



Management Plan 2018

DG COMPETITION

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INTRODUCTION

Competitive markets play a vital role supporting the Commission's efforts to achieve a strong and prosperous European Union. Strong and effective EU competition policy has been a cornerstone of the European Union and is one of the drivers boosting jobs, growth and investments.

The ultimate goal of EU competition policy is making markets function better for the benefit of consumers – both households and businesses – and the society as a whole, by protecting competition on the market and fostering a competition culture in the EU and worldwide. By tackling market distortions and creating economic opportunities in the internal market, DG Competition contributes to the Commission's priority "A New Boost for Jobs, Growth and Investment" in the European Union¹.

The Treaty provides the Commission exclusive competences to enforce EU competition rules necessary for the functioning of the internal market (Art. 3(1)(b) TFEU). The principal competition rules are enshrined in Chapter 1, Title VII of Part Three, Articles 101-109 of the Treaty on the Functioning of the European Union (TFEU) and in the EU Merger Regulation (Regulation (EC) No 139/2004). To meet its Treaty based obligations DG Competition performs the following functions² at EU level:

- enforcement of antitrust and cartel policy;
- enforcement of merger control;
- enforcement of State aid control;
- development of EU competition policy, competition policy instruments and guidance to companies and Member States in all these areas; and
- promoting competition culture and international cooperation; maintaining and strengthening the Commission's reputation world-wide, and striving for greater transparency and basic disciplines on subsidies control.



¹ Strategic Plan 2016-2020 for DG Competition, available at http://ec.europa.eu/atwork/synthesis/amp/doc/comp_sp_2016-2020_en.pdf

² The Mission Letter asks the Commissioner for Competition to focus on the following: "Mobilising competition policy tools and market expertise so that they contribute, as appropriate, to our jobs and growth agenda, including in areas such as the digital single market, energy policy, financial services, industrial policy and the fight against tax evasion. In this context, it will be important to keep developing an economic as well as a legal approach to the assessment of competition issues and to further develop market monitoring in support of the broader activities of the Commission; Pursuing an effective enforcement of competition rules in the areas of antitrust and cartels, mergers and State aid, maintaining competition instruments aligned with market developments, as well as promoting a competition culture in the EU and world-wide; Maintaining and strengthening the Commission's reputation world-wide and promoting international cooperation in this area."

DG Competition's competition policy actions in 2018 will target a wide range of sectors of the EU economy promoting efficient and open markets so that both businesses and citizens can get a fair share of the benefits of growth. At the same time, EU competition policy will continue to support several key political priorities, in particular the Digital Single Market, Energy Union and Deeper and Fairer Internal Market and fight against tax evasion as included in the President's Political Guidelines and the Commission Work Programme 2018.

The Commission enforces together with the national competition authorities (NCAs) and national courts EU competition rules. National competition authorities may apply Articles 101 and 102 TFEU and national courts also Articles 107 and 108 TFEU for State aid. 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 actions³ against companies or Member States when it finds evidence of unlawful behaviour and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests.

In March 2017, the Commission adopted a proposal to empower Member States' competition enforcers to be more effective enforcers (ECN+)⁴. The proposal aims to ensure that when applying the same legal provisions - the EU antitrust rules - national competition authorities have appropriate enforcement tools in order to bring about a genuine common competition enforcement area. To that end, the proposal provides for minimum guarantees of independence and resources, effective investigation as well as fining tools to enable national competition authorities to reach their full potential. By ensuring that national competition authorities can act more effectively, the Commission's proposal aims to contribute to the objective of a genuine Single Market, promoting the overall goals of competitive markets that deliver jobs and growth. As indicated in the *Commission Work Programme 2018*⁵, the proposal for a Directive has been forwarded to the European Parliament and the Council for adoption.

One of the cornerstones of the recently completed State Aid Modernisation reform has been the new General Block Exemption Regulation (GBER)⁶, which simplified aid granting procedures for Member States by authorising without prior notification a wide range of measures fulfilling horizontal common interest objectives. A further extension of the GBER was adopted⁷ in 2017 covering investments in port and airport infrastructure.

