



# Annual Activity Report 2023

DG COMPETITION

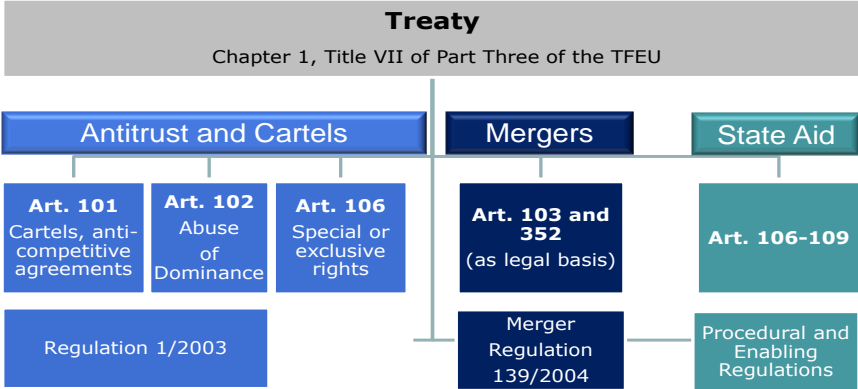
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# DG COMPETITION IN BRIEF

The mission of DG Competition is to enable the Commission **to make markets deliver more benefits to consumers, businesses, and society as a whole by protecting competition on the market and promoting competition culture in the EU and worldwide**. DG Competition does this by enforcing EU competition rules and by ensuring that other regulatory initiatives take competition policy duly into account among other public policy interests. Competition policy is an indispensable element of a well-functioning Single Market ensuring that all companies compete fairly on their merits and on equal and non-discriminatory terms, making markets more competitive and resilient, while generating higher productivity, innovation, growth, and lower prices.

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.



DG Competition carries out its mission mainly by taking direct enforcement action<sup>(1)</sup> against companies or Member States when it finds evidence of unlawful behaviour be it (i) anti-competitive agreements between firms, abusive behaviour by dominant companies<sup>(2)</sup>, (ii) governmental action which leads to a distortion of competition in the internal market by giving some companies undue advantages over others<sup>(3)</sup> or (iii) the emergence of market structures, which impede effective competition or result in the deterioration of market structures where competition is already less effective<sup>(4)</sup>. In 2023, the Commission

<sup>(1)</sup> 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 regarding the aid measure.

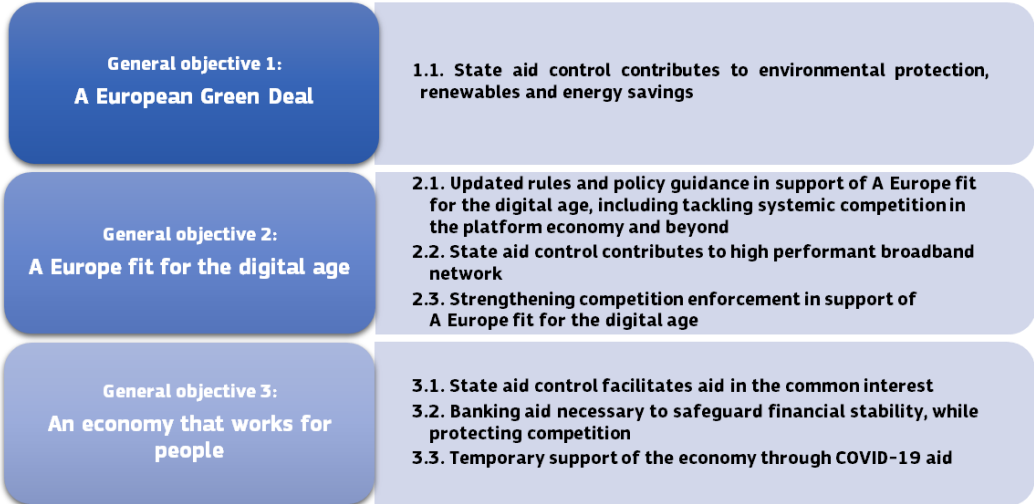
<sup>(2)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 4.1.2003, p. 1-25.

<sup>(3)</sup> 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](http://ec.europa.eu/competition/state_aid/modernisation/index_en.html).

<sup>(4)</sup> 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.

continued its enforcement cooperating with Member States' NCAs and under the scrutiny of EU courts. DG Competition, together with DG CNECT, is also responsible for the enforcement of the Digital Markets Act (DMA), which aims to keep digital markets contestable. The Foreign Subsidies Regulation (FSR) also started to apply, giving the Commission the power to investigate foreign subsidies granted by non-EU countries to undertakings active in the EU to ensure they do not create distortions to the Single Market. <sup>(5)</sup>

Approximately 70% of the staff of DG Competition (total staff 871 in December 2023) is engaged in enforcement activities. DG Competition channelled 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, in particular, 'A European Green Deal', 'A Europe fit for the digital age' and 'An economy that works for people', with the following specific objectives:



DG Competition is organised in a matrix structure combining enforcement instruments under different economic sectors. Policy and enforcement units are supported in an integrated fashion across the DG by centres of expertise in the domains of communication, information and digital business solutions, financial resource management, internal control and compliance and better regulation to ensure the overall consistency to serve best the DG's priorities. This organisation structure is designed to promote instrument and sector knowledge, as well as the flexible and efficient use of human resources.

The Single Market Programme <sup>(6)</sup> includes a dedicated component for competition policy, the Competition Programme. It provides financing of actions enhancing the Commission's competition enforcement capacity, notably in terms of digital solutions, policy initiatives, international cooperation as well as advocacy. In 2023, DG Competition continued supporting its actions through the Competition Programme.

<sup>(5)</sup> DG Competition is responsible for enforcing the FSR rules on concentrations and DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) for enforcing the FSR rules in public procurement.  
<sup>(6)</sup> Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (Text with EEA relevance), OJ L 153, 3.5.2021, p. 1.



## 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 Treaties <sup>(7)</sup>.

### **A. Key results and progress towards achieving the Commission's general objectives and department's specific objectives.**

2023 was a challenging year for DG Competition, significantly stretching its capacities and human resources.

The Commission continued to [enforce the EU competition rules](#) in the areas of antitrust, merger control and State aid control to the benefit of citizens and businesses of all sizes. EU competition policy, in particular State aid policy, remained a crucial component of the EU's multifaceted crisis response. DG Competition' actions contributed to the provision of adequate and affordable energy supplies, safeguarding economic and financial stability, food security and protection of vulnerable households and companies in EU. While addressing these challenges, the obligation to deliver on the green and digital transitions remained.

The Commission adopted more than 620 [State aid](#) decisions. Of these, more than 200 decisions concerned State aid granted under the Temporary Crisis and Transition Framework adopted to mitigate the economic impact of Russia's war of aggression against Ukraine, address dependency of fossil fuels, accelerate the transition towards a net zero economy and address global competitiveness concerns. DG Competition also contributed to the operability of the Recovery and Resilience Plans (RRPs) boosting the recovery of the EU with well-targeted investments.

The Commission's [merger control](#) activities remained also at a high level, with 333 decisions adopted, the intervention of the Commission in 11 transactions, one transaction prohibited, and fines imposed in one transaction.

In [antitrust and cartels](#), the output was also significant. The Commission reached five decisions, issued six Statements of Objections, and carried out seven unannounced inspections in several sectors. That included some landmark cases, like the adoption of the

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<sup>(7)</sup> Article 17(1) of the Treaty on European Union.

Statement of Objections in the *Google Adtech* case <sup>(8)</sup>, or the first-ever cartel decisions in the defence <sup>(9)</sup> and pharmaceuticals sectors <sup>(10)</sup>.

The Commission continued its [ambitious review of competition rules and guidance](#) to ensure that all enforcement instruments are fit for current and future challenges <sup>(11)</sup>, making markets work better for people.

In 2023, the Commission also started to apply new internal market legislation, the [Digital Markets Act \(DMA\)](#) and the [Foreign Subsidies Regulation \(FSR\)](#), complementing its competition policy and enforcement toolbox. A new Directorate was established within DG Competition <sup>(12)</sup> responsible for the implementation and enforcement of the DMA which took effect in January 2023. DG Competition reorganised its [registry](#) creating two dedicated teams in charge of dealing with the document management related to the DMA and FSR. The DMA registry team of DG Competition also provides services to the colleagues from DG CNECT involved in DMA case handling.

2023 constituted the fourth year of DG Competition's implementation of its [five-year digital modernisation plan](#). Significant progress was made via the rolling out and upgrading of information systems, such as the extension of the new case management system CASE@EC as well as other IT systems to support the DMA as well as the FSR. DG Competition further invested into [digital investigation tools](#) by using corporate intelligence, data, and machine learning services. Given the sensitive and confidential nature of the information it handles, DG Competition continued to update IT security plans for new as well as existing digital solutions. Moreover, DG Competition continued to pursue safety and monitoring measures to ensure cyber security and cyber resilience in 2023 and beyond. [The Chief Technology Officer \(CTO\)](#) team contributed to the increasingly data-driven enforcement and market monitoring tasks in DG Competition.

DG competition [outreach and advocacy activities](#) supported its policy and enforcement activities throughout the year.

[The Single Market Programme](#) and its competition policy component provided funding for increasing policy and enforcement projects, international cooperation, and competition policy advocacy.

The illustration below provides an overview of the progress made by DG Competition in 2023 across all its areas of responsibility, policy files, antitrust and merger enforcement, State aid control and international activities.

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<sup>(8)</sup> AT.40670 - *Google – Adtech and Data-related practices*.

