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DG Competition Annual Management Plan 2008

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Personal message by the Director General.

While competition is not an end in itself, it is the best means of ensuring that markets deliver the goods and services which companies and ordinary people want. On markets where there is more than one supplier, firms compete on price, quality, choice and innovation for the benefit of consumers in general whether they are individuals or businesses. Competition also spurs competitiveness by encouraging companies to innovate. And to become more efficient. This is why a system of ensuring undistorted competition is regarded as an integral part of the Internal Market, as recognised by the Internal Market and Competition Protocol of the Reform Treaty signed in Portugal on 13 December.

The goal of EU competition policy is to make markets work better for the benefit of European consumers and businesses. DG Competition's priorities for 2008 focus its activities on actions which have the biggest possible impact consumers, both in the short and long term. These will include breaking up cartels, sanctioning and deterring the anticompetitive conduct of dominant firms, rigorous control of mergers as well as of the most distortive types of State aid. At the same time, we will advocate for a better regulatory framework at European and national level in key sectors of the economy such as energy, financial services, telecoms, pharmaceuticals and information technology.

Cartels will remain a top priority for DG Competition. The need to continue to investigate and break up cartels shows no signs of abating. Leniency applications will continue to be an important source of cartel cases, but ex officio-triggered investigations will complement our leniency policy. Following the revision of the Leniency Notice and the Guidelines on fines, we will continue to improve our rules, including the introduction of a settlement procedure for cartels. This will allow the Commission to attain procedural efficiencies and could lead to lower fines for parties who agreed to the settlement procedure.

In the field of antitrust, DG Competition will focus on a limited number of priority cases in order to bring more investigations to an end in a time period relevant to the problem on the market that they aim to solve. DG Competition will pursue a number of ongoing unilateral conduct cases in the IT sector. In the gas and electricity markets, we will continue to scrutinize the incumbents' behaviour of incumbents with respect to access to infrastructure and will follow up our examination of foreclosure risks relating to long-term supply agreements. We will intend to ensure that competition in the payment cards sector is maintained and enhanced. We will work on guaranteeing that consumers are not deprived of the benefits of open markets for air and rail transport because of anti-competitive agreements or abuses of market power. In parallel, we plan to continue our review of enforcement action under Article 82, adopt new guidelines for the application of Article 81 to maritime transport services, publish a draft revised Consortia Block Exemption Regulation and issue a White Paper on damages action for breach of EC competition rules. We will also consider making further use of the sector inquiry instrument under Regulation 1/2003.

In the area of merger control, following a record high number of notifications in 2007, we need to strengthen our investigate techniques and ensure efficient and effective decision-making. DG Competition will strive to meet increasing standards of quality

while continuing to apply a more economic and effects-based approach projected in the horizontal and non-horizontal merger guidelines. We will not hesitate to open second phase proceedings if the standard to accept remedies in first phase is not met.

In the field of State aid control, we have been implementing a major revision of the legal instruments of state aid control, as foreseen in the State Aid Action Plan launched in 2005. This goes hand in hand with the scrutiny of the state aid aspects of new initiatives in other EU policies, such as the climate change package and efforts to strengthen multilateral anti-subsidy disciplines.

We will continue to deal with a large number of complex cases, whether based on notifications, complaints or ex officio investigations. Particular attention will be given to cases relating to regulated tariffs and stranded costs in energy, broadband projects, aid to public service broadcasters and industrial and financial restructuring. The General Block Exemption Regulation is also scheduled to be adopted during 2008. It will cover areas already falling under existing block exemptions, such as training aid and aid to SMEs, but will also include new areas, such as regional aid, research & development, environment or risk capital. We will also be proposing the adoption of revised environmental aid guidelines, and a new notice on the treatment of public guarantees.

2008 will be the fourth full year of the European Competition Network. Our cooperation with national competition authorities will continue to contribute to the efficient and consistent enforcement of EC antitrust law. At the same time, we aim to further strengthen wider international cooperation in enforcement activities and to promote convergence of competition policy instruments across jurisdictions, focusing on participation in the work of the main international organisations (OECD and ICN) and our main trading partners, in particular USA, Canada, Japan, China, Russia, India, Brazil and Korea.

1. Mission statement

The mission of the Directorate General for Competition (DG COMP) is to enable the Commission to make markets work better for the benefit of European consumers and businesses through the development and enforcement of competition rules and competition advocacy, ensuring that competition in the internal market is not distorted and that markets operate as efficiently as possible.

Effective competition contributes to a larger choice of products and services, lower prices and better quality. It stimulates knowledge and innovation and creates incentives for businesses to invest, leading to increased productivity and the creation of more and better jobs. It is a crucial factor for the creation of proper conditions for economic growth and prosperity.