³ 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 with regard to the aid measure.

⁴ For further information see <http://ec.europa.eu/competition/antitrust/nca.html> and https://ec.europa.eu/info/sites/info/files/cwp_2018_en.pdf

⁵ For further information, see https://ec.europa.eu/info/publications/2018-commission-work-programme-key-documents_en

⁶ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 TFEU, OJ L 187, 26.6.2014, p. 1.

⁷ Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, OJ L 156, 20.6.2017, p. 1–18.

In the State of the Union speech on 13 September 2017⁸ President Juncker underlined the importance of the European Union (...) *"to have a stronger focus on things that matter, building on the work this Commission has already undertaken"*. (...) *"This is why this Commission has been big on big issues and small on the small ones, putting forward less than 25 initiatives a year where previous Commissions proposed over 100. We have handed back powers where it make more sense for national governments to deal with things. Thanks to the good work of Commissioner Vestager, we have delegated 90% of State aid decisions to the regional or local level"*. This underlines DG Competition's contribution through the State Aid Modernisation reform to the political priorities and gives the focus for DG Competition's competition policy actions in State aid for 2018.

Energy is one of the sectors in which completing the Single Market will bring significant benefits to European consumers and businesses. DG Competition will continue to ensure fair access to indispensable energy infrastructure, remove obstacles to market integration and foster competition between and within Member States, keeping an eye on energy prices, ensuring that gas and electricity flow as freely as possible across Member States, promoting interconnectivity and avoiding territorial restrictions or artificial market partitioning within the EU to speed up the finalisation of the Energy Union. In mergers, DG Competition will focus on keeping EU energy markets open and equipped to face the challenges of climate change and the modernisation of the energy supply translating into better outcomes for EU businesses and households. In 2018, DG Competition will continue to apply the State aid rules applicable to the energy sector. Energy from renewable sources will continue to be one of the key areas of work. In parallel to renewables, DG Competition will continue to pay close attention to capacity mechanisms in 2018.

In 2018, competition policy and enforcement actions will continue to contribute to the completion of the *Digital Single Market*. Taking action against anti-competitive foreclosure helps to keep markets competitive, and therefore to maintain incentives to innovate. Search engines are of central importance to a well-functioning Internet, and DG Competition will continue closely monitoring this sector, following the prohibition decision against Google of June 2017⁹. In the area of telecoms, DG Competition will remain involved in the legislative process of the Commission proposal for a Directive establishing the European Electronic Communications Code, ensuring the new rules remain pro-competitive, while continuing its on-going antitrust and merger investigations on a case-by-case basis, including in other product markets related to communication services such as baseband chipsets. As regards broadband infrastructure and the need for public funding in certain areas, DG Competition will continue to apply the State aid rules with a view to assist attaining the objectives of the Digital Agenda for Europe and to accompany new pro-competitive public funding projects towards achieving the 2025 Gigabit Society goals. As a follow-up to the e-commerce sector inquiry finalised in 2017¹⁰, DG Competition will continue in 2018 to investigate anticompetitive agreements and practices in the e-commerce sector that are detrimental to a Digital Single Market. In particular, DG Competition will continue its ongoing investigations into resale price maintenance, cross-border sales restrictions (geo-blocking) and discrimination on the

⁸ State of the Union speech on 13 September 2017 http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

⁹ In June 2017, the Commission concluded via prohibition Decision that Google had abused a dominant position in the markets for general internet search services by systematically favouring its own comparison shopping product in its general search results. A fine of EUR 2.42 billion was imposed.

¹⁰ The Final Report on the e-commerce sector inquiry was published on 10 May 2017: http://ec.europa.eu/competition/antitrust/sector_inquiry_final_report_en.pdf

basis of residence. In 2018, DG Competition will continue to keep a watchful eye in relation to mergers in the digital and IT sector. In 2018, carrying out the National Broadband Plans (NBPs), State aid control will continue to ensure that publicly funded networks do not crowd out private investments.