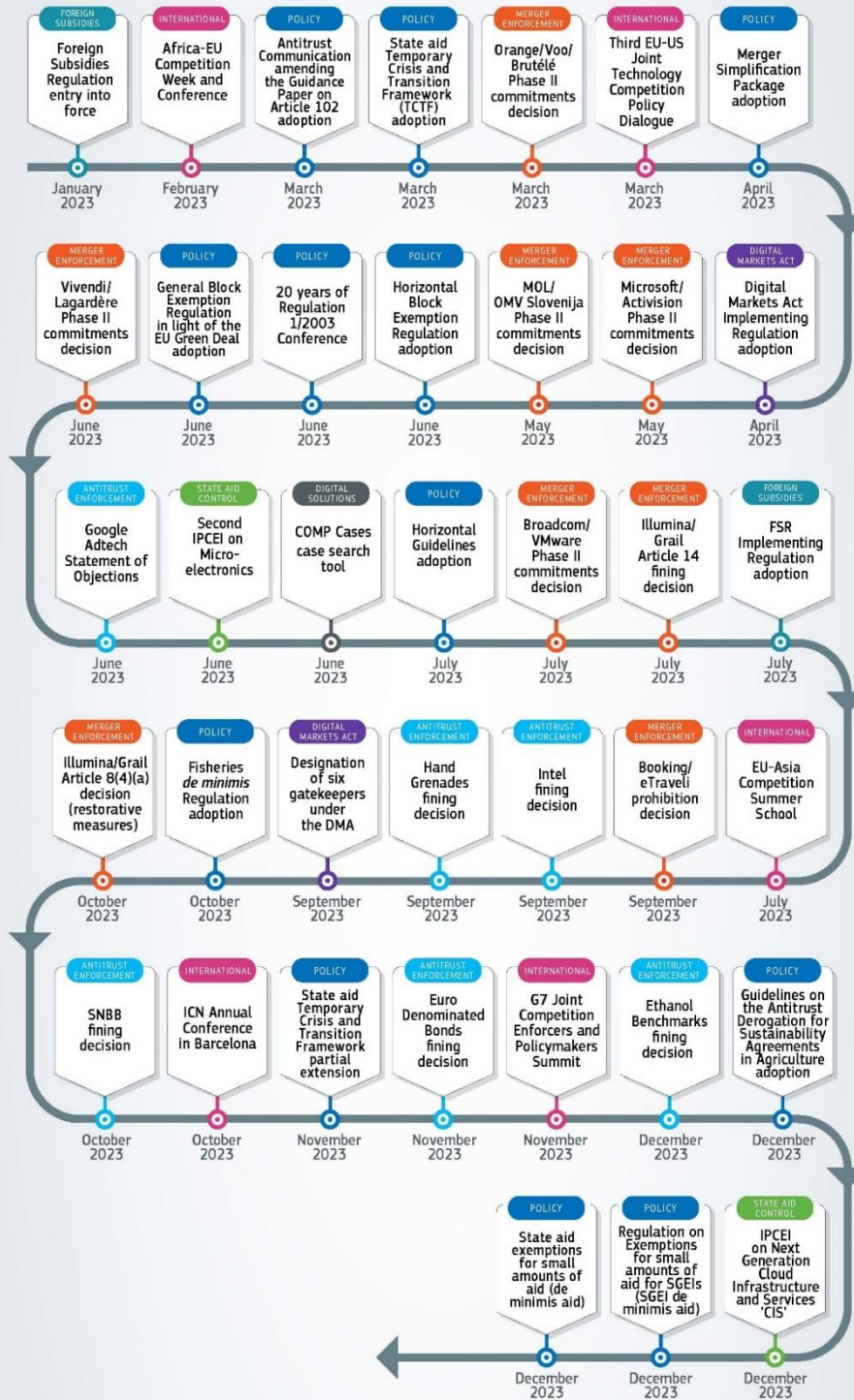
<sup>(9)</sup> AT.40760 - *Hand grenades*.

<sup>(10)</sup> AT.40636 - *SNBB*.

<sup>(11)</sup> Communication of the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions – A competition policy fit for new challenges, COM(2021) 712 final, 18.11.2021.

<sup>(12)</sup> Directorate J: Markets and cases VI: Digital Platforms

# 2023 AT A GLANCE



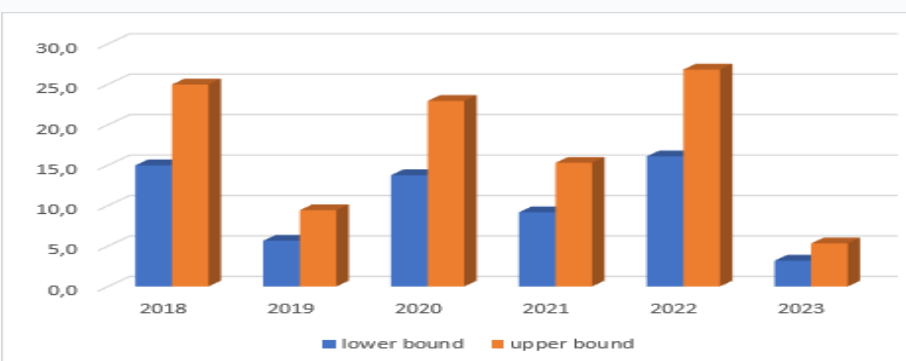
## B. Key performance indicators

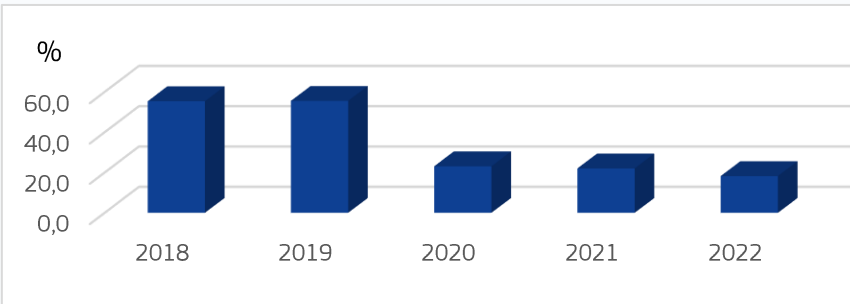
The following key performance indicators measure the results of the main competition policy instruments: antitrust, merger control and State aid control. While these indicators do not deliver an exhaustive account of DG Competition's work or its impact on markets, they constitute the core quantifiable result indicators of the activities also contributing to the Commission priorities supporting the green and digital transition of the EU economy (more information on KPIs in Annex 15). To indicate the level of its activity and output, DG Competition also publishes the number of adopted enforcement decisions by the Commission (or intervention rate) annually. <sup>(13)</sup>

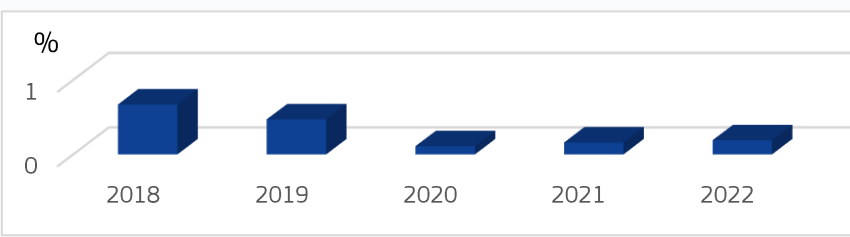
Impact indicator	Trend	Target (or milestones)	Latest known results			
KPI 1 The estimate of customer benefits resulting from cartel prohibition decisions	Stable/ volatile (in line with markets affected)	Stable	EUR 0.05 - 0.08 bn (2023)			
		bn EUR	2018	2019	2020	2021
<b>Cartel</b>	<b>1.3-1.9</b>	<b>1.5-2.3</b>	<b>0.2-0.3</b>	<b>1.3-1.9</b>	<b>0.2-0.3</b>	<b>0.05-0.08</b>

Impact indicator	Trend	Target (or milestones)	Latest known results			
KPI 2 The estimate of customer benefits resulting from non-cartel antitrust interventions	Stable/ volatile (in line with markets affected)	Stable	EUR 0.1 bn (2023)			
		bn EUR	2018	2019	2020	2021
<b>Non-cartel antitrust</b>	<b>7.4-14.9</b>	<b>6.4-7.7</b>	<b>1.6-3.3</b>	<b>0.2-0.3</b>	<b>5.6-11.2</b>	<b>0.1</b>

<sup>(13)</sup> DG Competition draws antitrust, merger control and State aid control related performance data from its case management systems and, for State aid, information provided by the Member States and carries out regular checks of the data. DG Competition considers the data reliable. It calculates the direct benefits of its competition policy interventions using the estimated customer benefits approach. 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> and Competition Policy Brief (2022). Issue 1, October 2022. European Commission <https://data.europa.eu/doi/10.2763/80601>. The Commission also uses a macroeconomic model of the EU economy to assess the effects of competition policy enforcement on economy-wide indicators. See further p. 24 and Annexes 2 and 15. DG Competition does not contribute to first-level performance indicators included in the Single Market Programme. There is thus also no additional performance information related to the EU budget spending programmes reported in DG Competition's Annual Activity Report.

Impact indicator	Trend	Target (or milestones)	Latest known results			
KPI 3 The estimate of customer benefits resulting from merger interventions	Stable/volatile (in line with markets affected)	Stable	EUR 3.2- 5.3 bn (2023)			
						
		bn EUR	2018	2019	2020	2021
Merger	15.0-25.0	5.7-9.4	13.8-23.0	9.2-15.3	16.1-26.8	3.2-5.3

Impact indicator	Trend	Target (or milestones)	Latest known results		
KPI 4 Total State aid expenditure for environmental protection, renewables, and energy savings as a percentage of total State aid in the EU	Stable (mechanical effect connected to the COVID-19 pandemic and the large amount of State aid expenditure to mitigate its economic effects)	Increasing	18% (2022)		
					
		%	2018	2019	2020
KPI 4	55%	54%	23%	21%	18%

Impact indicator	Trend	Target (or milestones)	Latest known results		
KPI 5 Total State aid expenditure for broadband as a percentage of total State aid in the EU	Decreasing (mechanical effect connected to the COVID-19 pandemic and the large amount of State aid expenditure to mitigate its economic effects)	Increasing	0.2% (2022)		
					
		%	2018	2019	2020
KPI 5	0.7%	0.5%	0.1%	0.2%	0.2%

Impact indicator	Trend	Target (or milestones)	Latest known results			
KPI 6 Total State aid expenditure falling under the General Block Exemption Regulation as a percentage of total State aid in the EU	Increasing	Increasing	26% (2022)			
		%	2018	2019	2020	2021
KPI 6	37%	37%	17%	18%	26%	

## C. Key conclusions on internal control and financial management

In line with the Commission's Internal Control Framework DG Competition has assessed its internal control system during the reporting year 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 principles 4, 10, 11, 14 and 17. Please refer to AAR section 2.3 for further details.

In addition, DG Competition has systematically examined the available control results and indicators, as well as 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 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(s)

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



# 1. KEY RESULTS AND PROGRESS TOWARDS ACHIEVING THE COMMISSION'S GENERAL OBJECTIVES AND SPECIFIC OBJECTIVES OF THE DEPARTMENT

## General objective 1: A European Green Deal

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

In the area of *State aid control*, the Commission revised the [General Block Exemption Regulation \(GBER\)](#) to simplify and speed up public support for green and digital investments <sup>(14)</sup>. The revised GBER includes provisions to tackle economic effects stemming from the war of aggression of Ukraine by Russia and to contribute to the recovery of Europe's economy.

The Commission also adopted the [Temporary Crisis and Transition Framework \(TCTF\)](#) <sup>(15)</sup> to foster public support in sectors key for the transition to a net-zero economy, in line with the Green Deal Industrial Plan <sup>(16)</sup>. As a result, Member States are still able to grant limited amounts of aid and aid to compensate for extraordinary energy price hikes until June 2024. At the same time the possibilities to address the underlying dependency on fossil fuels, to accelerate the transition towards a net zero economy and to address global competitiveness concerns remain in place until the end of 2025.

In the area of *antitrust*, the Commission adopted the revised [Guidelines on horizontal cooperation agreements](#) which include a new chapter on sustainability agreements providing guidance on their assessment under Article 101 TFEU <sup>(17)</sup>. The [Guidelines on sustainability in the agricultural sector](#) <sup>(18)</sup> were also adopted.

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<sup>(14)</sup> Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 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, OJ L 167, 30.6.2023, p. 1.

<sup>(15)</sup> Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C 101, 17.3.2023, p. 3. This Framework replaces and extends in part the Temporary Crisis Framework adopted in 2022 and was further amended in November 2023: Communication from the Commission – Amendment to the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, OJ C, C/2023/1188, 21.11.2023, p. 1.

<sup>(16)</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A Green Deal Industrial Plan for the Net-Zero Age, COM(2023) 62 final.

<sup>(17)</sup> Communication from the Commission – Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, OJ C 259, 21.7.2023, p. 1.

<sup>(18)</sup> Commission guidelines on the exclusion from Article 101 of the Treaty on the Functioning of the European Union for sustainability agreements of agricultural producers pursuant to Article 210a of Regulation (EU) No 1308/2013, [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=PI\\_COM:C\(2023\)8306](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=PI_COM:C(2023)8306)



## Strengthening competition enforcement in support of the European Green Deal

In the field of *State aid control*, the Commission approved measures to support the green transition of the EU.

