



# Procedure file

Basic information		
INI - Own-initiative procedure	<a href="#">2007/2078(INI)</a>	Procedure completed
Competition policy 2005		
Subject 2.60 Competition		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs		04/07/2006
		PSE <a href="#">FERREIRA Elisa</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>EMPL</b> Employment and Social Affairs	The committee decided not to give an opinion.	
	<b>ENVI</b> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	<b>ITRE</b> Industry, Research and Energy	The committee decided not to give an opinion.	
European Commission	<b>IMCO</b> Internal Market and Consumer Protection	The committee decided not to give an opinion.	
	<b>TRAN</b> Transport and Tourism	The committee decided not to give an opinion.	
	Commission DG	Commissioner	
	<a href="#">Competition</a>	KALLAS Siim	

Key events			
15/06/2006	Non-legislative basic document published	<a href="#">SEC(2006)0761</a>	Summary
26/04/2007	Committee referral announced in Parliament		
08/05/2007	Vote in committee		Summary
11/05/2007	Committee report tabled for plenary	<a href="#">A6-0176/2007</a>	
18/06/2007	Debate in Parliament		
19/06/2007	Results of vote in Parliament		
19/06/2007	Decision by Parliament	<a href="#">T6-0263/2007</a>	Summary
19/06/2007	End of procedure in Parliament		

Technical information	
Procedure reference	2007/2078(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/45775

Documentation gateway					
Non-legislative basic document		<a href="#">SEC(2006)0761</a>	15/06/2006	EC	Summary
Committee draft report		<a href="#">PE386.540</a>	26/03/2007	EP	
Committee report tabled for plenary, single reading		<a href="#">A6-0176/2007</a>	11/05/2007	EP	
Text adopted by Parliament, single reading		<a href="#">T6-0263/2007</a>	19/06/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)3798/2	18/07/2007	EC	
Commission response to text adopted in plenary		<a href="#">SP(2007)4174</a>	13/09/2007	EC	

## Competition policy 2005

PURPOSE: to present the 2005 Competition Policy Report.

CONTENT: in 2005, DG Competition made substantial progress towards a more effective and targeted application of the competition rules. It saw:

- the launching of the 'State Aid Action Plan' (SAAP);
- giving the highest priority to detecting, dismantling and sanctioning cartels;
- the sanctioning of AstraZeneca for misusing the regulatory system in order to delay market entry of generic drugs competing with its blockbuster product Losec;
- the launching of two sector inquiries (one on financial services and one in the energy sector);
- an increased enforcement activity in the field of mergers;
- the effective implementation of Commission decisions in the field of competition ? as shown by opening formal proceeding for non-compliance in the Microsoft case; and
- the investment of considerable resources in support of better regulation initiatives.

All in all, 2005 was a year of important progress both in terms of consolidation of the reformed competition regime for antitrust and mergers, and in terms of the far-reaching reform of state aid. 2005 also brought important advances in the implementation of a more impact oriented, economic based approach to competition problems across existing instruments.

The 2005 Report on competition policy also provides an opportunity to set out the future direction that the Commission will take vis-à-vis Competition in 2006. The three multi-annual objectives identified by the Competition DG enable the EU to make a significant contribution towards the EU's Lisbon Strategy. The goals are:

- to focus enforcement actions on those practices that are most harmful to the EU economy;
- to enhance competitiveness within the EU by helping to shape the regulatory framework; and
- to focus action on key sectors relating to the internal market and the Lisbon Strategy.

Anti-trust: In 2006, DG Competition will give high priority to both the prevention and deterrence of cartels. The detection and deterrence of cartels brings important benefits to the EU economy and to European consumers. The Commission will seek to effectively complete the sector inquiries launched by the Commission in 2005 into the gas and electricity markets and the retail banking and insurance sectors. The findings of the sector inquiries will allow the Commission to decide on the right type of policy mix needed to solve the problems that have been identified. The 'mix' will include competition enforcement and/or advocacy. It could also include regulating areas of the internal market and/or consumer protection. Lastly, DG Competition will seek to enhance co-ordination with the European Competition Network (ECN) to ensure the application of EU competition rules in a coherent and uniform manner.

Mergers: As far as merger controls are concerned, DG Competition will continue to identify competition concerns ? but only on the basis of sound economic analysis and solid fact finding. Particular attention will be given to mergers that might impede the achievement of EU

liberalisation. In 2006, the Commission will adopt revised and consolidated jurisdictional guidelines and it will also prepare guidance on non-horizontal mergers. Work will begin on the re-examination of the two-thirds rules, one of the criteria's set for establishing the Commission's jurisdiction for mergers with a Community dimension.

State aid: In the field of state aid, the specific priorities for 2006 are those set out in the 'State Aid Action Plan'. DG Competition will introduce a more economics-based approach to the design of state aid rules, focusing in particular on market failures. It will, accordingly, revise existing horizontal texts both on substance and on procedure. Furthermore, it will continue to pursue an active State aid control by strengthening the economic analysis in case assessment and through the systematic recovery of incompatible aid granted. DG Competition will continue to promote an increased sense of shared responsibility between the Commission and the Member States for the reform of state aid rules and will consider the establishment of a state aid network in this context. It will also continue to encourage national courts to play a more active role in the enforcement of state aid rules at national level.