In 2018, DG Competition will also focus its enforcement efforts on the financial sector, including by contributing to the *Capital Markets Union*. In particular, the Commission will continue to monitor implementation of Regulation 2015/751 on interchange fees for card-based payment transactions (IFR) and of the Regulatory Technical Standards on separation of payment card schemes and processing infrastructure (IFR)¹¹.

Competition policy goes hand in hand with the Commission's efforts towards a *Deeper and Fairer Internal Market*, ensuring that free movement rules are not undermined by anti-competitive conduct. In 2018, DG Competition will continue to contribute to the Single Market Strategy of the Commission, monitor markets and proceed with its investigations in a range of important sectors of the internal market for both EU households and businesses, including financial services, agri-food sector, pharmaceutical sector, transport, and manufacturing.

Confidence in the Single Market also depends on creating a level playing field for companies to compete on merit, also when it comes to *taxation*. For this reason, the fight against tax evasion and tax avoidance remains high on the Commission's agenda. In 2018, DG Competition will continue to contribute to this important policy goal by investigating whether Member States have granted selective fiscal advantages to individual undertakings or groups of undertakings.

Finally, to ensure that aid granted under existing aid schemes effectively complies with State aid rules, DG Competition aims in 2018 to make further progress towards effective and rapid enforcement of recovery decisions, e. g. by swift launching of court actions pursuant to Article 108 TFEU¹², as well as, to continue its monitoring efforts.

As to the next programming period, and in line with the Commission Work Programme for 2018, DG COMP will contribute to the design of the Multiannual Financial Framework beyond 2020, and work on the preparation of the ensuing proposals for the next generation of programmes.

¹¹ On 4 October 2017, the Commission adopted a Delegated Regulation to ensure the application of independence requirements set for card schemes and processing entities in terms of accounting, organisation and decision-making process, C (2017) 6652 final.

¹² Pursuant Article 108 TFEU if the State, which granted incompatible State aid, does not comply with the Commission decision within the prescribed time, the Commission or any other interested party may refer the matter to the Court of Justice of the European Union.

PART 1. MAIN OUTPUTS FOR THE YEAR

General objective: A New Boost for Jobs, Growth and Investment

1.1. Antitrust and cartels

Articles 101, 102 and 106 TFEU

According to Article 101 TFEU, anti-competitive agreements are "prohibited as incompatible with the internal market". Article 101 TFEU prohibits agreements with anti-competitive object or effects whereby companies coordinate their behaviour instead of competing independently. Even if a horizontal or a vertical agreement could be viewed as restrictive (for example by combining the production of two competing companies) it might be allowed under Article 101(3) TFEU if it ultimately fosters competition (for example by promoting technical progress or by improving distribution).

Article 102 TFEU prohibits abuse of a dominant position. It is not in itself illegal for an undertaking to be in a dominant position or to acquire such a position. Dominant undertakings, the same as any other undertaking in the market, are entitled to compete on the merits. However, Article 102 TFEU prohibits the abusive behaviour of such dominant undertakings which prevents new entry or squeezes competitors out of the market. These practices hamper competition and negatively affect incentives to innovation and growth, as well as consumer welfare.

Finally, Article 106 TFEU prevents Member States from enacting or maintaining in force any measures contrary to the Treaty rules regarding public undertakings and undertakings to which Member States grant special or exclusive rights (privileged undertakings).

The aim of antitrust and cartels activity¹³ in DG Competition is to ensure effective enforcement of antitrust rules with a view to making markets work better protecting consumer welfare. This includes detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices, which hamper competition and negatively affect incentives to innovation and growth, as well as consumer welfare.

Specific objective 1: Effective enforcement of antitrust rules with a view to protect consumer welfare

Cartels

In 2018, DG Competition will continue to give priority to enforcement activity against cartels as foreseen in DG Competition Strategic Plan 2016-2020. In addition to using the leniency programme, DG Competition will pursue ex officio detection of cartels, and use in this context also the newly introduced whistle-blower tool¹⁴, as well as ensure efficiency and uniformity when settling cases and impose fines at a sufficiently deterrent level.

