTO FORCE : 24 January 2003. The new rules will apply as from 1 May 2004.?

Implementation of the rules on competition

The Commission decided on 13 June 2005 to initiate a sector inquiry into the provision of insurance products and services to businesses in the Community, based on Article 17 of Council Regulation (EC) No 1/2003. Taking into account indications that competition in this sector within the common market may be restricted or distorted, the sector inquiry aimed at further investigating the sector and the practices concerned with a view to ultimately identifying any concrete restrictive practices or distortions of competition that may fall within the scope of Articles 81 or 82 of the Treaty. Business insurance includes, *inter alia*, coverage for property risks and business interruption; shipping; motor vehicles; general, professional and environmental liability; personal accidents and credit risks.

This document is the final report of the business insurance sector inquiry, and is released together with a comprehensive working document of the Commission's services containing the full findings (the Working Document).

The sector inquiry identified three key issues that will need to be followed up by the

Commission and/or national authorities:

- certain practices leading to premium alignment when coinsurance and reinsurance is purchased through a two-step procedure involving a lead and following (re)insurers;
- instances where a pervasive market practice of long-term contracts may lead to cumulative foreclosure; and
- indications of potential market failure in respect of insurance brokerage.

The Commission invites the parties concerned by the various issues identified to carry out their own assessment and to engage in a dialogue with a view either to clarifying whether or not these practices are compatible with competition law, and/or to reviewing the practices in question.

The Commission states that will not hesitate to make use of its enforcement powers under competition law if necessary. Clearly, any possible enforcement procedures would require a full examination of the specifics of each case in consultation with the national competition authorities. The Commission also invites market participants to come forward with further evidence of abusive practices, on a confidential basis if necessary.

In respect of insurance brokerage, the Commission intends to look at these issues anew in the framework of the review of the Insurance Mediation Directive, but also invites Member States and industry participants to review the Commission's findings and propose appropriate action themselves.

Lastly, in respect of the Block Exemption Regulation, the sector inquiry has not produced compelling reasons, as regards business insurance,

to prolong it beyond 2010. However, the Commission will review this matter definitively in view of a report by March 2009 as the enabling legislation requires.

Implementation of the rules on competition

The purpose of this Communication is to report on the functioning of Council Regulation (EC) No 1/2003.

Council Regulation (EC) No 1/2003, the keystone of the modernisation of the European Union's antitrust enforcement rules and procedures, entered into application on 1 May 2004. Article 44 of the Regulation provides that the Commission shall by 1 May 2009, i.e. after five years of application, report to the European Parliament and the Council on its functioning.

The Regulation was the result of the most comprehensive reform of procedures for the enforcement of Articles 81 and 82 EC since 1962. Its main features are:

- the abolition of the practice of notifying business agreements to the Commission;
- the empowerment of national competition authorities and courts to apply EC antitrust rules in their entirety;
- a more level playing field for businesses operating cross-border;
- close cooperation between the Commission and national competition authorities in the European Competition Network (ECN);
- enhanced enforcement tools for the Commission.

The report is a stock-taking exercise, the aim of which is to understand and assess how modernisation of the EC antitrust enforcement rules has worked during the first five years. It is to be read in conjunction with the accompanying Commission Staff Working Paper which contains a more detailed review.

The report concludes that Council Regulation (EC) No 1/2003 has brought about a landmark change in the way the European competition law is enforced. The Regulation has significantly improved the Commission's enforcement of Articles 81 and 82 EC. The Commission has been able to become more proactive, tackling weaknesses in the competitiveness of key sectors of the economy in a focused way.

In addition, the EC competition rules have, to a large extent, become the 'law of the land' for the whole of the EU. Cooperation in the ECN has contributed towards ensuring their coherent application. The network is an innovative model of governance for the implementation of Community law by the Commission and Member State authorities.

In a limited number of areas, the report highlights aspects which merit further evaluation, but leaves open the question of whether any amendment to the existing rules or practice is required. It will serve as a basis for the Commission to assess, in a further stage, whether it is appropriate to take further policy initiatives.

Amongst the questions to be examined include, inter alia: the use made by the Commission of its new or revised powers for effective enforcement; how to streamline the handling of complaints that do not give rise to priority cases; how to improve the procedures concerning fines and infringements; leniency policy; the power of national competition authorities to make observations; clarify and reinforce the legal framework to further enhance existing levels of protection against disclosure.

Implementation of the rules on competition

The Commission presents this Staff Working Paper accompanying the Communication from the Commission on the report on the functioning of Council Regulation (EC) No 1/2003.

Council Regulation (EC) No 1/2003 entered into application on 1 May 2004. Article 44 of the Regulation provides that the Commission shall by 1 May 2009, i.e. after five years of application, report to the European Parliament and the Council on its functioning.

The Regulation was the result of the most comprehensive reform of antitrust procedures since 1962. Its key objectives are effective and coherent enforcement of the EC antitrust rules in the interests of consumers and businesses, while bringing about a more level playing field and reducing red tape for companies operating in Europe.