Under the Climate, Environmental protection and Energy aid guidelines (CEEAG) <sup>(19)</sup>, the Commission approved *inter alia* public support for the [decarbonisation of industrial processes](#) such as steel and refinery installations through hydrogen based technologies <sup>(20)</sup>; for the [roll-out of carbon and storage technologies](#); for [offshore wind-energy generation](#); for rail transport operators using [electric traction in the context of spikes in electricity prices](#); for the [reduction of nitrogen deposition on nature conservation areas](#); for the [deployment of high power recharging infrastructure for electric vehicles along motorways](#); and for the [development of a centralised electricity storage system](#) <sup>(21)</sup>. The Commission also approved the first capacity mechanism case, thereby contributing to security of electricity supply <sup>(22)</sup>.

Under the TCTF, the Commission approved *inter alia* eight national schemes to [accelerate investments in sectors strategic for the transition towards a net-zero economy](#) (including batteries, solar panels, wind turbines, heat pumps, electrolysers and carbon capture and storage equipment), in line with the Green Deal Industrial Plan <sup>(23)</sup>.

In 2023, the Commission also supported the EU energy objectives and the European Green Deal through its *antitrust enforcement*.

For instance, the Commission fined *Lantmännen ek för* and *Lantmännen Biorefineries AB* a total of EUR 47.7 million for [colluding to influence the price formation mechanism for](#)

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<sup>(19)</sup> Communication from the Commission: Guidelines on State aid for climate, environmental protection and energy, OJ C 80, 18.2.2022, p. 1.

<sup>(20)</sup> SA.104904 - Spain - *ArcelorMittal Spain (Gijon)*; SA.105006 - Poland - *RRF-Aid to LOTOS Green H2 Sp. z o.o.*; SA.104897 - Belgium - *Project ArcelorMittal (Ghent)*; SA.104903 - France - *ArcelorMittal France*; SA.105244 - Germany - *Aid to ThyssenKrupp for project tkH2Steel*; SA.105337 - Germany - *Aid to SHS for project Power4Steel Phase 1*.

<sup>(21)</sup> SA.102777 - Denmark - *State aid scheme for Carbon Capture and Storage*; SA.108284 - Denmark - *RRF - State aid scheme for Carbon Capture and Storage*; SA.100269 - France - *Parc éolien flottant en mer dans une zone au large du sud de la Bretagne*; SA.105120 - Germany - *Electricity brake for rail - Temporary cost containment of electricity price increases*; SA.106555 - The Netherlands - *National scheme for closure of livestock husbandry units aiming at reducing nitrogen emissions*; SA.106559 - The Netherlands - *National cessation scheme on peak load livestock sites*; SA.105414, Germany - *Aid scheme for High Power Charging infrastructure for electric vehicles along the motorways*; and SA.104106 - Italy - *Support for the development of a centralised electricity storage system*.

<sup>(22)</sup> SA.104336 - Belgium - *Amendments to the Capacity Remuneration Mechanism*.

<sup>(23)</sup> SA.107094, Spain - RRF - TCTF - *Integrated action line on the industrial value chain - Batteries*; SA.108653, Spain - RRF - TCTF - *Scheme for projects of equipment necessary for the transition towards a net-zero economy*; SA.107689, Hungary - TCTF - *Scheme for accelerated investments in sectors strategic for the transition towards a net-zero economy*; SA.108068, Germany - TCTF - *Aid to support the transition to a net-zero economy*; SA.109989, Slovakia - TCTF - *State aid scheme for providing Extraordinary Investment Aid in sectors strategic for the transition to a net-zero economy*; SA.108953, Italy - TCTF - RRF - *Investment aid scheme for the production of electrolysers*; and SA.109170, Austria - TCTF - *Scheme for accelerated investments in sectors strategic for the transition towards a net-zero economy*.

ethanol <sup>(24)</sup>. The Commission also continued its investigations in *synthetic turf* <sup>(25)</sup>, in *recycling of end-of-life passenger vehicles* <sup>(26)</sup>, into *Public Power Corporation (PPC)* for *potential predatory behaviour in the wholesale electricity market* in the Greek interconnected system <sup>(27)</sup>, and into *Gazprom's* potential anti-competitive conduct contributing to soaring energy prices in 2021/2022 <sup>(28)</sup>.

In the area of *merger control*, the Commission continued to remain vigilant to protect green innovation. The Commission approved, subject to conditions, a *merger in concrete production*, having focused its investigation on the impact of the transaction on the industry's efforts to reduce carbon emissions <sup>(29)</sup>.

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

DG Competition cooperated with other services and contributed to the work on the Net-Zero Industry Act (NZIA) <sup>(30)</sup>, the Wind Power Package <sup>(31)</sup>, the Report on policy initiatives for the promotion of investments in clean technologies <sup>(32)</sup>, the Communication on Greening Freight Transport <sup>(33)</sup>, the Emission Trading System Directive <sup>(34)</sup>, the EU Hydrogen Bank financing instrument <sup>(35)</sup> and the EU Energy Platform <sup>(36)</sup>. Moreover, DG Competition continued to promote pro-competitive rules and outcomes across a range of legislative proposals, such as the Strategic Platform for Europe (STEP) <sup>(37)</sup> and the Revision of the EU's electricity market rules <sup>(38)</sup>. Furthermore, DG Competition continued to further use its expertise to support the inter-institutional negotiations on NZIA <sup>(39)</sup> and STEP <sup>(40)</sup>.

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<sup>(24)</sup> AT.40054 - *Ethanol benchmarks*.

<sup>(25)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_3133](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3133)

<sup>(26)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_1765](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1765)

<sup>(27)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_1205](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1205)

<sup>(28)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_2202](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2202)

<sup>(29)</sup> M.10560 - *Sika / MBCC*.

<sup>(30)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_23\\_1665](https://ec.europa.eu/commission/presscorner/detail/en/IP_23_1665)

<sup>(31)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_5185](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5185)

<sup>(32)</sup> [https://commission.europa.eu/publications/report-eu-policy-initiatives-promotion-investments-clean-technologies\\_en](https://commission.europa.eu/publications/report-eu-policy-initiatives-promotion-investments-clean-technologies_en)

<sup>(33)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_3767](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3767)

<sup>(34)</sup> <https://eur-lex.europa.eu/eli/dir/2023/959/oj>

<sup>(35)</sup> [https://energy.ec.europa.eu/topics/energy-systems-integration/hydrogen/european-hydrogen-bank\\_en](https://energy.ec.europa.eu/topics/energy-systems-integration/hydrogen/european-hydrogen-bank_en)

<sup>(36)</sup> [https://energy.ec.europa.eu/topics/energy-security/eu-energy-platform\\_en](https://energy.ec.europa.eu/topics/energy-security/eu-energy-platform_en)

<sup>(37)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_3364](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3364)

<sup>(38)</sup> [https://energy.ec.europa.eu/topics/markets-and-consumers/market-legislation/electricity-market-design\\_en](https://energy.ec.europa.eu/topics/markets-and-consumers/market-legislation/electricity-market-design_en)

<sup>(39)</sup> <https://www.consilium.europa.eu/en/press/press-releases/2024/02/06/net-zero-industry-act-council-and-parliament-strike-a-deal-to-boost-eu-s-green-industry/>

<sup>(40)</sup> <https://www.consilium.europa.eu/en/press/press-releases/2024/02/07/strategic-technologies-for-europe-platform-provisional-agreement-to-boost-investments-in-critical-technologies/>

## General objective 2: A Europe fit for the digital age

### 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 the area of *antitrust*, the Commission adopted the revised Horizontal Block Exemption Regulations on research and development agreements (R&D BER) <sup>(41)</sup> and on specialisation agreements (Specialisation BER) <sup>(42)</sup> (together HBERs), together with the revised Guidelines on horizontal cooperation agreements.

The Commission also prolonged the Motor Vehicle Block Exemption Regulation (MVBBER) <sup>(43)</sup> until 2028 and updated the corresponding supplementary guidelines <sup>(44)</sup>.

Following an evaluation process showing that the Consortia Block Exemption Regulation (CBER) <sup>(45)</sup> no longer promotes competition in the shipping sector, the Commission will let it expire on 25 April 2024.

Progress has also been made with the evaluation of the antitrust procedural rules, Regulation 1/2003 <sup>(46)</sup> and its implementing regulation, Regulation 773/2004 <sup>(47)</sup>. Following the public consultation, an evaluation support study has been commissioned and a conference and an interactive workshop were organised <sup>(48)</sup>.

A public consultation on the effectiveness, efficiency, relevance, coherence, and EU added value of the Technology Transfer Block Exemption Regulation (TTBER) and the Technology Transfer Guidelines was launched in 2023. To support the evaluation process, a study was

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<sup>(41)</sup> Commission Regulation (EU) 2023/1066 of 1 June 2023 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 143, 2.6.2023, p. 9.

<sup>(42)</sup> Commission Regulation (EU) 2023/1067 of 1 June 2023 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 143, 2.6.2023, p. 20.

<sup>(43)</sup> Commission Regulation (EU) No 461/2010 of 27.5.2010 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 in the motor vehicle sector, OJ L 129, 28.5.2010, p. 52 as amended by Commission Regulation (EU) 2023/822 of 17 April 2023 on amending Regulation (EU) No 461/2010 as regards its period of application, OJ L 102I, 17.4.2023, p. 1.

<sup>(44)</sup> Communication from the Commission Amendments to the Commission Notice – Supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles, OJ C 133I, 17.4.2023, p. 1.

<sup>(45)</sup> Communication to the Commission – Expiry of Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81 (3) of the Treaty of the certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia), 10.10.2023, C(2023) 6700 final.

<sup>(46)</sup> Council Regulation (EC) No 1/2003 of 16.12.2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L, 4.1.2003, p. 1.

<sup>(47)</sup> Commission Regulation (EC) No 773/2004 of 7.4.2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, OJ L 123, 27.4.2004, p. 18.

<sup>(48)</sup> [https://competition-policy.ec.europa.eu/antitrust-and-cartels/legislation/regulation-12003\\_en](https://competition-policy.ec.europa.eu/antitrust-and-cartels/legislation/regulation-12003_en)

commissioned, and a workshop gave stakeholders the opportunity to further discuss issues raised during the public consultation <sup>(49)</sup>.

The Commission also launched an initiative aiming at adopting Guidelines on exclusionary abuses of dominance <sup>(50)</sup> and adopted a Communication amending the Guidance on enforcement priorities on the application of Article 102 TFEU to exclusionary conducts <sup>(51)</sup>.

In the area of *merger control*, the Commission adopted the revised Merger Implementing Regulation <sup>(52)</sup>, the Notice on Simplified Procedure <sup>(53)</sup> and the Communication on the transmission of documents <sup>(54)</sup>. The Package simplifies and expands the scope of the Commission's review process of unproblematic mergers. It is expected to bring significant benefits in terms of preparatory work and related costs, to reduce the amount of information required for notifications and to optimise the transmission of documents.

Furthermore, following up on the findings of the evaluation, the Commission continued finalising the revised Market Definition Notice bringing its guidance in line with new market realities and with developments in the Commission's case practice and EU case law <sup>(55)</sup>.