International activities: The Commission will work with candidate countries and other Western Balkan countries. It is also keen to further strengthen co-operation with major third-country jurisdictions. As such it will prepare a framework for a Second Generation Agreement which would allow the exchange of confidential information. On a final point, within the framework of the formal EU-China bilateral competition dialogue, the Commission will continue to assist China in targeting its competition law.

## Competition policy 2005

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The committee adopted the own-initiative report drawn up by Elisa FERREIRA (PT, PES) in response to the Commission Report on Competition Policy 2005. The report sounded a positive note overall with regard to the Commission's efforts to modernise competition policy and in particular "its reinforced stance on combating cartels, its renewed targeting of unauthorised State aid and (...) its achievements in the area of multilateral and bilateral cooperation".

MEPs in the committee welcomed the Commission's efforts to improve the quality of decision enforcement within the European Competition Network (ECN) through increased cooperation among national competition authorities (NCAs).

The report expressed concern about the excessive delay in recovering unauthorised State aid granted by several Member States and called on the Commission to increase the transparency and public accountability of the existing state aid mechanisms and to establish "clear criteria" for measuring state aid levels. The Commission was also urged to ensure compatibility between state aid and cohesion policy by making sure that state aid does not result in distortion of competition through relocation of companies from one Member State to another, with the ensuing loss of jobs in one region for the benefit of another.

The committee supported the Commission's efforts to introduce an EU-wide common consolidated corporate tax base (CCCTB), since this will make for easier comparisons between Member States and companies.

Among other points, the report expressed concern at the relative failure to date in achieving genuine competition in the energy markets, and stressed that the introduction of a level playing field that enables new market entry and facilitates the introduction of new environmentally-friendly technologies must be a priority. In this connection the committee congratulated the Commission for making full use of its powers in enhancing the efficiency of the energy market and praised the important role of the energy sector inquiry in identifying the necessary regulatory changes such as unbundling network and supply activities, removing regulatory gaps regarding cross-border issues and addressing market concentration and barriers to entry.

The committee also applauded the Commission's efforts to strengthen the instruments for tackling cartels, in particular, the revision of its leniency procedures and the new guidelines on the method of setting fines.

Other recommendations made by the report included the need to apply competition law to all players on the European market, whether or not they have their headquarters in the EU, and to make effective the right of victims who have suffered losses as a result of anti-competitive behaviour to obtain compensation.

The committee also congratulated the Commission for the progress made in the context of bilateral cooperation with the USA, Canada, Japan, Korea and China. Lastly, the report reaffirmed the need for a greater role for the European Parliament, including the promotion of codecision powers, in the formulation of competition law.

## Competition policy 2005

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The European Parliament adopted a resolution based on the own-initiative report drafted by Elisa FERREIRA (PT, PES) in response to the Commission Report on Competition Policy 2005. Parliament welcomed the Commission's action to modernise competition policy with particular reference to the Commission's stance on combating cartels, its renewed targeting of unauthorised State aid and its sector inquiries. It approved the Commission's efforts to improve the quality of enforcement of decisions through increased cooperation with and among national competition authorities (NCAs), and asked for consideration to be given to the creation of a network of judicial authorities, comparable to the ECN. In relation to services of general economic interest (SGEIs), Parliament renewed its call for further progress in relation to both the clarification of the existing competition rules and their practical application.

It moved to express concern about the excessive delay in the processes of recovery of unauthorised State aid granted by several Member States, stressing that the inadequate enforcement of rules in this area may seriously harm fair competition. Parliament took the view that certain taxation practices applied by some of the Swiss cantons could have the effect of distorting competition. It called for continued dialogue with the Swiss Confederation on these issues with a view to Swiss participation in the Code of Conduct for Business Taxation annexed to the Council conclusions of the ECOFIN Council Meeting on 1 December 1997 concerning the taxation policy. Parliament supported the Commission's efforts to introduce a Community-wide common consolidated corporate tax base (CCCTB).

It went on to express concern at the relative failure to date to achieve genuine competition in the energy markets. In many Member States, ownership unbundling had proven insufficient to ensure adequate competition, as very high market shares of incumbent operators were

associated with insufficient market access and market foreclosure. Parliament strongly believed that the introduction of a level playing field enabling new market entry and facilitating the introduction of new environmentally friendly technologies must be a priority.

Members stressed that competition law must be applied to all players on the European market, whether or not they have their headquarters in the European Union. It suggested that progress would be welcome in reviewing the 'two-thirds rule' which governs whether national or European competition authorities deal with a particular case.

Parliament welcomed the Commission's efforts to increase the transparency and public accountability of the existing mechanisms of State aid. Recalling the need to avoid competition and duplication among Member States' State aid schemes, Parliament suggested that further efforts by the Commission to harmonise national practices and promote the exchange of information and best practices were of the utmost relevance. It also recalled the principle of compatibility between State aid and Community cohesion policy, and asked the Commission to ensure that State aid did not result in distorted competition by provoking the relocation of companies from one Member State to another. This might lead to subsidy-shopping by businesses without any added value for the common goals of the Community and, in particular, to the loss of jobs in one region for the benefit of another.

MEPs welcomed the progress made in the context of bilateral cooperation with the EU's main partners, namely, the United States, Canada, Japan and Korea, including dialogue on issues of common concern such as merger remedies and cartel investigations.

Lastly, Parliament considered that Community State aid policy, particularly regarding sectors that operate in the globalised market, must focus on aid practices by third-country governments in relation to competitors. However, a balance should be achieved by giving preference to efforts regarding cooperation and mutual recognition, rather than through subsidy competition.