



Competition: Commission publishes findings of evaluation of Market Definition Notice

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The European Commission has published today a [Staff Working Document](#) that summarises the findings of the evaluation of the Market Definition Notice used in EU competition law.

The aim of the evaluation was to contribute to the Commission's assessment of the functioning of the Market Definition Notice, in order to decide whether to repeal the Notice, leave it unchanged or revise it.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: *"We need to analyse the market and the boundaries of the market where companies compete. The Market Definition Notice is very useful in that context. The evaluation has confirmed that it provides clarity and transparency to stakeholders on how we approach market definition. The basic principles of the Market Definition Notice, based on the case law of the EU courts, remain sound today. At the same time the evaluation indicates that the Notice does not fully cover recent evolutions in market definition practice, including those related to the digitalisation of the economy. We will now analyse if and how the Notice should be revised to address the issues we have identified."*

The Commission launched the evaluation of the Market Definition Notice in March 2020. During the evaluation, the Commission collected evidence to understand how the Notice has performed since its adoption in 1997. The evidence collected includes, among others, contributions by stakeholders gathered in a [public consultation](#) that took place between [June](#) and October 2020. In addition, the Commission [consulted the EU national competition authorities](#) and proactively engaged with experts and representatives from stakeholder groups. Finally, the Commission requested an external evaluation [support study](#), which reviewed relevant practices in other jurisdictions, as well as legal and economic literature, in relation to four specific aspects of market definition: (i) digitalisation, (ii) innovation, (iii) geographic market definition and (iv) quantitative techniques.

The findings of the evaluation

The evaluation has shown that the Market Definition Notice remains highly relevant as it provides clarity and transparency to companies and other stakeholders on the Commission's approach to market definition - an important first step of the Commission's assessment in many antitrust and merger cases.

The results of the evaluation indicate that the Market Definition Notice is effective in providing correct, comprehensive and clear guidance on key issues of market definition and on the Commission's approach to it.

At the same time, the evaluation also suggests that the Notice does not fully reflect developments in best practices in market definition that have taken place since 1997, including latest developments in EU case law. For example, the Commission has refined its approach to market definition in line with the prevailing market conditions, which today are increasingly digital and interconnected, and the sophistication of available tools, such as improved processing of large numbers of documents or refined quantitative techniques. Furthermore, since when the Notice was adopted, the Commission has also gathered more experience in analysing markets that are potentially global or at least broader than the European Economic Area.

According to the evaluation, areas where the Market Definition Notice might not be fully up-to-date include: (i) the use and purpose of the SSNIP (small significant non-transitory increase in price) test in defining relevant markets; (ii) digital markets, in particular with respect to products or services marketed at zero monetary price and to digital 'ecosystems'; (iii) the assessment of geographic markets in conditions of globalisation and import competition; (iv) quantitative techniques; (v) the calculation of market shares; and (vi) non-price competition (including innovation).

The Commission will reflect on the need and on how to address the issues that were identified in the context of the evaluation.

Background

Market definition is a tool to identify the boundaries of competition between undertakings. The objective of defining the relevant product and geographic market is to identify the actual competitors that constrain the commercial decisions of the undertakings concerned, such as their pricing decisions. It is from this perspective that the market definition makes it possible, among other things, to calculate market shares that convey meaningful information for the purposes of assessing market power in the context of merger or antitrust proceedings.

Market definitions reflect market realities. Therefore, they differ across sectors and may evolve over time. Geographic market definitions, for example, may range from national or local markets – such as for the retail sale of consumer goods – to global markets, such as for the sale of aviation components. As market realities evolve over time, the Commission's market definitions also evolve over time.

The [Market Definition Notice](#) provides guidance on the principles and best practices of how the Commission applies the concept of relevant product and geographic market in its enforcement of EU competition law.

For More Information

See the [dedicated webpage of DG Competition](#), which contains all stakeholder contributions submitted in the context of the evaluation, summaries of the different consultation activities and the final report of the evaluation support study.

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Press contacts:

[Arianna PODESTA](#) (+32 2 298 70 24)

[Maria TSONI](#) (+32 2 299 05 26)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)