In the area of *State aid control*, the Commission adopted the revised general *de minimis* Regulation <sup>(56)</sup>, increasing the ceiling to EUR 300 000 to adjust to inflation and introducing a mandatory register at national or EU level to increase transparency, thereby relieving companies from the obligation to keep record of the *de minimis* aid they received.

In the field of *transport*, the Commission extended the transitional period regarding operating aid for regional airports under the Aviation Guidelines until 2027 <sup>(57)</sup>. It also

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<sup>(49)</sup> See further on the evaluation of the TTBER: [https://competition-policy.ec.europa.eu/public-consultations/2023-technology-transfer\\_en](https://competition-policy.ec.europa.eu/public-consultations/2023-technology-transfer_en).

<sup>(50)</sup> [https://competition-policy.ec.europa.eu/antitrust-and-cartels/legislation/application-article-102-tfeu\\_en](https://competition-policy.ec.europa.eu/antitrust-and-cartels/legislation/application-article-102-tfeu_en)

<sup>(51)</sup> Communication from the Commission Amendments to the Communication from the Commission – Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings (Text with EEA relevance), OJ C 116, 31.3.2023, p. 1.

<sup>(52)</sup> Commission Implementing Regulation (EU) 2023/914 of 20 April 2023 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings and repealing Commission Regulation (EC) No 802/2004 (Text with EEA relevance), OJ L 119, 5.5.2023, p. 22.

<sup>(53)</sup> Commission Notice on a simplified treatment for certain concentrations under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ C 160, 5.5.2023, p. 1.

<sup>(54)</sup> Communication from the Commission – Communication pursuant to Articles 3(2), 13(3), 20, and 22 of Commission Implementing Regulation (EU) 2023/914 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings and repealing Commission Regulation (EC) No 802/2004, OJ C 160, 5.5.2023, p. 1.

<sup>(55)</sup> Communication from the Commission – Commission Notice on the definition of the relevant market for the purposes of Union competition law, C/2023/6789, OJ C, 22.02.2024.

<sup>(56)</sup> Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L 2023, 15.12.2023.

<sup>(57)</sup> Communication from the Commission extending the transitional period provided for in the Guidelines on State aid to airports and airlines concerning regional airports, OJ C 244, 11.7.2023, p. 1.

launched the [revision of the 2014 Aviation Guidelines](#) <sup>(58)</sup> and continued the [revision of the State aid Railway Guidelines](#) <sup>(59)</sup>.

Furthermore, the Commission adopted [revised Fisheries State aid Guidelines](#) <sup>(60)</sup>, as well as the [revised \*de minimis\* Regulation in the fishery and aquaculture sector](#) <sup>(61)</sup>.

Based on the experience gained from the assessment and approval of State aid for several IPCEIs, DG Competition prepared a [code of good practices for the design of IPCEI](#) <sup>(62)</sup>, a manual addressed in particular to national authorities and beneficiary undertakings, for the purpose of facilitating the development and assessment of IPCEIs. Also, the Commission launched the [Joint European Forum for Important Projects of Common European Interest \(JEF-IPCEI\)](#) <sup>(63)</sup>. The forum is a partnership between the Commission and the Member States that aims to increase the effectiveness of the design, assessment, and implementation of IPCEI and identify areas of strategic EU interest for potential future IPCEI.

In 2023, the [Digital Markets Act \(DMA\)](#) <sup>(64)</sup> - internal market legislation that aims to make the digital sector fairer, more contestable and put an end to unfair practices by companies acting as gatekeepers in the online platform economy - started to apply. The [Implementing Regulation](#) on detailed arrangements for conducting proceedings under the DMA was adopted <sup>(65)</sup>. The [Foreign Subsidies Regulation \(FSR\)](#) <sup>(66)</sup> making it possible to address foreign subsidies distorting competition in the Single market, started to apply in 2023. Following a public consultation, the Commission adopted the [Implementing Regulation](#) <sup>(67)</sup> as well as a [Communication detailing the arrangements for the conduct of proceedings](#) <sup>(68)</sup>.

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<sup>(58)</sup> Communication from the Commission, Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014, p. 3.

<sup>(59)</sup> Communication from the Commission — Community guidelines on State aid for railway undertakings, OJ C 184, 22.7.2008, p. 13.

<sup>(60)</sup> Communication from the Commission Guidelines for State aid in the fishery and aquaculture sector, OJ C 107, 23.3.2023, p. 1.

<sup>(61)</sup> Commission Regulation (EU) 2023/2391 of 4 October 2023 amending Regulations (EU) No 717/2014, (EU) No 1407/2013, (EU) No 1408/2013 and (EU) No 360/2012 as regards *de minimis* aid for the processing and marketing of fishery and aquaculture products, and Regulation (EU) No 717/2014 as regards the total amount of *de minimis* aid granted to a single undertaking, its period of application and other matters, OJ L 2391, 05.10.2023, p.1.

<sup>(62)</sup> [https://competition-policy.ec.europa.eu/system/files/2023-05/IPCEIs\\_DG\\_COMP\\_code\\_of\\_good\\_practices.pdf](https://competition-policy.ec.europa.eu/system/files/2023-05/IPCEIs_DG_COMP_code_of_good_practices.pdf)

<sup>(63)</sup> [Joint European Forum for IPCEI - European Commission \(europa.eu\)](#)

<sup>(64)</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), OJ L 265, 12.10.2022, p. 1.

<sup>(65)</sup> Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to Regulation (EU) 2022/1925 of the European Parliament and of the Council, OJ L 102, 17.4.2023, p. 6.

<sup>(66)</sup> Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, OJ L 330, 23.12.2022, p. 1.

<sup>(67)</sup> Commission Implementing Regulation (EU) 2023/1441 of 10 July 2023 on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation (EU) 2022/2560 of the European Parliament and the Council on foreign subsidies distorting the internal market, OJ L 177, 12.7.2023, p. 1.

<sup>(68)</sup> Communication from the Commission Communication pursuant to Articles 4(2), 8(1), 15, 17(2) and 25 of Implementing Regulation (EU) 2023/1441 on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market 2023/C 246/02, OJ C 246, 13.7.2023, p. 2.



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

In the area of *antitrust enforcement*, the Commission continued to enforce the rules across all economic sectors and markets, including digital ones. The Commission reached five decisions, issued six Statements of Objections and carried out seven unannounced inspections in a number of different sectors <sup>(69)</sup>.

The Commission re-imposed a *fine* of around EUR 376.36 million on *Intel for an abuse of dominant position in the market for computer chips (x86) central processing units (CPUs)*, following the partial annulment by the General Court of the 2009 Decision <sup>(70)</sup>.

The Commission also sanctioned *cartels* in different sectors including, for the first time, *defence*, with a fine of EUR 1.2 million <sup>(71)</sup>, and *pharmaceuticals*, with a fine of EUR 13.4 million <sup>(72)</sup>; the *bond trading area*, with a fine of EUR 26.6 million <sup>(73)</sup>; and *biofuel* with a fine of EUR 47.4 million <sup>(74)</sup>.

The Commission also sent Statements of Objections *inter alia* to *Apple* over a possible abuse of dominant position in *digital music subscription*; to *Google* over an infringement of Article 102 TFEU in the *advertising technology industry*; and in the *automotive starter batteries sector* <sup>(75)</sup>. It also continued investigating possible restrictions of parallel trade in the *groceries sector* <sup>(76)</sup> and started investigating *alleged market foreclosing practices in energy drinks markets*.

The Commission's *merger control* activities also remained at high level. The Commission adopted 333 decisions, intervened in 11 proposed acquisitions, prohibited one transaction, and issued fines in one transaction.

The Commission prohibited the *proposed acquisition of eTraveli by Booking* <sup>(77)</sup>. It found that the transaction would have strengthened Booking's dominant position in the market for hotel online travel agencies (OTAs) and that the remedies were not sufficiently comprehensive and effective to eliminate entirely the identified competition concerns.

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<sup>(69)</sup> *inter alia*, Fragrance: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_23\\_1532](https://ec.europa.eu/commission/presscorner/detail/en/IP_23_1532); fashion: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2352](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2352); medical devices: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_4517](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4517); construction chemicals: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_5061](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5061); online food delivery: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_5944](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5944); and energy drinks: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_1802](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1802)

<sup>(70)</sup> AT. 37990 - *Intel*.

<sup>(71)</sup> AT.40760 - *Hand grenades*.

<sup>(72)</sup> AT.40636 - *SNBB*.

<sup>(73)</sup> AT.40512 - *Euro-denominated bonds*.

<sup>(74)</sup> AT.40054 - *Ethanol benchmarks*.

<sup>(75)</sup> AT.40437 - *Apple - App Store Practices (music streaming)*; AT.40670 - *Google - Adtech and Data-related practices*; and AT.40545 - *Automotive starter batteries*.

<sup>(76)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_281](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_281)

<sup>(77)</sup> M.10615 - *Booking Holdings/eTraveli Group*.

The Commission also fined *illumina* and *GRAIL* for implementing their proposed merger before approval by the Commission and ordered Illumina to divest GRAIL <sup>(78)</sup>.

In 2023, the Commission also approved several concentrations subject to conditions in a wide range of sectors including [fixed telephony network infrastructure](#); [video games/streaming](#); [hardware components and virtualisation software](#); [retail fuel supply](#); [biotechnology](#) <sup>(79)</sup> and [book publishing and press magazines](#) <sup>(80)</sup>.

Following the Commission's Statement of Objections, *Adobe* announced to abandon the acquisition of *Figma* <sup>(81)</sup>.

Furthermore, the Commission accepted to examine three transactions following [a referral pursuant to Article 22 EU Merger Regulation \(Article 22 Guidance\)](#) <sup>(82)</sup>.

In 2023, the Commission continued to *enforce State aid control* across all economic sectors and markets, including digital ones, and adopted more than 620 State aid decisions in total.

For example, the Commission approved aid to STMicroelectronics and GlobalFoundries for the [construction of a new microchips manufacturing facility](#) <sup>(83)</sup>, and support for [the deployment of high-performing fixed or mobile networks](#), funded by RRF and/or national funds <sup>(84)</sup>.

The Commission also approved [two Important Projects of Common European Interest](#). The [IPCEI ME/CT](#) supporting research, innovation and first industrial deployment of [microelectronics and communication technologies](#) across the value chain <sup>(85)</sup>, and the [IPCEI Next Generation Cloud Infrastructure and Services \(IPCEI CIS\)](#) which supports research, development and first industrial deployment of advanced cloud and edge computing technologies across multiple providers in Europe <sup>(86)</sup>.

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<sup>(78)</sup> M.10483 - *illumina/GRAIL*, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_3773](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3773) and M.10939 - *illumina/GRAIL*, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_4872](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4872)

<sup>(79)</sup> M.11043 - *Novozymes / Chr Hansen*.

<sup>(80)</sup> M.10663 - *Orange / VOO / Brutélé*. M.10646 - *Microsoft / Activision*; M.10806 - *Broadcom / VMware*; M.10438 - *MOL / OMV Slovenija*; and M.10433 - *Vivendi / Lagardère*.

<sup>(81)</sup> M.11033, *Adobe/Figma*, see: [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_23\\_6715](https://ec.europa.eu/commission/presscorner/detail/en/statement_23_6715)

<sup>(82)</sup> Communication from the European Commission on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases of 26.3.2021 C(2021) 1959 final. For example, following the requests from Member States, the Commission asserted its jurisdiction to assess the proposed acquisition of *Autotalks* by *Qualcomm*, two major suppliers of (vehicles-to-everything) communications semiconductors in the EEA.