2. General objectives

The general objectives of DG COMP are i) to protect competition on the market as a means to enhance consumer welfare, ii) to support growth, jobs and competitiveness of the EU economy and iii) to foster competition culture.

These general objectives follow the strategic objectives set out at the start of the Commission's mandate — prosperity, solidarity, security and freedom, and a stronger Europe in the world. They are in line with the key objective of the political agenda of the Commission: to reinvigorate the Lisbon strategy with the overall aim of making the EU the most dynamic and competitive knowledge-based economy in the world.

Making markets work better requires, in the first place, a careful selection of sectors which are the most important for the competitiveness of the EU economy. An increased focus on key sectors maximises the contribution of competition policy to achieving the EU's overall objectives. For example, in line with the priorities set out in the Annual Policy Strategy for 2008, competition policy will contribute to ensuring competitive markets in network industries, such as energy, transport, electronic communications and financial services, which are all vital for the competitiveness of the EU economy and important parts of citizen's household expenditure.

2.1. To protect competition on the market as a means to enhance consumer welfare in the EU

A key objective of EU competition policy is to ensure that competition on the market is protected against anti-competitive agreements, exclusionary and exploitative conduct by one or more dominant undertakings, mergers that significantly impede effective competition or distortive State aid.

Undistorted competition on the market is a means which enhances consumer welfare by driving both static efficiency, including productive and allocative efficiency, and dynamic efficiency, in particular in the form of innovation.

The more harmful anti-competitive practices are, the greater the need there is for competition policy to intervene. For example, cartels are clearly the most harmful restrictions of competition and therefore high priority continues to be given to the effective detection and deterrence of cartels. Similarly, abuses of a dominant position and anti-competitive mergers with the greatest harm to consumers must also continue to be targeted by enforcement action.

Furthermore, by targeting international cartels, mergers and abusive practices of firms of any nationality which harm European consumers, EU competition policy helps to protect European consumers against the potentially harmful aspects of globalization and to ensure that the benefits of globalisation are passed through to them.

While State aid may in the short term benefit a few selected consumers (customers of the aided firm), it distorts the incentives at the very basis of the a functioning market mechanism. In the long run it is therefore harmful for consumers in general and thus

to both total and consumer welfare. The progress made in protecting and increasing competition can be indicated through the estimated value of the future customer savings resulting from the application of competition policy tools. Based on the impact indicators set out for the individual activities below, a rough estimate of the future customer savings resulting from cartel, antitrust, liberalisation and merger cases in 2007 would amount to at least 13.8 billion euros. However, this estimate – which itself is based on a number of assumptions and is limited to the presumed impact of a selected group of competition policy actions - does not take into account the indirect effects of the deterrent effect of cartel and antitrust cases, of the effects of State aid control and of the effects of the policy, coordination, European Competition Network and international cooperation activities.

2.2. To support growth, jobs and competitiveness

Competition enforcement and advocacy initiatives ensure that private and public restrictions do not hold back competition to the detriment of the competitiveness of the EU economy, especially in key sectors for the internal market and the Lisbon agenda. For example, competition in the IT sector and in network industries influences the input costs and hence the competitiveness of various sets of services. Therefore, a fully competitive single European energy market for example is vital for the Lisbon process. Similarly, better functioning financial markets are necessary to reach the goals of offering a more efficient access to finance and insurance for businesses.

Protecting the competitive process stimulates technological development and innovation, which in turn bring about higher productivity and faster growth in the economy. By promoting a pro-competitive regulatory framework at EU and national level, competition policy contributes to the better regulation agenda of the Commission and makes Europe a more attractive place to invest. By braking up cartels and prohibiting abuses of a dominant position in markets for intermediary products or services, competition policy lowers the input costs of businesses, thereby making them more competitive.

At the same time, the State aid framework helps Member States spend less and better targeted aid by prohibiting “bad aid”, i.e. aid that distorts competition, and allowing “good aid”, i.e. aid addressing market failures in the interest of growth and jobs, such as aid for research and development and innovation, training, environmental protection, risk capital or aid to small and medium-sized enterprises (SMEs).

Through opening markets and keeping them open competition policy continues to contribute to improved economic efficiency, increased productivity and thereby faster economic growth.¹ In the past 5 years, GDP per capita (at purchasing power parity) raised by 19% in the EU, but it is still 35% lower than in the US. There is clearly scope for improvement and competition policy has much to contribute. For example, potential

¹ Competition policy, through driving efficiency and improving productivity, directly contributes to real GDP growth. However, the growth rate of real GDP per capita is dependent on a number of factors outside the control of competition policy. Therefore, the causal link between competition policy and the growth rate of real GDP per capita is direct but non-exclusive.

gains from improving competition in network industries are estimated to be 1.5 to 2% of GDP at least.²

2.3. To foster competition culture

Knowledge of the benefits of competition is essential for citizens to exploit their opportunities as consumers, for businesses to compete on the merits and for policy makers to bring initiatives that do not disproportionately restrict the competitive process.

