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**NOTE**

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From:	The European Commission
To:	Council
Subject:	Communication on a competition policy - fit for new challenges <i>- Information from the European Commission</i>

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Delegations will find attached an information note from the European Commission on "Communication on a competition policy - fit for new challenges" with a view to AOB items at the meeting of the Competitiveness Council on 25 November 2021.

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### Information note from the Commission

On 18 November 2021, the Commission adopted a Communication “*A competition policy fit for new challenges*”<sup>1</sup> framing the important role of competition policy and its tools in the European Union’s path towards recovery, the green and digital transition and a resilient Single Market.

EU competition policy is an essential tool to foster long-term competitiveness within the Single Market. Vigorous competition enforcement aims at safeguarding its correct functioning, helping to nurture the dynamic fabric of the European economy and works in favour of both businesses and citizens.

Furthermore, beyond European borders, there is momentum for strengthened enforcement and international convergence in competition policy and enforcement practices across an increasing number of jurisdictions. This is important to ensure fair competition in all sectors and to enable European firms to reach efficient scale.

EU competition policy has played an important role in the Union’s crisis response toolbox during the COVID-19 pandemic, demonstrating its in-built ability to react to sudden changes in the economy, in particular through the State aid Temporary Framework and the Antitrust Temporary Framework. The intrinsic adaptive capacity of EU competition policy is key not only in moments of crisis, but also in facing future challenges.

The European economy is at a remarkable crossroads. There is a need for profound changes in business practices and models, and massive long-term investments, in order to secure the green and digital transitions and future competitiveness. Within this framework, the Commission is currently pursuing an unprecedented review of more than 20 of its competition rules and guidelines across in mergers, antitrust and State aid control to ensure they remain fit for purpose. This review, combined with continued strong, independent, and fact-based competition enforcement, will give the European economy the agility to climb the path to recovery and to meet its green and digital ambitions in a sustainable and socially inclusive manner. It will also enable the European industry to lead the twin transitions, and foster the resilience of the Single Market.

To help accelerate the **green transition**, EU competition policy complements the regulatory framework by ensuring strong and competitive markets that send the right price signals for the necessary investment to flow and help fill the green investment gaps, while keeping costs down for taxpayers. The new Climate, Environmental Protection and Energy Aid Guidelines will support decarbonisation efforts of the industry and facilitate support in areas such as circularity and biodiversity as well as clean mobility and energy efficiency of building. The Commission also aims at further enabling and providing legal certainty to competitors that cooperate to develop more sustainable products or production processes in the context of the ongoing review of the Horizontal Block Exemption Regulations and

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<sup>1</sup> COM(2021) 713 final, 18.11.2021

Guidelines. Moreover, our vigorous enforcement of competition rules also contributes to the green transition.

To help accelerate an inclusive **digital transition**, a central objective of competition policy remains keeping the power of dominant platforms in check. Given the specificities of digital markets, the Commission is sharpening existing competition tools. The Commission is a global frontrunner in enforcing antitrust rules in the digital sector. To adapt competition rules to reflect specificities of digital markets, the Commission is updating its 1997 Market Definition Notice to take account of digitalisation and new ways of offering of goods and services. The Commission's enforcement experience in competition cases has also contributed to the legislative proposal for the Digital Markets Act.

EU competition policy and enforcement also contribute to an open and competitive, and therefore resilient, Single Market. It sets predictable market conditions for companies to thrive in by offering innovative products and services at affordable prices, it enables strong and diversified supply chains, and it addresses behaviours that would otherwise lead to the fragmentation of the Single Market. In order to achieve sufficient scale for financing large-scale research and infrastructure projects in strategic areas, the EU State aid rules enable Member States and industry to jointly overcome market failures by enabling breakthrough innovation, by setting up Important Projects of Common European Interest in a transparent and inclusive manner. The Commission is updating the Horizontal and Vertical Block Exemption Regulations and Guidelines to support pro-competitive agreements, including enabling European industry to join forces to advance research efforts or to commercialise products.

Considering the European dependency on supply of semiconductors from a limited number of companies and geographies, and vulnerability to third country export restrictions and other disruptions in the present geopolitical context, the Commission may also envisage approving public support to fill possible funding gaps in the semiconductor ecosystem for the establishment in particular of European first-of-a-kind facilities, based on Article 107(3) of the Treaty. Such aid would be subject to strong safeguards to ensure it is necessary, appropriate and proportionate, that undue competition distortions are minimised and that benefits are shared widely and without discrimination across the European economy.

European resilience requires well-functioning multilateral and bilateral trade regimes. The Single Market's openness to trade and investment is a strength and source of growth and resilience for the Union. However, the scale and level playing field that the Single Market offers may not secure the competitiveness of European firms if fair competition is not also assured on the global stage. The proposal for a Regulation to address distortive effects of foreign subsidies in the Single Market aims at filling a regulatory gap by complementing existing Single Market and competition instruments, contributing to making European markets fairer and more contestable, and complementing existing trade policy tools. Moreover, international competition advocacy and cooperation further complements the tools of EU trade policy designed to secure free and fair trade at global and bilateral level; it also complements the EU initiatives to foster international development and cooperation, such as international partnerships to address strategic supply-chain vulnerabilities.