<sup>(83)</sup> SA.102430 - France – *Project Liberty – New semiconductor manufacturing plant by STMicroelectronics and GlobalFoundries*. The measure will strengthen Europe's security of supply, resilience, and digital sovereignty in semiconductor technologies, in line with the objectives set out in the European Chips Act Communication.

<sup>(84)</sup> SA.105187, – Portugal – *Deployment of fixed access networks*; SA.104933 - Spain – *Support for 5G equipment and infrastructure*.

<sup>(85)</sup> [Common European Interest in computing technologies \(europa.eu\)](#)

<sup>(86)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_6246](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_6246)



The Commission also dealt with cases in [news media sector](#) to help the sector recover from the crisis and maintain a healthy competitive environment <sup>(87)</sup>.

Furthermore, it also approved aid supporting the [transport sector](#). In the [rail and intermodal transport](#), the Commission concluded two formal investigations concerning *Trenitalia* <sup>(88)</sup>, approved 25 aid measures for the coordination of transport and opened a formal investigation against *Fret SNCF* <sup>(89)</sup>. It also approved emergency support to [road transport operators](#) under the TCTF <sup>(90)</sup> and six aid measures to companies active in the [aviation sector](#) <sup>(91)</sup>. Aid was moreover approved to help [maintaining in the EU the last fully integrated production of amoxicillin](#), contributing to the security of supply of essential and life-saving medicines <sup>(92)</sup>.

In 2023, the Commission started the [enforcement of DMA rules complementing competition enforcement](#), and [designated six gatekeepers](#) – *Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft* <sup>(93)</sup>. In total, 22 core platform services provided by gatekeepers were designated. In parallel, the Commission opened [four market investigations](#) to further assess *Microsoft's* and *Apple's* submissions that, despite meeting the thresholds, some of their core platform services do not qualify as gateways. The Commission also opened a [market investigation to assess whether Apple](#) should be designated as a gatekeeper in relation to its [operating system iPadOS](#), despite not meeting the thresholds <sup>(94)</sup>.

The Commission also started to [enforce FSR rules complementing competition enforcement](#). Since the start of the notification obligation, DG Competition entered into pre-notification contacts in 41 cases and has received 11 notifications of concentrations. Out of these cases, eight were closed in the preliminary review stage <sup>(95)</sup> and one was abandoned.

Through its [co-operation with the partners of the ECN Network](#), the Commission continued to safeguard the [coherent application of Articles 101 and 102 TFEU](#). Two of the key supporting cooperation mechanisms in Regulation 1/2003 are the obligations of NCAs: (i) to [inform the Commission about a new investigation](#) at the stage of the first formal

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<sup>(87)</sup> SA.104446, Denmark - *Reintroduction of aid to production and innovation aid to written media*; SA.106115, Italy – *Aid for newspaper and periodical publishers* and SA.106019, Sweden - *Media aid scheme*.

<sup>(88)</sup> SA.32953, Italy – *State aid measures in favour of Trenitalia SpA* and SA.32179, Italy – *State aid measures in favour of Trenitalia SpA and FS Logistica SpA*.

<sup>(89)</sup> SA.61880, France – *Alleged State aid to Fret SNCF*.

<sup>(90)</sup> *inter alia*, SA.108572, Italy - TCTF - *Emergency Support Scheme for Haulage Operators*; SA.106873, Ireland - *Forest Road Scheme Aid for investments in infrastructure related to the development, modernisation or adaptation of the forestry sector*, and SA.107565, Greece - TCTF - *Aid to KTEL and KTEL SA bus companies and individual carriers operating unprofitable island routes due to the rise in diesel fuel prices*.

<sup>(91)</sup> SA.57543 and SA.58324, Denmark and Sweden - *COVID-19: Recapitalisation of SAS*; SA.62161, Lithuania – *Aid to Vilnius airport*; SA.104639, Italy - *COVID-19: Damage compensation scheme for ground-handling providers operating at Sardinian airports*; SA.105331, Slovenia – *State aid scheme to ensure enhanced air connectivity in Slovenia*; SA.104957, France - *Aide sous forme de compensation à la société Air France*; SA.105987, Bulgaria - *TCF: Concession fee deferral for Burgas and Varna airports*.

<sup>(92)</sup> SA.62915, Austria – *Aid for maintaining Sandoz penicillin production in Kundl (Tyrol)*.

<sup>(93)</sup> Apple (T-1080/23), ByteDance (T-1077/23) and Meta (T-1078/23) filed appeals against their respective designation decisions. ByteDance also applied for interim measures.

<sup>(94)</sup> Apple challenged the opening of the market investigation into iMessage (T-1079/23).

<sup>(95)</sup> Pursuant to Article 10(4) of the FSR.

investigative measure, and (ii) to [consult the Commission on certain types of envisaged decisions](#). In addition, 48 meetings across [horizontal working groups](#) and [sector-specific sub-groups](#) within the ECN took place in 2023.

In 2023, DG Competition *reached out* to a variety of stakeholders. Various channels were used, first and foremost Executive Vice-President Vestager's and Commissioner Reynders' own participation in events, press conferences and speeches, complemented by press releases, newsletters, specialised publications, and an active social media presence. The new webcast series [Let's Talk Competition](#) was launched, and five episodes were aired <sup>(96)</sup>. DG Competition also celebrated [20 years of EU antitrust enforcement under Regulation 1/2003](#) with an international conference in Brussels <sup>(97)</sup> and held several debates around the EU in the wake of DG Competition's 2022 'Making Markets Work for People'.

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

In the area of *multilateral relations*, the Commission continued to engage actively in international competition related fora such as the [OECD Competition Committee](#), the [International Competition Network \(ICN\)](#), and [United Nations Conference on Trade and Development \(UNCTAD\)](#), addressing a large variety of competition related topics. [Reforming the subsidy rules](#) is one of the EU's main priorities for the modernisation of WTO trade rules: the Commission continued its endeavours to improve international rules for subsidies.

In 2023, the Commission also continued to promote a competition culture through *bilateral relations*. The Commission and the US authorities held the [third high-level meeting of the Joint Technology Competition Policy Dialogue](#) <sup>(98)</sup>, and the [EU-US Clean Energy Incentive Dialogue](#) was launched <sup>(99)</sup>. The Commission also pursued its cooperation with the [United Kingdom](#) <sup>(100)</sup>, and with [China, Korea and Japan's](#) authorities <sup>(101)</sup>. Aiming to include provisions on competition and subsidy control in [Free Trade Agreements \(FTAs\)](#), the Commission continued its [negotiations](#) with [India, Indonesia, Thailand and ESAS](#) <sup>(102)</sup> and prepared for negotiations with the [Philippines](#) and [Malaysia](#).

As regards [Competition Cooperation Agreements](#), the Commission continued negotiations with [Canada](#) to ensure that data protection is in line with the standards established by the Court of Justice <sup>(103)</sup>. The Commission also continued to [monitor compliance of candidate](#)

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<sup>(96)</sup> Highlights of the five 2023 episodes: <https://www.youtube.com/watch?v=Zw12rKYWnWU>

<sup>(97)</sup> [https://competition-policy.ec.europa.eu/about/reaching-out/20-years-reg-12003-conference\\_en](https://competition-policy.ec.europa.eu/about/reaching-out/20-years-reg-12003-conference_en)

<sup>(98)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2019](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2019)

<sup>(99)</sup> Joint Statement by President Biden and President von der Leyen: [here](#).

<sup>(100)</sup> 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, p. 14.

<sup>(101)</sup> DG Competition's [multilateral technical cooperation](#) with the [Chinese, Japanese, Korean, Indian and ASEAN competition authorities](#) also continued: <https://asia.competitioncooperation.eu/>

<sup>(102)</sup> Five Eastern and Southern Countries: Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe.

<sup>(103)</sup> Opinion of the Court of Justice (Grand Chamber) of 26.7.2017, Opinion 1/15, *Draft agreement between Canada and the EU — Transfer of Passenger Name Record data from the EU to Canada*, EU:C:2016:656.

countries <sup>(104)</sup> and potential candidate countries <sup>(105)</sup> with their commitments under the Stabilisation and Association/Deep and Comprehensive FTAs and assessed alignment with the EU acquis. It is also contributing to the setting up of the [Support Facilities for Ukraine](#) and for the [Western Balkan countries](#) to assist their integration with the EU internal market. The Commission also actively engaged with [African national and regional authorities](#) to further cooperate in the competition field <sup>(106)</sup> and held the second [Africa-EU Competition Week](#).

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

DG Competition cooperated with other services and contributed to the work on the Report on the state of the Digital Decade <sup>(107)</sup>, the initiative on virtual worlds <sup>(108)</sup>, the Cybersecurity Package <sup>(109)</sup>, Data Spaces <sup>(110)</sup>, the passenger mobility package <sup>(111)</sup> and the harmonisation of EU patent rules <sup>(112)</sup>. Moreover, DG Competition continued to use its expertise to support the inter-institutional negotiations of the Data Act <sup>(113)</sup>, the European Media Freedom Act <sup>(114)</sup>, and the Single Market Emergency Instrument, renamed the 'Internal market emergency and resilience act' (IMERA) <sup>(115)</sup>.

## General objective 3: An economy that works for people

### Updating rules and policy guidance in support of An economy that works for people

The Commission adopted the [revised SGEI \*de minimis\* Regulation](#) <sup>(116)</sup>, increasing the threshold to EUR 750 000 to adjust to inflation. The revised rules also align certain concepts with the general *de minimis* Regulation to ensure consistency and simplify enforcement and introduce a mandatory public register at national or EU level.

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<sup>(104)</sup> Countries granted candidate country status by the European Council on the basis of a recommendation by the European Commission: Albania, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia, Türkiye and Ukraine.

<sup>(105)</sup> Potential candidate for EU membership: Kosovo.

<sup>(106)</sup> <https://africa.competitioncooperation.eu/>

<sup>(107)</sup> <https://digital-strategy.ec.europa.eu/en/library/2023-report-state-digital-decade>

<sup>(108)</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13757-Virtual-worlds-metaverses-a-vision-for-openness-safety-and-respect\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13757-Virtual-worlds-metaverses-a-vision-for-openness-safety-and-respect_en)

<sup>(109)</sup> <https://digital-strategy.ec.europa.eu/en/policies/cybersecurity-policies>

<sup>(110)</sup> <https://digital-strategy.ec.europa.eu/en/policies/data-spaces>

<sup>(111)</sup> [https://transport.ec.europa.eu/news-events/news/passenger-mobility-package-2023-11-29\\_en](https://transport.ec.europa.eu/news-events/news/passenger-mobility-package-2023-11-29_en)

<sup>(112)</sup> Patent licencing package: Standard Essential Patents, Compulsory Licensing and Supplementary Protection Certificates: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2454](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2454)

<sup>(113)</sup> <https://digital-strategy.ec.europa.eu/en/policies/data-act>

<sup>(114)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_6635](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_6635)

<sup>(115)</sup> <https://www.consilium.europa.eu/en/press/press-releases/2024/02/01/single-market-emergency-instrument-council-and-parliament-strike-a-provisional-deal-on-crisis-preparedness/>

<sup>(116)</sup> Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest, OJ L, 2023/2832, 15.12.2023.