Fostering a competition culture in which consumers make informed choices between products and services offered, businesses refrain from anti-competitive agreements or behaviour and public administrations realize how competition can contribute to addressing wider economic problems, directly contributes to making markets work better for the benefit of consumers and business.

According to a 2006 Eurobarometer survey, 67% of EU citizens consider that increased competition in markets, such as transportation and telecommunications, is a good thing. According to another 2006 Eurobarometer survey, more than 82% of business leaders in the EU consider it important that fair competition is ensured in the single market, while more than 68% of business leaders in the EU consider it important that sectors, such as energy, transport, telecommunications and postal services are further opened up to competition.

This shows a high awareness and support for competition policy but more needs to be done.

POLICY AREA: <u>COMPETITION POLICY</u>					
GENERAL OBJECTIVES		Impact indicators			
		Indicator	Target (long-term)	Milestones (if any)	Current situation
1.	To protect competition on the market as a means to enhance consumer welfare in the EU	Future customer savings resulting from the application of competition policy tools	Maximum impact for consumers through enforcement action		13.8 billion euros (rough estimate of the future customer savings resulting from cartel, antitrust, liberalisation and merger cases in 2007)
2.	To support growth, jobs and competitiveness	Changes in long-term real output and real prices rooted in the competitive market environment	Optimal long-term outcome of the competitive markets in terms of real output expansion and real price stability		2.81% (2006, EU-27 – Eurostat)

² Competition policy, through driving efficiency and improving productivity, directly contributes to real GDP growth. However, the growth rate of real GDP per capita is dependent on a number of factors outside the control of competition policy. Therefore, the causal link between competition policy and the growth rate of real GDP per capita is direct but non-exclusive.

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		Proxy: growth rate of real GDP per capita	Proxy: a growth rate considered to be in line with the Community Lisbon Programme		
3.	To foster competition culture	Ratio of positive replies in surveys conducted among citizens, businesses and policy makers on their knowledge of and attitude towards competition	Highest possible ratio of positive replies		67% of EU citizens consider that increased competition in markets, such as transportation and telecommunications, is a good thing. More than 82% of business leaders in the EU consider it important that fair competition is ensured in the single market (Eurobarometer 2006)

2.3. Resources

In 2008, the total number of DG COMP's staff will be 858, broken down in 496 ADs, 325 ASTs and 37 other staff (paralegals and other outside personnel). Based on the "COMP 2010" report – resulting from an internal reflection on the medium term future of DG COMP and widely circulated in the Commission - , this will allow DG COMP to perform its mission at the level of efficiency and effectiveness reached in 2006. However, DG COMP will remain understaffed when compared to other competition authorities, such as the US Department of Justice and Fair Trade Commission or the Japan Fair Trade Commission. The understaffing is particularly more evident if it is taken into account that there are significant differences in the size of the economy and the population of the jurisdictions compared. Furthermore, as opposed to other competition authorities, DG COMP also devotes substantial resources to ensuring that all European companies operate on a level-playing field where State aid does not distort competition and where competitive companies succeed.

Human Resources (person years)* - based on figures from 13/11/2007 and on the provisional allocation for 2008

ABB Activity	Officials and temporary staff**	Auxiliary agents	Personnel Interim	Contractual agents	National detached experts	Other outside personnel (1)	Total
Cartels, anti-trust and liberalization	287	-	6	19	21	-	333
Merger control	86	-	-	9	12	-	107
Control of State aid	168	-	-	7	9	-	184
Policy, coordination, ECN and international cooperation	116	-	-	5	1	-	122
Administrative support	81	-	3	9	-	19	112
Total	738	-	9	49	43	19	858

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Financial Resources (€) (in commitment appropriations)

Activity	Operational Expenditure	Administrative expenditure (DG managed) (2) ³	Total
Cartels, anti-trust and liberalization			
Merger control			
Control of State aid			
Policy, coordination, ECN and international cooperation			
Administrative support			
Cartels, anti-trust and liberalization			
Total (of financial resources managed by the DG)	800.000€		8.387.789€

* including the "dotation normale" on the first day of validity of the AMP (e.g. on 1/1/2008 for AMP 2008), the human resource allocation for the year (e.g. HR allocation 2008 for AMP 2008) and other allocations

** including operating and research

(1) Includes human resources financed outside global envelope (technical and administrative assistance (ex BA lines), structural funds mini-budgets, administrative expenditure related to research, and specific budget items under heading 5).

(2) Global envelope + article 01 04 + article 01 05

³ Please note that this does not take into account arrangements for financing expenditures under the current and future contracts with the Trustee in the Microsoft case.