This Staff Working Paper, which accompanies the report on the functioning of the Regulation, examines the following issues:

- the system change from the notification system to direct application of Article 81(3) EC;
- how the Commission has used the tools provided by the Regulation for effective enforcement in its enforcement procedures;
- how the Regulation has led to more level playing field through the application of EC competition law;
- the enforcement of Articles 81 and 82 EC by national competition authorities and cooperation in the ECN;
- the interaction of the Commission with national courts;
- certain aspects of the interface with third country enforcement.

The aim of the report is to understand and assess how modernisation of the EC antitrust enforcement during the first five years has worked. The report concludes that the Regulation has brought about a landmark change in the way the European competition law is enforced; it has significantly improved the Commission's enforcement of Articles 81 and 82 EC. The Commission has been able to become more proactive, tackling weaknesses in the competitiveness of key sectors of the economy in a focused way. Moreover the Regulation has entrusted the Member States' competition authorities and courts with the role of ensuring that the EU competition rules are applied efficiently and effectively, in conjunction with the Commission.

In addition, the EC competition rules have, to a large extent, become the 'law of the land' for the whole of the EU. Cooperation in the European Competition Network (ECN) has contributed towards ensuring their coherent application. The network is an innovative model of governance for the implementation of Community law by the Commission and Member State authorities.

Lastly, in a limited number of areas, the report highlights aspects which merit further evaluation, but leaves open the question of whether any amendment to the existing rules or practice is required. It will serve as a basis for the Commission to assess, in a further stage, whether it is appropriate to take further policy initiatives.

Implementation of the rules on competition

The Commission presents a report on the ten years of antitrust enforcement under Regulation 1/2003: Achievements and Future Perspectives.

Regulation 1/2003 was a landmark reform which comprehensively overhauled the procedures for the application of Articles 101 and 102 TFEU ("EU competition rules").

The Regulation: (i) introduced an enforcement system that is based on the direct application of the EU competition rules in their entirety; (ii) empowered Member States competition authorities ("NCAs") and national courts to apply all aspects of the EU competition rules, in addition to the European Commission; (iii) introduced new, close forms of cooperation between the Commission and NCAs, notably in the framework of the European Competition Network ("ECN").

This Communication: (1) provides a facts based review of public enforcement during this period by the Commission and the NCAs; and (2) examines some key aspects of enforcement by the NCAs, in particular institutional and procedural issues, with a view to its further enhancement.

The communication concludes that the enforcement of the EU competition rules has considerably increased as a result of the achievements of the Commission, the ECN and the NCAs. (1) The Commission has a strong enforcement record, investigating an important number of cases and carrying out inquiries in key sectors of the economy. The sector most investigated by the Commission and the NCAs is basic and manufacturing industries (42 and 92 decisions, respectively). This largely reflects the prioritisation of the fight against cartels which have mostly been detected in this sector.

Both the Commission and the NCAs have concentrated on recently liberalised sectors or sectors in the process of liberalisation, such as telecoms, media, energy and transport, which are often characterised by high market concentration and/or the presence of dominant operators.

(2) The Commission has provided guidance for stakeholders, NCAs and national courts. After having adopted a series of notices on a range of substantive and procedural matters, it subsequently adopted revised block exemption regulations and accompanying guidelines concerning the application of Article 101 TFEU to horizontal, vertical and technology transfer agreements. Moreover, the Commission issued a guidance paper on its priorities in the application of Article 102 TFEU to exclusionary abuses. It also adopted new guidelines on setting fines, a new leniency notice, a notice on settlements in cartel cases, an information note on inability to pay and a notice on best practices in antitrust cases.

(3) There has been a dynamic development of close cooperation within the ECN, which has underpinned the coherent application of the EU competition rules throughout the EU.

The ECN has developed into a multi-faceted forum for exchanges of experience on the application of substantive competition law as well as on convergence of procedures and sanctions.

(4) NCAs have become a key pillar of the application of the EU competition rules. Similar to the Commission, the NCAs also concentrated their enforcement efforts on cartels (27%). In addition, the NCAs tackled a significant number of other horizontal practices (19%), including stand-alone exchanges of information where the information exchange did not form part of a broader cartel agreement. The NCAs were also very active in addressing vertical practices (27%), in particular, resale price maintenance, anti-competitive forms of exclusive distribution and exclusive purchasing and restrictions of parallel trade.

In order to build on these achievements to create a truly common competition enforcement area in the EU, the Commission considers it necessary, in particular, to:

- further guarantee the independence of NCAs in the exercise of their tasks and that they have sufficient resources;
- ensure that NCAs have a complete set of effective investigative and decision-making powers at their disposal; and
- ensure that powers to impose effective and proportionate fines and well-designed leniency programmes are in place in all Member States and consider measures to avoid disincentives for corporate leniency applicants.

The Commission will further assess appropriate initiatives to best achieve these goals.