DG Competition also continued its evaluations of the rules for State aid to banks in difficulty <sup>(117)</sup> and for aid in the form of public guarantees <sup>(118)</sup>.

## Strengthening competition enforcement in support of An economy that works for people

In 2023, *State aid control facilitated aid in the common interest*. State aid for horizontal objectives accounted for most of all aid. The *Block Exemption Regulations* (GBER, ABER <sup>(119)</sup>, and FIBER <sup>(120)</sup>) allow Member States to implement a wide range of public support measures in areas such as research and development, environmental protection, broadband connectivity, regional development, or support to SMEs, as well as measures targeting agriculture and fishery without prior notification if certain conditions are fulfilled. The Commission continued to verify that Member States apply State aid schemes correctly and that they only grant aid when all required conditions are met.

The Commission also regularly and continuously collects data on the implementation of State aid measures by Member States to monitor their impact. Next to the annual *State aid scoreboard*, and in view of the significant amounts of aid disbursed in recent crisis the Commission launched on an exceptional basis, *periodical surveys* to collect timely information on the aid actually granted by Member States under approved crisis measures.

As regards *banking aid necessary to safeguard financial stability while protecting competition*, state aid enforcement played an important role in protecting the Single Market and supporting EU economic policies in 2023. The Commission approved an amendment to aid approved in 2022 in support of the resolution of *Getin Noble Bank*, one of the ten largest Polish banks <sup>(121)</sup>, and *prolonged certain existing schemes whereby Member States can subsidize the restructuring or orderly market exit of banks in distress* <sup>(122)</sup>.

In the *area of taxation*, the Commission also continued to ensure that free and fair competition is not distorted in the Single Market by Member States granting illegal tax

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<sup>(117)</sup> Communication from the Commission on the application of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 216, 30.7.2013, p. 1 and the related communications: 2009 Recapitalisation Communication (2009/C10/03), 2009 Impaired Assets Communication (2009/C72/01), 2009 Restructuring Communication (2009/C195/04), 2010 Prolongation Communication (2010/C329/07), 2011 Prolongation Communication (2011/C356/02).

<sup>(118)</sup> Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ C 155, 20.6.2008, p. 10.

<sup>(119)</sup> Agriculture Block Exemption Regulation (Commission Regulation (EU) 2022/2472 of 14 December 2022 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 327, 21.12.2022, p. 1).

<sup>(120)</sup> Fisheries Block Exemption Regulation (Commission Regulation (EU) 2022/2473 of 14 December 2022 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 327, 21.12.2022, p. 82).

<sup>(121)</sup> SA.109418, Poland - *Amendment to the liquidation aid to Getin Noble S.A. in resolution (SA.100687)*.

<sup>(122)</sup> For example, SA.108852 - Poland - *Thirteenth prolongation of the Credit Unions Orderly Liquidation Scheme*; SA.106983 - Ireland - *17th Prolongation of the Restructuring and Stabilisation Scheme for the Credit Union Sector*; and SA.106526 - Denmark - *Prolongation of the second re-introduction of the winding-up scheme for small banks*.

breaks or implementing aggressive tax planning measures favouring international firms, including using EU state aid rules while fully considering the case law of the CJEU.

While most provisions of the *State aid COVID Temporary Framework* <sup>(123)</sup> phased out in 2022, investment and solvency support measures could still be put in place until end 2023, and the Framework provided for a flexible transition, under clear safeguards, for the conversion and restructuring options of loans and guarantees into direct grants, until June 2023. In 2023, the Commission enforced the *Temporary Crisis and Transition Framework (TCTF)* created to reduce the negative social and economic impact on the EU of the Russian war of aggression against Ukraine, and to support sectors key for the transition to a net-zero economy in line with the Green Deal Industrial Plan <sup>(124)</sup>.

*State aid control continued accompanying the RRF implementation.* The Commission published updated *State aid guiding templates* <sup>(125)</sup>, to assist Member States design measures, in line with State aid rules, contributing to implement the Green Deal, while reducing dependence on Russian fossil fuels and accelerating the green transition as set out in the REPowerEU Plan.

In the wake of the conference ‘Making Markets Work for People’, DG Competition organised *four debates* around the EU to discuss the significance of maintaining, nourishing, and developing a European social market economy and the role of competition policy <sup>(126)</sup>.

### **Supporting major initiatives and objectives forming part of An economy that works for people**

DG Competition has played a *supportive role in advancing key initiatives under An Economy that works for People, emphasizing the importance of competition and market efficiency.* These efforts include contributions to the Economic Governance Review Package <sup>(127)</sup>, and the Economic Security Strategy <sup>(128)</sup>. Additionally, DG Competition has been involved in shaping the future of financial services through the Digital Euro initiative <sup>(129)</sup>, Open Finance frameworks <sup>(130)</sup>, and the review of the second Payment Services Directive <sup>(131)</sup>. DG Competition furthermore contributed to the work on the Critical Raw Materials Act <sup>(132)</sup>, the Annual Single Market Report 2023 <sup>(133)</sup>, the ‘Single Market at 30’ Communication <sup>(134)</sup>, the Communication on ‘Long-term competitiveness of the EU: looking beyond 2030’ <sup>(135)</sup>, as

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<sup>(123)</sup> Communication from the Commission: Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91 I, 20.3.2020, p. 1, as amended.

<sup>(124)</sup> See further developments above.

<sup>(125)</sup> [https://competition-policy.ec.europa.eu/state-aid/legislation/rrf-guiding-templates\\_en](https://competition-policy.ec.europa.eu/state-aid/legislation/rrf-guiding-templates_en)

<sup>(126)</sup> [https://competition-policy.ec.europa.eu/about/reaching-out/markets-people\\_en](https://competition-policy.ec.europa.eu/about/reaching-out/markets-people_en)

<sup>(127)</sup> [https://economy-finance.ec.europa.eu/economic-and-fiscal-governance/economic-governance-review\\_en](https://economy-finance.ec.europa.eu/economic-and-fiscal-governance/economic-governance-review_en)

<sup>(128)</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023JC0020&qid=1687525961309>

<sup>(129)</sup> [https://finance.ec.europa.eu/publications/digital-euro-package\\_en](https://finance.ec.europa.eu/publications/digital-euro-package_en)

<sup>(130)</sup> [https://finance.ec.europa.eu/digital-finance/framework-financial-data-access\\_en](https://finance.ec.europa.eu/digital-finance/framework-financial-data-access_en)

<sup>(131)</sup> [https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2022-psd2-review\\_en](https://finance.ec.europa.eu/regulation-and-supervision/consultations/finance-2022-psd2-review_en)

<sup>(132)</sup> [https://single-market-economy.ec.europa.eu/publications/european-critical-raw-materials-act\\_en](https://single-market-economy.ec.europa.eu/publications/european-critical-raw-materials-act_en)

<sup>(133)</sup> [https://single-market-economy.ec.europa.eu/document/download/39486d20-165e-4a76-93d9-ed760c995524\\_en](https://single-market-economy.ec.europa.eu/document/download/39486d20-165e-4a76-93d9-ed760c995524_en)

<sup>(134)</sup> [https://single-market-economy.ec.europa.eu/publications/single-market-30\\_en](https://single-market-economy.ec.europa.eu/publications/single-market-30_en)

<sup>(135)</sup> [https://commission.europa.eu/system/files/2023-03/Communication\\_Long-term-competitiveness.pdf](https://commission.europa.eu/system/files/2023-03/Communication_Long-term-competitiveness.pdf)



well as to the SME Relief Package <sup>(136)</sup> and its follow-up, and the reform of the EU pharmaceutical legislation <sup>(137)</sup> and the ‘Communication on Addressing Medicines Shortages in the EU’ <sup>(138)</sup> and its follow-up. DG Competition also contributed to initiatives strengthening the EU defence industrial sector, in particular the Act in Support of Ammunition Production (ASAP) <sup>(139)</sup>, and to the ongoing work on a future EU Space Law <sup>(140)</sup>. Moreover, DG Competition continued to [use its expertise to support the inter-institutional negotiations](#) on the Critical Raw Materials Act <sup>(141)</sup>.

## Examples of EU added value

The activities of DG Competition create EU added value. When prioritising its enforcement measures and deciding whether to initiate investigations on its own initiative, one of the main decision criteria is the impact on the Single Market. By pursuing [high-impact cases](#), DG Competition maximises the added value of its interventions. DG Competition also pursues [cases for their precedent value](#). EU added value is also an important factor when deciding if a case should be investigated by the Commission or by one or several NCAs.

EU competition policy enforcement provides substantial benefits for consumers and customers. DG Competition estimates that [direct customer savings](#) generated by the Commission’s cartel, antitrust and merger enforcement over the period 2014-2023 range between EUR 13.7 billion and EUR 23.4 billion per annum. In 2023, the total estimated customer savings from cartel, antitrust and merger interventions ranged between EUR 3.4 and 5.5 billion. The overall customer benefits considered to be generated by competition policy enforcement also include [indirect or deterrent effects](#) generated by enforcement <sup>(142)</sup>, and [positive effects on innovation and product or service quality](#).

DG Competition has used a [macroeconomic model of the EU economy](#) <sup>(143)</sup> to assess the effects of competition policy enforcement on economy-wide indicators. The findings suggest that the Commission’s competition policy interventions can lead to a medium to long-term increase in real GDP (compared to the baseline) in the range of 0.6% - 1.1% (the equivalent of an uplift of EUR 80 - 150 billion in 2019 GDP), as well as a 0.3% - 0.7% reduction in the price level. The results also indicate an increase in consumption (0.5%) and investment (1.1%), despite the decline in profits resulting from the negative markup shock.

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<sup>(136)</sup> [https://single-market-economy.ec.europa.eu/publications/sme-relief-package\\_en](https://single-market-economy.ec.europa.eu/publications/sme-relief-package_en)

<sup>(137)</sup> [https://health.ec.europa.eu/medicinal-products/pharmaceutical-strategy-europe/reform-eu-pharmaceutical-legislation\\_en](https://health.ec.europa.eu/medicinal-products/pharmaceutical-strategy-europe/reform-eu-pharmaceutical-legislation_en)

<sup>(138)</sup> [https://commission.europa.eu/system/files/2023-10/Communication\\_medicines\\_shortages\\_EN\\_0.pdf](https://commission.europa.eu/system/files/2023-10/Communication_medicines_shortages_EN_0.pdf)

<sup>(139)</sup> <https://eur-lex.europa.eu/eli/reg/2023/1525/oj>

<sup>(140)</sup> [https://defence-industry-space.ec.europa.eu/consultations-0/targeted-consultation-eu-space-law\\_en](https://defence-industry-space.ec.europa.eu/consultations-0/targeted-consultation-eu-space-law_en)

<sup>(141)</sup> <https://www.consilium.europa.eu/en/press/press-releases/2023/11/13/council-and-parliament-strike-provisional-deal-to-reinforce-the-supply-of-critical-raw-materials/>

<sup>(142)</sup> For example, when firms refrain from engaging in anti-competitive conduct or concluding anti-competitive merger agreements,

<sup>(143)</sup> “*Modelling the macroeconomic impact of competition policy: 2023 update and further development*”, report prepared by the Directorate-General for Competition, the Joint Research Centre and the Directorate General for Economic and Financial Affairs, Publications Office of the European Union, forthcoming in 2024, not yet published.