3. Activity-Based Budgeting (ABB) Activities

According to the structure used for Activity Based Management (ABM), DG COMP's work is divided into the following activities:

- Cartels, anti-trust and liberalization,
- Merger control,
- Control of State aid,
- Policy, coordination, European Competition Network and international cooperation,
- Administrative support.

After the major reorganisation of 2007, the above activities are carried out by nine directorates. Directorate A is the horizontal directorate dealing with competition policy and strategy. In line with the need to define sectoral priorities, the core operational activities are grouped into five sectoral departments. These are directorates B to F and each of them deals with antitrust, State aid and merger cases. Directorate G is focused on one priority task, which is cartel-fighting. Directorate H deals with State aid issues falling outside the standard sectoral approach. Directorate R is in charge of human resources, document management and IT.

3.1. ABB Activity " Cartels, anti-trust and liberalization"

This activity involves the application of Articles 81, 82 and 86 of the EC Treaty and derived legislation. The aim of anti-trust law enforcement under Articles 81 and 82 is to ensure that companies compete on their merits rather than engaging in anti-competitive conduct.

Article 81 prohibits anti-competitive agreements in the common market. The gravest example of an Article 81 violation having a direct negative effect on consumers is a cartel – an illegal arrangement, generally between competing firms, designed to limit or eliminate competition between them with a view to raising prices and profits, without producing any objective countervailing benefits. Cartels typically involve agreements to fix prices, limit output, share markets, allocate customers and/or territories among firms, rig bids and/or a combination of any of these. Cartels are a top priority for DG COMP, as evidenced by fines of more than 3.3 billion euros imposed in 8 decisions in 2007⁴. By offering partial or full immunity from fines to participants reporting cartels, the Commission's leniency policy is an effective means to detect cartels, with 5 out of the 8 decisions in 2007 having leniency applications at their origin.

Another important area of competition law enforcement is sanctioning abuses of dominant position, in particular situations where a company uses its power in a market to hinder potential competitors from offering new products or services to consumers under more attractive conditions. Such conduct is forbidden by Article 82 of the EC

⁴ Decisions adopted until 5 December 2007.

Treaty. By abusively preventing new entry or squeezing competitors out of the market, dominant companies can hamper competition on the market and negatively affect incentives to innovation and growth, as well as consumer welfare. The application of Article 82 allows the Commission to put an end to abuses of dominance, while respecting dominant companies' right to compete aggressively on the merits of their products or services. Decisions against Microsoft and Telefonica are examples of such action focussing on priority sectors, such as information technology and telecommunications

Liberalization involves the application of Article 86 of the EC Treaty, which establishes the applicability of competition rules to public undertakings and those to which Member States grant special or exclusive rights, including undertakings entrusted with the operation of services of general public interest. The application of the competition rules plays an important role in sectors which have recently been liberalized by complementing the regulatory reforms. In particular competition policy prevents incumbents from raising new barriers or protecting themselves against emerging competition after State barriers have been removed. Under the "Article 7 procedure", the Commission is making sure that national regulatory authorities impose pro-competitive regulation on telecommunications operators having significant market power and that they do not unduly intervene in markets where competition is already effective.

In each of these areas, DG COMP aims at the effective detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices. DG COMP's intervention is required to protect or, as often is the case, re-establish competition on key markets, such as IT, energy, financial services, telecommunications, transport and post, and thus is crucial for increasing consumer welfare as well as for improving the competitiveness of the EU economy.

ACTIVITY: CARTELS, ANTITRUST AND LIBERLIZATION		
SPECIFIC OBJECTIVE 1: Effective detection, sanctioning, deterrence and remedying of the most harmful cartels between undertakings		
<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Cumulated value of sales of goods or services by cartels prohibited by Commission decisions	≈ € 19 billion ⁵	Stable level of the indicator adjusted for growth and inflation
<i>Main policy outputs</i>		
Decisions applying the prohibition rules of Article 81 of the EC Treaty (cartel decisions)		

⁵ Based on cartel decisions adopted in 2007, until 28 November. The future customer savings due to these cartel decisions are estimated to be € 9 billion. This estimation assumes that: (a) the average expected life span of a cartel at the time of its discovery is 5 years, (b) the average cartel gain from setting a cartel price equals to 10% of the value of the sales of goods or services to which the cartel infringement directly or indirectly relates and (c) the annual discount rate of 3.5% for year n+1 to n+4 is applicable. Each of these assumptions is conservative; the true savings could be significantly higher.