## 2. INTERNAL CONTROL AND FINANCIAL MANAGEMENT

Assurance is provided based on information on the efficiency and effectiveness of internal control systems and governance processes. The management monitors the functioning of the internal control systems on a continuous basis and carries out an objective examination with internal and external auditors.

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 action (Commission decisions) and policy initiatives in the field of EU competition policy, handling of confidential information as well as the implementation and operation of modern IT solutions to support these policy initiatives and attracting and maintaining highly qualified staff. 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.

The results are explicitly documented and reported to the Director-General. The following reports / documentation 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, and the IT risk register decided by DG Competition's IT Steering Committee (DIT);
- Notes on inadvertent disclosures of sensitive information;
- Observations, recommendations and limited conclusions issued by the Internal Audit Service (IAS) and analysis of the implementation of the recommendations by the European Court of Auditors;
- Financial reports on budget execution, expenditures, payment delays, procurement and contract management;
- Litigation notes of the Commission's Legal Service.

The systematic analysis of the available evidence provides sufficient guarantees as to the completeness and reliability of the information reported and results in the full 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 2.1. Control results, 2.2. Audit observations and recommendations, 2.3. Effectiveness of internal control systems and resulting in 2.4. Conclusions on the assurance.



## 2.1. Control results

This section reports on the control results used by management to support the assurance on the achievement of the internal control objectives (ICO) <sup>(144)</sup>. DG Competition's assurance building, and materiality criteria are outlined in annual activity report annex 5. The annual activity report 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.

In line with the 2018 Financial Regulation, DG Competition's assessment for the new reporting requirement is as follows:

- Cases of "confirmation of instructions" (FR art 92.3) – no such cases for the DG
- Cases of financing not linked to costs (FR art 125.3) – no such cases for the DG
- Financial Framework Partnerships >4 years (FR art 130.4) – no such cases for the DG
- Cases of flat-rates >7% for indirect costs (FR art 181.6) – no such cases for the DG
- Derogations from the principle of non-retroactivity pursuant to Article 193 of the Financial Regulation. – no such cases for the DG

### 2.1.1. Effectiveness of controls

#### ***a) Legality and regularity of the transactions***

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

##### *1) Control objective*

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. 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.

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<sup>(144)</sup> 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.

## 2) Assessment of the control results

In 2023, 7 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 (39,77% of the individual commitments value, 36,77% of the total value of payments and 32,33% of the total value of the recovery orders) 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 verified in 2023 was EUR 8 million and the observed error rate was 0,035%. 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.

## 3) Overview of DG Competition risk profile

DG Competition's portfolio consists of segments with a relatively low error rate, i.e. <2%, mainly in the area of procurement (95%) and grants (5%). This is, respectively, thanks to the inherent low risk profile of the DG and the performance of the related control systems.

## 4) Table (X): Estimated risk at payment and at closure

Based on all the above, DG Competition presents in the following Table an estimation of the risk at payment and risk at closure for the expenditure managed during the reporting year:

### Table (X): Estimated risk at payment and at closure (amounts in EUR million)

The full detailed version of the table is provided in annex 9.

DG COMP	Payments made	Relevant expenditure	Estimated risk (error rate %) at payment	Estimated future corrections and deductions	Estimated risk (error rate %) at closure			
	m EUR	m EUR	m EUR	%	m EUR	%	m EUR	%
<b>Operational and administrative expenditure</b>	21.73	21.31	0.1	0.5	0	0	0.11	0.5
<b>DG total</b>	<b>21.73</b>	<b>21.31</b>	<b>0.11</b>	<b>0.5%</b>	<b>0.00</b>	<b>0.00%</b>	<b>0.11</b>	<b>0.5%</b>

The estimated overall risk at payment for 2023 expenditure amounts to EUR 0.11 million, representing 0.5% of the DG's total relevant expenditure for 2023 (EUR 21.31 million). This is no change in percentage compared to 2022. This is the AOD's best conservative estimate 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 average error rate was 0.035%.

The conservatively estimated future corrections for 2023 expenditure are close to 0. For an overview at Commission level, the DGs' estimated overall risk at payment, estimated future corrections and risk at closure are consolidated in the AMPR.

### ***b) 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 is updated every three to four years and was last updated on 23 January 2024. Its implementation is being monitored and reported to the management annually through the internal control monitoring process.

The results achieved during the year thanks to the anti-fraud measures in place can be summarised as follows: the fraud risks and controls have been assessed and the risk of fraud remains low; thanks to the revised ethics guidance and the several corporate and local specific ethics trainings available, staff has a good level of awareness of the Commission ethics rules and how they apply to DG Competition's work. DG Competition did not receive any financial recommendations from OLAF.

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

### ***c) 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 systems 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. IT security plans ensure that new information systems comply with the Commission standards for cybersecurity.

The benefit of these controls is that they reduce the risks of sensitive information being disclosed, as well as of the integrity of sensitive information being breached, thus avoiding events that could potentially harm the reputation of the Commission. 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 action 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 Competition. DG Competition therefore concludes that it reaches full assurance that the effectiveness of the internal control objective has been achieved.

In terms of management of sensitive information, DG COMP also ensures preventive actions, including internal awareness sessions for newcomers and trainees and promoting awareness campaigns and specialised trainings on security and cybersecurity organised by central services. The number of inadvertent disclosures of sensitive information are also monitored and reported annually to senior management.

#### ***d) Enforcement and policy actions taken in the area of EU competition policy***

Competition law enforcement is carried out in the public interest assessing evidence objectively and other pieces of information under the rule of law principle. 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 2023 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 competition policy enforcement is of sufficiently high quality to withstand the scrutiny of the EU courts. 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 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. 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. A comprehensive set of recommendations was agreed with the European Court of Auditors in its Special Reports 21/2020 and 24/2020 to be implemented until 2024. The implementation of these recommendations continued in 2023. 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.

#### ***e) fines 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.

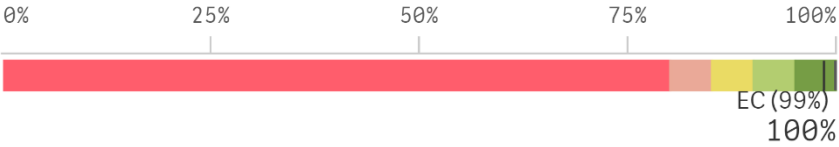
The amount of fines and penalties issued in 2023 was EUR 993,5 million, of which related to antitrust 465,2 million, mergers 432,5 and State aid 95,8 million. Fines amounting to EUR 221 million were cancelled due to Court judgements. The controls in place ensured that the related decisions were free 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 BUDG and the Legal Service was performed three 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.

### 2.1.2. Efficiency of controls

<p>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 strategy <sup>(145)</sup> to ensure the cost-effectiveness of controls. <b>Timely Payments</b></p>	<b>COMP Score</b>	<b>EC Score</b>
	<b>100%</b>	<b>99%</b>

Regarding control efficiency of financial management: DG Competition reached 100 % timely payments compared to 99% EC score. This is considerably higher than the score in 2022 (86%), which was mainly the result of two payments of interests on provisionally paid competition fines. The average net payment time in 2023 was 9,85 days, which is considerably less than the average payment delay in 2022 (16 days). The time to inform beneficiaries in 2023 was 159 days (cf. 162 days in 2022) and the average time to grant decreased to 234 days from the deadline to submit proposals (276 days in 2022).

Regarding control efficiency of 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. Such controls include the annual declaration of awareness of conflict-of-interest rules, the compulsory half-day course on ethics for new and returning staff and the automated conflict of interest declaration when staff is appointed to a case. With few resources, all these specific tools provide full coverage of the intended audience.

Regarding control efficiency of safeguard of information and IT-systems: many of the guidance and controls on information flows are embedded in the Manuals of Procedures and other existing guidance. This ensures that they are routinely implemented in the course of competition investigations. When information security incidents were detected, staff acted swiftly, and procedures were adapted in line with lessons learned. 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 measures. 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

<sup>(145)</sup> DG Competition Internal Control Strategy adopted on 25 September 2023.

implementing, with the support of DG DIGIT, the application of the 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.

About control efficiency as regards fines: 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 competition decisions with fines is circulated to ensure a timely encoding in ABAC. In 2023, fines imposed were introduced into the accounting system in correct and timely manner and the accounts therefore reflect the value of the assets concerned.

### 2.1.3. Economy 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 21.73 million) and budget (EUR 20.76 million), the financial stakes affected by the quality of decisions prepared by DG Competition are significantly higher:

#### Funds managed

<b>Payments (Expenditure) 2023</b>	<b>21.73 M</b>
<b>Total budget (Operational and administrative)</b>	20.76 M
<b>Decisions with fines adopted in 2023</b>	993.5 M
<b>Total amounts of pending fines</b>	13 802 M

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 annex 7.

In terms of cost of control as regards legality and regularity in financial management: it is estimated that 9.5 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 0.9 of one full time staff, of which an estimated 0.69 of one full time staff is for the ex-post review of procurements, grants, financial transactions and reported exceptions. In total, the cost of controls represents 10.4 full time staff e.g. approximately EUR 1 660 800 (EUR 1 522 540 for ex-ante controls and EUR 138 260 for ex-post controls) or equivalent to 7.64% of total expenditure. This is an increase compared to 2022 when the total costs of controls represented 6.74% of total expenditure. The increase comes from doubled ex-ante control, from one to two FTEs, in the IT-unit, due to 85% of operational budget execution of DG COMP, and from one lumpsum of officials for control costs in 2023, compared to separated lumpsums for administrators and assistants in 2022.

In terms of cost of control regards prevention, detection and correction of fraud and irregularities: the cost of prevention is estimated at 0.3 of a full time equivalent, which includes the tasks related to anti-fraud and ethics by the local ethics/anti-fraud contact point and the HR Correspondent.

In terms of cost of control as regards safeguard of information and IT-systems: The controls in this area include the follow-up of the IT Risk Register, the preparation of IT security risk assessments and IT security plans for new information systems, as well as the time dedicated to IT security tasks by staff working on local systems administration, project management and operations management, and the functions of Local Informatics Security Officer and Local Security officer. The cost is calculated as the FTEs of the statutory staff involved in these security controls (a total of 0.6 AD and 0.75 AST FTEs or EUR 230 850) and the costs incurred on contracts for External Service Providers (EUR 125 000). Furthermore, EUR 50 000 was transferred to DG DIGIT for c-LISO services. The overall cost of these controls is therefore EUR 405 850.

In terms of cost of control as regards fines: 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 is intrinsically linked to controls in enforcement and policy action taken in the area of EU competition policy and therefore difficult to extract and measure (cf. 3.d). 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 (same as in 2022) as the number of fines decisions in a year is limited.

#### 2.1.4. 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 control environment and control strategy remained stable during the reporting year compared to previous years.

## 2.2. 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 2023, DG Competition has not been addressed recommendations by the [European Court of Auditors \(ECA\)](#) as a lead Commission service but has contributed to several ECA audits involving other Commission services (see Annex 7). DG Competition also further implemented recommendations included in ECA's 2020 performance audits in State aid to financial institutions (SP 21/2020) and merger control and antitrust proceedings (SP 24/2020). The residual risk from audit recommendations remaining open from previous years and being implemented by DG Competition is not considered to have an impact on the declaration of assurance.

In 2023, the Commission's [Internal Audit Service \(IAS\)](#) concluded an IT audit on the CASE@EC system and an audit on HR management. The IAS identified two very important recommendations relating to the CASE@EC IT system, including the need to strengthen the role of the LISO and further improve project governance artefacts and reporting. DG Competition accepted the recommendations, and an agreed action plan is being implemented. The HR management audit did not raise critical or very important recommendations. An agreed action plan for two important recommendations is being implemented.