SPECIFIC OBJECTIVE 2: Effective detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices by undertakings other than cartels

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Size of the markets to which the anti-competitive practice prohibited by Commission decisions relates	≈ € 30.5 billion ⁶	Stable level of the indicator adjusted for growth and inflation

Main policy outputs

Decisions applying the prohibition rules of Articles 81 and 82 TEC (restrictive agreements other than cartels and abuses of dominant position)

SPECIFIC OBJECTIVE 3: Effective detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices by Member States

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Size of the markets to which the anti-competitive practice prohibited under Article 86 of the EC Treaty or challenged under Article 226 of the EC Treaty relates	≈ € 5.2 billion ⁷	Stable level of the indicator adjusted for growth and inflation

Main policy outputs

Decisions under Article 86 of the EC Treaty and referrals to the Court of Justice under Article 226 of the EC Treaty dealing with illegal State measures, in particular in the liberalised network industries and financial services.
Assessment of notifications from national regulatory authorities under Article 7 of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services.

⁶ Based on Commission decisions adopted in 2007, until 28 November. The future customer savings resulting from these decisions are estimated to be € 3 billion. This estimation assumes that the customer saving corresponds to 10% of the size of the relevant market(s) to which the anti-competitive practice relates. The 10% value is based on an analogy to the SSNIP (Small but Significant and Non-transitory Increase in Price) test.

⁷ Based on measures taken in 2007, until 28 November. Figure does not include the size of electronic communications markets analysed by national regulatory authorities under Article 7 of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services. The future customer savings resulting from these actions are estimated to be € 0.5 billion. This estimation assumes that the customer saving corresponds to 10% of the size of the relevant market(s) to which the anti-competitive practice relates. The 10% value is based on an analogy to the SSNIP (Small but Significant and Non-transitory Increase in Price) test.

3.2. ABB Activity "Merger control"

Merger control is another important instrument of competition law enforcement. Companies may combine their activities to develop new products or to lower costs. However, some mergers may reduce competition in the market, in particular by impeding effective competition, including the creation or strengthening of dominant positions in the market. Merger control is primarily aimed at preventing the emergence of market structures which are not conducive to effective competition, or the deterioration of market structures which are already less than effectively competitive.

The EC Merger Regulation guarantees efficient involving a rapid assessment and clearance of non-problematic mergers. Mergers that do not have Community dimension are in principle dealt with at Member State level. However, the Merger Regulation leaves scope for re-allocating cases from the national competition authorities (NCA) to the Commission and vice versa.

The Commission approves the vast majority of cases examined, most of them without the need to open a 2nd phase investigation.⁸ Most concerns about the possible effects of a merger are resolved through remedies.⁹ A prohibition decision is the last resort. But when it is essential to ensure that consolidation does not undermine the benefits of competition and liberalization for consumers, and when no suitable remedies are on offer, the Commission has no choice but to prohibit a merger. That is the reason why the Commission prohibited, in 2007, the merger between the airlines Ryanair and Aer Lingus, which would have otherwise reduced choice and, most likely, led to higher prices for more than 14 million EU passengers using 35 routes to and from Ireland each year.

The EU merger control system guarantees that companies can develop in a dynamic way to become competitors on global markets. European companies are free to search for the most productive and competitive organizational structures reflecting their current and strategic business needs. At the same time, DG COMP's interventions allow to protect the consumers' interests.

⁸ For example, in 2007 (on the basis of decisions adopted until 22 November), concentrations were approved within one month in 388 out of 398 cases, and a second phase investigation was opened in 10 cases out of 398.

⁹ For example, in 2007 (on the basis of decisions adopted until 22 November), concentrations were approved subject to remedies in 22 cases.

ACTIVITY: MERGER CONTROL
SPECIFIC OBJECTIVE: Effective prevention of the anticompetitive effects of mergers

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Size of relevant markets affected by corrective merger decisions ¹⁰	≈ € 13 billion ¹¹	Stable level of the indicator adjusted for growth and inflation ¹²

<i>Main policy outputs</i>
Decisions applying the rules of the EC Merger Regulation

¹⁰ For the purposes of this document, corrective merger decisions are prohibition decisions and clearance decisions with remedies.

¹¹ Indicated value is based on 13 out of 23 corrective merger decisions issued by the Commission until 31 October 2007, for which the monetary value of the affected markets was available. The future customer savings resulting from these corrective merger decisions are estimated to be € 1.3 billion. This estimation assumes that the future customer savings resulting from corrective merger decisions corresponds to 10% of the size of the relevant market(s) on which the concentration would have significantly impeded effective competition. The 10% value is based on an analogy to the SSNIP (Small but Significant and Non-transitory Increase in Price) test.

¹² Planning assumption. As the merger control activity is driven by notifications, it is not possible to provide a clear target for this indicator.

3.3. ABB Activity “Control of State aid”

Article 87 of the EC Treaty prohibits any aid granted by a Member State and through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain firms or the production of certain goods in so far as it affects trade between Member States. The Commission has the exclusive power to declare State aid compatible with the EC Treaty, provided the State aid fulfils clearly defined objectives of common interest and does not distort intra-community competition and trade to an extent contrary to the common interest.