As regards the state of internal control, IAS concluded that the internal control systems in place are effective, except for the observations giving rise to the 'very important' recommendations, which need to be addressed, in line with the agreed action plans.

The impact of the audit findings, currently being implemented, was assessed, and found not to be material for the achievement of the overall internal control objectives, and therefore on the management's assurance.

## **2.3. 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.

Directorate-General 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 its internal control system during the reporting year 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 principles 4, 10, 11, 14 and 17. The identified deficiencies in the Internal Controls have been analysed and the mitigating actions are being implemented, including the actions related to the IT audit.

## **2.4. Conclusions on the assurance**

In conclusion, based on the elements reported above, 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.

## **2.5. 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 view <sup>(146)</sup>.***

***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.***

***Brussels, 9 April 2024***

***(signed)***

***Olivier Guersent***

***p.p. Linsey McCallum***

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<sup>(146)</sup> True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG.

## 3. MODERNISING THE ADMINISTRATION

### 3.1. Human resource management

During 2023, DG Competition continued to improve its human resource management. DG Competition ensured that its resources were effectively allocated to its priorities, including the new work streams Digital Market Act and Foreign Subsidies Regulation. A new Directorate J: “Markets and cases VI: Digital Platforms” became operational on 16 January 2023. In 2023, DG Competition also prepared for a new Directorate COMP.K: “Foreign Subsidies to deal with Foreign Subsidies Regulation”<sup>(147)</sup>. Moreover, DG Competition continued to implement in 2023 the rules of the Recovery and Resilience Facility (RRF) by assessing Member States’ Recovery and Resilience Plans (RRPs). Significant resources were also allocated to Important Projects of Common European Interest (IPCEI) and State aid control in the context of the Russian war against Ukraine as well as numerous competition policy initiatives.

DG Competition continued to implement its local HR strategy action plan in line with the overall Commission HR strategy and considering the results of the 2021 staff survey. The main actions implemented in 2023 focused on “Talent”, “Leadership & Management”, “Workplace & Wellbeing” and “Organisation & Culture”. The implementation was further validated in 2023 through 96 entry interviews, 70 exit, and 56 career development interviews with staff members.

The implementation of **DG Competition’s ‘10 DOs for people management’** (charter for good people management) was monitored through the different interviews with staff members.

As an integral part of its staff motivation, engagement, and retention strategy, DG Competition continued conducting an **180° feedback exercise for DG Competition's senior management**. In 2023, the preparation of the follow up actions started, and the senior management group coaching session will be organised with the senior management in 2024.

In the 2023 staff survey, **DG Competition’s staff engagement index** remained high with 76%, i.e. the same level as in 2021 (Commission average 73% in 2023 v 72% in 2021).

In 2023, DG Competition initiated **Staff exchange programmes with other DGs** which allow colleagues to benefit from a four-week job shadowing in another DG. Seven colleagues in DG Competition have been selected to spend 4 weeks in another DG to get to know new policies and learn new working methods. Units in DG Competition also started hosting colleagues from other DGs.

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<sup>(147)</sup> Directorate K – Foreign Subsidies was created with an effective date of 1 March 2024.

In 2023, the Senior Experts in DG Competition agreed on various initiatives in the context of the **Senior Experts network**, including inhouse training and creation of a knowledge pool within DG Competition as well as outreach activities.

As regards career development and guidance, in 2023 DG Competition boosted staff integration by giving every **newcomer dedicated coaching** and mentoring.

In April 2020, the Commission adopted measures to reach **gender equality** at all levels of management by the end of 2024 (Decision SEC (2020)146) and more recently, SEC (2023) 200. The Commission Decision sets quantitative targets for first female appointments at middle management level per Directorate-General and service. A new revised target for first female appointments to middle management functions was adopted in 2023 (reference period 01/01/2023 until the end of the mandate). DG Competition met the target of three additional first female appointments on 1 August 2023.

In addition to the **Female Talent Development Programme** organised at overall Commission level, DG Competition continued to organise together with DG ECFIN, DG FISMA and DG GROW a cross-DG talent development programme for female staff who aspire to become managers. In 2023, 24 colleagues participated (six from each participating DG).

DG Competition is committed to giving all staff equal opportunities independent of their background and to respect the principle of non-discrimination in all its forms at all stages of HR management. The **Equality Network of DG COMP** in close cooperation with the COMP HR Correspondent Team planned and carried out various actions including on Awareness Raising against Discrimination (for example a training on tackling unconscious bias was organised), Active Promotion of Diversity (discussion on recruitment of trainees), Communication actions on promoting equality through different campaigns and initiatives.

The main goal of **internal communication (IC)** at DG Competition is to ensure clear, timely, transparent, and targeted communication, that connects staff with DG Competition's and the Commission's priorities, positively contributing to the development of a sense of "belonging" to the organisation and, ultimately, to staff engagement.

In 2023, The Director General of DG Competition shared corporate and HR messages through All staff e-mail messages. Video messages were prepared immediately after each senior management meeting, to share timely information about HR, organisational, corporate, and DG Competition specific developments and challenges across the DG. The Directors give a more elaborated debrief of the weekly senior management discussion to the heads of unit, who pass on this information to staff at their unit meetings. Detailed and specific internal information was published on the dedicated Wiki space, as well as on the Intranet, the internal newsletter, and the flat screens in the entrances to the Madou Tower.

In all these messages, particular attention was paid to the DG COMP local HR Strategy and Action Plan.

As part of the corporate transition to a new technology, in 2023, DG Competition started work on transferring its intranet to a new platform. This will allow for improved



communication and collaboration across units. With over 6000 pages and 8000 documents to be reviewed, the exercise involves all DG Competition staff and is meant to be finalised by end of 2024.

One “All Staff” event chaired by the Executive Vice-President took place in January 2023 to celebrate New Year. DG Competition organised two additional “All Staff” events, including a gathering to listen to the President’s State of the Union address, and a “Corridor Party”. Other gatherings and away days were organised at directorate and unit level, as well as social events for newcomers (monthly Newcomer’s Coffee). In addition, the AST network was very active in organising social, solidarity and sports events that create excellent opportunities for colleagues to come together.

In 2023, knowledge management was actively promoted through COMPWiki, and Wiki blogs were used to draw colleagues’ attention to new developments. The work of the most active contributors to COMPWiki was recognised at the COMPWiki awards ceremony that took place in the context of the “All Staff” event chaired by the Executive Vice-President”.

## **3.2. Digital transformation and information management**

In 2023, DG Competition continued the digital transformation of its digital systems and tools to support EU competition enforcement, in line with the principles and objectives of the European Commission Digital Strategy. A major focus was to extend or improve digital support for the new business domains, Digital Markets Act and Foreign Subsidies Regulation, and to replace obsolete or ageing technologies.

First, as Commission domain leader for modern case management solutions, DG Competition has made numerous upgrades to the common case management platform. In February 2023 and July 2023 DG Competition released new versions of CASE@EC supporting DG Competition’s Horizontal Projects and the Foreign Subsidies Regulation respectively.

Work has continued to prepare the implementation of other business domains in CASE@EC, notably for Antitrust/Cartels and Merger cases, which are planned to be released in 2024 and 2025 respectively. Several other DGs have on-boarded CASE@EC to support their case management needs, including DG Connect for the Digital Services Act and (in cooperation with DG Competition) Digital Markets Act cases, DG Grow for public procurement cases under the Foreign Subsidies Regulation and DG Budget for the Rule of Law Conditionality Regulation (RoLC).

Second, as regards digital solutions facilitating digital exchanges with Member States’ administrations, companies and citizens, DG Competition achieved significant progress in 2023 in modernizing digital solutions, including by:

- Improving the State Aid digital solutions, for notification, reporting and transparency on State Aid cases (GENIS) to align with changes in State Aid legislation such as the Green

Deal and the Temporary Crisis and Transition Framework (TCTF), as well as kicking-off a new project to support the updated *de minimis* regulation.

- Improving the platform to communicate securely with the European Competition network in the context of Antitrust and Mergers proceedings (ECN2) to also support exchanges in the context of the Digital Markets Act and the Foreign Subsidies Regulation.
- Improving the digital solution supporting negotiations on confidentiality claims with external parties (eConfidentiality) in the context of Access to File and preparation of decisions, increasing the volume of documents upon which a negotiation can take place.
- Improving the digital solution supporting Requests for Information in the context of market investigations (eRFI), including support for the Digital Markets Act.
- Rolling-out in full production the new Open Data and Case Search (ODSE) solution, which revamps the publication of competition cases' data on the EUROPA website to help citizens and external stakeholders to access, search and export public competition data.
- Kicking-off a new project to digitalise the notification of cases, particularly in the Merger and State Aid domain.

Third, with respect to the area of data analytics and artificial intelligence tools, in 2023, DG Competition continued to invest and consolidate its initiatives with a strategic view to provide a coherent and robust ecosystem for investigation tools and the management, analysis and use of data, including by:

- Deploying a redesigned eDiscovery tool with improved capabilities for the review of large amounts of documents and management of evidence.
- Carrying out a market analysis of eDiscovery solutions with technology-assisted review (TAR) and AI capabilities.
- Customising support, including machine learning capabilities, for processing and reviewing non-standard large volume submissions in several merger and antitrust cases.
- Setting-up an environment for big data analysis in collaboration with DG DIGIT, integrated with AI building blocks of the Commission.
- Delivering internal and publicly accessible dashboards allowing for visual data discovery (e.g. on ECN statistics <sup>(148)</sup>).
- Further adapting Data warehouse and business intelligence infrastructure to the evolutions of case management system CASE@EC.

Moreover, DG Competition keeps investing into state-of-the-art, non-standard hardware and software solutions operated by specialised staff in the context of investigative and

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<sup>(148)</sup> [https://competition-policy.ec.europa.eu/antitrust-and-cartels/european-competition-network/statistics\\_en](https://competition-policy.ec.europa.eu/antitrust-and-cartels/european-competition-network/statistics_en)

forensic IT activities, performed to detect and effectively prosecute anticompetitive conduct.

Fourth, given its sensitive and confidential nature, DG Competition's information has specific security requirements. In 2023, IT Security Plans for 3 new and existing digital solutions, including a comprehensive update of the security plan for CASE@EC, have been approved and the analysis for creating or updating plans for the remaining information systems has started. The security monitoring and control measures required by the corporate IT security policies have been implemented. Several initiatives and developments aimed at improving the IT security of information systems including the case management systems were undertaken.

### **3.3. Sound environmental management**

DG Competition takes full account of the environmental impact of 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's activities conform with the EMAS and contribute to the reduction of the building's energy consumption, CO<sub>2</sub> emissions, waste generation, water use and office paper consumption.

Corporate level EMAS campaigns were timely promoted locally via My IntraComm, COMP Newsletter and/ or via emails to all staff members.

### **3.4. Examples of economy and efficiency**

The audit on Case@EC including registry processes was concluded with findings and recommendations at the end of 2023. For the registry, the IAS recommended to improve the internal guidance and documentation for registry tasks, to better document the risk management at registry level and to develop an indicator allowing to monitor the performance of the registry. The implementation is due for 2024 and is already well advanced. At this stage, it is premature to give a precise estimate of the expected gains.