In line with the State Aid Action Plan launched by the Commission in 2005, DG COMP seeks to ensure that the overall level of State aid is reduced, in particular with regard to those aids that most distort competition in the internal market. It also aims to ensure that where aid is granted it targets market failures or equity objectives, addressing horizontal objectives of Community interest, in particular those contributing to the Lisbon Program, such as cohesion, employment, environmental protection, promotion of research and development and innovation, risk capital and development of small and medium-sized enterprises (SMEs).

State aid control aims at guaranteeing that firms can compete fairly, without public funds being used to give a firm an undue advantage over another. For example, in 2007, the Commission took five negative decisions in the area of restructuring firms in difficulty. At the same time, State aid control may be used to provide a framework which encourages the granting of better targeted aids that address market failure or equity objectives that have a beneficial impact on competitiveness, employment and growth, and thus on the welfare of society as a whole. For example, in 2007, the Commission took more than 60 positive decisions relating to research and development aid, more than 10 positive decisions relating to innovation aid and nearly 70 positive decisions relating to environmental aid.

ACTIVITY: CONTROL OF STATE AID

SPECIFIC OBJECTIVE 1: Less aid granted by Member States

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Overall level of State aid granted by Member States expressed as a percentage of GDP (less agriculture, fisheries and transport)	0.42% of GDP (2006), compared to 0.59% of GDP (average 1996-2000)	Decrease in the indicator's level ¹³

<i>Main policy outputs</i>
Decisions relating to notified and non-notified State aid measures

SPECIFIC OBJECTIVE 2: Better aid granted by Member States

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Percentage of State aid granted by Member States for horizontal objectives	85% of the overall amount of aid (2006) ¹⁴ , compared to 55% (average 1996-2000)	Increase in the indicator's level

<i>Main policy outputs</i>
Decisions relating to notified and non-notified State aid measures

¹³ This indicator attributes a positive value to the overall decrease of State aid. Such a general aim has however to be understood as a long term objective, which may allow for deviations to cater for Member States different needs and preferences as to the use of state aid to promote growth and jobs, provided the aid fulfils the compatibility conditions set by the Commission. The need to sustain structural reform or specific action for cohesion and competitiveness may push Member State to allow for more aid in a given moment, as long as it is in the Community interest.

¹⁴ This "good" aid (aid pursuing horizontal objectives or pursuing regional development) can be also set forth as separate result indicators (breakdown of the overall percentage of State aid granted for horizontal objectives and with the exclusion of State aid to agriculture, fisheries and transport):

State aid granted for	% of the overall amount of aid
R&D	14%
Innovation	n.a. (introduced in 2007)
Employment	7%
Regional aid (equity & social cohesion)	19%
Training	1%
SMEs	11%
Environmental purposes / energy saving	29%
Other horizontal objectives	4%

SPECIFIC OBJECTIVE 3: Effective prevention and recovery of incompatible State aid

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Percentage of "bad" State aid ¹⁵	0.06% of GDP (2006), compared to 0.27% of GDP (average 1996-2000)	Decrease in the indicator's level ¹⁶
Percentage of incompatible aid recovered	80% ¹⁷	Increase in the indicator's level ¹⁸
Average age of pending recovery cases, including the time required for the Member States to take all necessary steps to recover the aid from the beneficiaries	51.3 months ¹⁹	Decrease in the indicator's level

Main policy outputs

Final decisions and appropriate measures for incompatible State aid cases

¹⁵ The effectiveness of prevention activities is hard to measure. Member States may already have adjusted their behaviour in line with the State aid rules established by the Commission – it is not easy to find an indicator measuring behaviour which did not take place. Furthermore, certain behaviour (or inaction) can also be attributed to internal considerations (e.g. budgetary constraints). Also, even during the investigation by the Commission of notified aid, certain adjustments may occur in the light of pre-notification meetings or questions asked by the Commission services. Again, no precise indicator exists to measure such corrective actions occurring during the life of the procedure. Finally, it would give a wrong picture if one only looks at the total amount of incompatible aid which is being recovered as indicator, since far from being "prevented", this aid has been granted and is still with the beneficiaries concerned, distorting competition and trade, until full recovery has taken place.

Hence, it seems methodologically sounder to set an objective benchmark against which to track the performance of the Commission, which in particular if tracked over time (to correct for possible temporary fluctuations to take account of the different needs of Member States at some point in time) should give an idea of the impact that the Commission has had in preventing "bad" aid. To that effect the average figure of aid as % of GDP in the 5 year period before the Lisbon agenda is used as absolute benchmark for measuring the impact that State aid control has had in preventing "bad" aid.

¹⁶ Planning assumption. As State aid activity is driven partially by notifications, it is not possible to provide a clear target for this indicator.

¹⁷ Based on data from June 2007.

¹⁸ This indicator is very much a "moving target", because it can be influenced by several factors such as recent decisions not yet implemented, annulment of a decision by the court, and in particular, by the fact that often the aid amount is quantified during the recovery procedure. That is why also the average age needs to be added as indicator.

¹⁹ Based on data from 31 July 2007.

3.4. Activity "Policy, coordination, European Competition Network (ECN) and international cooperation"

A robust competition policy in the areas of cartels, antitrust, liberalisation, mergers and State aid is a prerequisite to a sound enforcement and advocacy policy. It is important to keep the competition rules on substance and procedures in all these areas under constant review to adapt the rules to new market developments and improved knowledge on industrial economics.

Sound competition policy is built of a number of components. It must reflect mainstream economic thinking; legal precedent; evolutions in the business environment; aim to catch restrictions which have substantial negative effects on consumer welfare; reduction of regulatory burden, especially for companies lacking market power like SMEs; and simplification.

In line with the above, the Commission now uses an effects-based approach both in merger control and in antitrust, which focuses on the likely effects on consumer welfare.

It is also moving towards a refined economic approach in State aid policy, balancing the negative effects of aid on competition and trade with its positive effects in terms of the common interest. It continues to implement a major revision of the legal instruments of state aid control, as foreseen in the State Aid Action Plan launched in 2005. Several elements of that action plan are already in place, such as guidelines on regional aid, new guidelines on risk capital or a State aid framework for research, development and innovation. Next year should see the delivery of more, such as the general block exemption, the environmental State aid guidelines and a notice on guarantees.

The competition policy activity relates to giving the necessary impulse to policy definition and coherent implementation in order to achieve the overall mission of DG COMP as well as to contribute to the effective and coherent application of European competition law in the enlarged EU, via the ECN and through cooperation with national courts. Effective and coherent enforcement action by the Member States' competition authorities and courts has an important role to play in achieving the general objectives of increased consumer welfare and improved competitiveness. In addition, facilitating damages claims for breaches of the antitrust rules will not only strengthen the enforcement of competition law, but will also make it easier for consumers and firms who have suffered damage from an infringement of competition law rules to recover their losses from the infringer. Finally, it is equally important to ensure that regulation at national level does not contain unnecessary competition restrictions.

Furthermore, competition policy activity aims at contributing to and promoting international convergence of competition policy, in particular by creating effective tools for bilateral and multilateral co-operation with the Community's main trading partners and with third-country competition agencies, for example, in international venues such

as the International Competition Network or the OECD. Another aim of competition policy is to include competition and State aid clauses in Free Trade Agreements ensuring a level playing field for European and foreign companies. In the specific context of enlargement, the main policy objective, in addition to fostering a competition culture, is to assist the candidate countries and potential candidate countries to build up a proper legislative framework, well-functioning competition authorities and an efficient enforcement practice in order for them to meet the conditions for EU accession in the competition policy field.

This activity also aims at ensuring a sound coherence of the different activities within the DG and at establishing consensus regarding the direction of EC competition policy, by ensuring that relations with the other services of the Commission and with other institutions, in particular the European Parliament and the Council, are engaged and constructive in light of DG COMP's mission. Effectively communicating the benefits of competition and the impact of our activities to citizens, businesses and policy makers is also indispensable to foster a competition culture, to raise awareness and to facilitate compliance.

Finally, this activity promotes the development of a strategic planning culture within the DG in accordance with the Commission Strategic Planning and Programming cycle so that horizontal proposals and enforcement acts pass smoothly and efficiently through the decision making system.

ACTIVITY: POLICY, COORDINATION, ECN AND INTERNATIONAL COOPERATION

SPECIFIC OBJECTIVE 1: The development and/or revision of EC competition law and policy to reflect market realities and contemporary economic and legal thinking and to give clear guidance to courts, national authorities, and economic operators

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
EC competition law and policy which reflects market realities and contemporary economic and legal thinking	More than 20 key legislative and non-legislative policy documents delivered in recent years ²⁰	Delivery of at least 10 additional key legislative and non-legislative policy documents until 2009

<i>Main policy outputs</i>
Measures developing the EC competition law and policy such as reviews of the existing secondary legislation, policy guidance documents and guidelines

SPECIFIC OBJECTIVE 2: Effective and coherent application of EC competition law in the EU

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Number of cases signalled to the ECN	165 ²¹	Stable indicator
Number of envisaged enforcement decisions and similar case consultations in the ECN	≈ 130 ²²	Stable indicator
Number of proceedings initiated under Article 11(6) of Regulation 1/2003 with a view to ensuring consistent application of competition rules	0 ²³	Level of the indicator to remain zero ²⁴
Improved functioning of the State aid network	Several multilateral and bilateral meetings and upstream assistance and guidance in 2007	Increasing number of multilateral and bilateral meetings and upstream assistance and guidance

<i>Main policy outputs</i>

²⁰ Including, but not limited to Regulation 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, Notice on cooperation within the Network of Competition Authorities, Notice on the co-operation between the Commission and the courts of the EU Member States in the application of Articles 81 and 82 EC, Guidelines on the effect on trade concept contained in Articles 81 and 82 of the Treaty, Guidelines on the application of Article 81(3) of the Treaty, Notice on agreements of minor importance which do not appreciably restrict competition under Article 81(1) of the Treaty, Regulation on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices, Guidelines on Vertical Restraints, Regulation on the application of Article 81(3) of the Treaty to categories of specialisation agreements, Regulation on the application of Article 81(3) of the Treaty to categories of research and development agreements, Guidelines on the applicability of Article 81 to horizontal co-operation agreements, Regulation on the application of Article 81(3) of the Treaty to categories of technology transfer agreements, Guidelines on the application of Article 81 of the EC Treaty to technology transfer agreements, the revised Merger Regulation, Guidelines on the assessment of horizontal mergers, Guidelines on the assessment of non-horizontal mergers, Regulation on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises, Community Framework for State aid for Research and Development and Innovation, Guidelines on state aid to promote risk capital investments in small and medium-sized enterprises, Guidelines on State aid for rescuing and restructuring firms in difficulty, Regulation on the application of Articles 87 and 88 of the EC Treaty to training aid, Regulation on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises, Regulation on the application of Articles 87 and 88 of the EC Treaty to State aid for employment, Block Exemption Regulation for regional aid and the Community framework for State aid in the form of public service compensation.

²¹ Based on data from 2006.

²² Based on data from 2006.

²³ Based on data from 2007.

²⁴ Zero level of this indicator implies that the coherent application of EC competition law through the ECN network will allow the Commission to abstain from taking over cases on which a competition authority of a Member State is already acting.

DG COMP 2008 ANNUAL MANAGEMENT PLAN

Make the enforcement system created by Regulation 1/2003 an effective and coherent enforcement by the Member States' competition authorities and courts by making optimal use of the policy role of the Commission among the enforcers in the EU. Maintain and further enhance close cooperation and increasing convergence in an enlarged EU.

Main expenditure-related outputs

Contribute to effective and coherent enforcement of EC competition rules by national courts through funding training of judges.

SPECIFIC OBJECTIVE 3: Pro-competitive regulatory framework at national level

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Country specific recommendations and points-to-watch relating to Guideline 13 in the Annual Progress Report under the Lisbon strategy	24 ²⁵	Stable indicator

Main policy outputs

Proposals for country specific recommendations and points-to-watch relating to Guideline 13 in the Annual Progress Report

SPECIFIC OBJECTIVE 4: Pro-competitive regulatory framework at EU level

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
The ratio of pro-competitive modifications to initiatives at EU level taken into account	N.A.	100%

Main policy outputs

Pro-competitive modification proposals to legislative and policy initiatives at EU level

SPECIFIC OBJECTIVE 5: Strengthened international cooperation in enforcement activities and increased convergence of competition policy instruments across different jurisdictions; establishment of well-functioning competition regimes in candidate countries and potential candidate countries

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Number of third countries with whom the EU has 1 st generation competition agreements	3	4
Number of third countries with whom the EU has 2 nd generation competition agreements	0	2
Number of third countries with whom the EU has free trade agreements containing competition/State aid clauses	31	≈ 50
Number of contributions to OECD and ICN	N.A.	≈ 15
Number of candidate countries with whom accession negotiations on the competition chapter have been opened	0	1

Main policy outputs

Inclusion of competition and State aid provisions in the international agreements.
Concluding of competition specific agreements.

²⁵ Based on the Annual Progress Report of December 2007.

DG COMP 2008 ANNUAL MANAGEMENT PLAN

SPECIFIC OBJECTIVE 6: Implementing the Commission planning and programming process so that DG COMP delivers its policy objectives contributing to the overall Commission strategy in an effective, timely, efficient and accountable manner

<i>Result Indicators</i>	<i>Latest known result</i>	<i>Target (mid-term)</i>
Timely preparation and delivery of the various elements of the Strategic Planning and Programming cycle (APS, CLWP, AMP and AAR)	All documents delivered within the deadline in 2007	All documents within the deadline
Delivery rate (adoption by the College) of initiatives included in the Commission Legislative Work Programme and in the Catalogue	N.A.	100% for the Commission Work Programme
Delivery rate of DG COMP commitments under the simplification rolling programme	N.A.	100%

Main policy outputs

Preparation and delivery of the various elements of the Strategic Planning and Programming cycle (APS, CLWP, AMP and AAR)