¹³ First, Article 101 TFEU prohibits agreements between two or more independent market operators which restrict competition. This provision covers both horizontal agreements (between actual or potential competitors operating at the same level of the supply chain) and vertical agreements (between firms operating at different levels, i.e. agreement between a manufacturer and its distributor). Only limited exceptions are provided for in the general prohibition. The most flagrant example of illegal conduct infringing Article 101 TFEU is the creation of a cartel between competitors, which may involve price-fixing and/or market sharing. Second, Article 102 TFEU prohibits firms that hold a dominant position on a given market to abuse that position, for example by charging unfair prices, by limiting production, or by refusing to innovate to the prejudice of consumers. Third, Article 106 TFEU enables the Commission to protect competition in the internal market by prohibiting Member State measures that induce public or privileged undertakings to abuse a dominant position or to conclude anti-competitive agreements.

¹⁴ For further information see IP/17/591 of 16 March 2017, http://europa.eu/rapid/press-release_IP-17-591_en.htm

In 2018, the Commission will continue to apply the settlement procedure¹⁵ in cases considered suitable for this procedure. The settlement procedure contributes to increasing the deterrent effect of the Commission's action against cartels since it leads to efficiency gains and thereby allows the Commission to focus resources on the detection and fight against other cartels.¹⁶

DG Competition also ensures that its investigative tools remain adapted to technological changes. In 2018, the Commission will continue to apply improved methodologies to gather digital evidence during inspections allowing it to deal more efficiently with the increasing quantity of digital data.

In 2018, the Commission will also continue to work together with other authorities within Europe and beyond (advocacy in the International Competition Network) to ensure efficient cooperation in the fight against cartels and that the instrument is and remains successfully used to end international cartels impacting the EU.

Other anticompetitive agreements and practices

Energy Union

In 2018, DG Competition will continue its antitrust enforcement activity in relation to anticompetitive behaviour in the energy sector pursuant to Articles 101, 102 and 106 TFEU. Antitrust enforcement can ensure fair access to indispensable energy infrastructure, remove obstacles to market integration and foster competition between and within Member States, helping to keep energy prices in check, ensuring that gas and electricity flow as freely as possible across Member States, promoting interconnectivity and avoiding territorial restrictions or artificial market partitioning within the EU speeds up the Energy Union process as foreseen in DG Competition Strategic Plan 2016-2020.

Consumers throughout the EU should enjoy the benefits of an integrated and competitive single European energy market that increases security of supply of energy at affordable prices. The investigation in upstream gas supplies in Central and Eastern Europe¹⁷ is an example of the on-going efforts made by DG Competition to facilitate the cross-border flows of energy between Member States. More specifically, the investigation aims at ensuring the free flow of gas at competitive prices across Central and Eastern European gas markets.

DG Competition will also continue its investigation into potential price distortions in the energy sector, whether they are carried out by a group of companies acting in concert

¹⁵ Since 2011, 25 decisions were adopted under the settlement procedure out of a total of 47 decisions representing 54% of the fines imposed in cartel cases. It provides companies with 10% reduction in the fine if they accept liability for the infringement and do not contest the Commission's findings.

¹⁶ The recent judgement in case C-411/15P *Timab*, judgment of 12 January 2017, confirmed the legality of parallel hybrid settlement cases in which some parties settle, and other don't. In particular, the Court confirmed the Commission's approach to take into account new information in the course of the standard procedure. The Court held that the Commission can depart from ranges of fines discussed during settlement talks for a company that in the end choose not to settle. In such cases, the Commission is bound to make its assessment and fines calculation on the basis of all relevant elements present at the time of the final decision.

¹⁷ Case AT.39816 *Upstream gas supplies in Central and Eastern Europe*. For further information see IP/15/4828 of 22 April 2015 http://europa.eu/rapid/press-release_IP-15-4828_en.htm

(as in the Ethanol Benchmarks case)¹⁸ or by a dominant undertaking (as in the current investigation concerning the electricity sector in Greece)¹⁹. On-going investigations under Article 102 TFEU also concern the possible foreclosure of gas markets in Bulgaria²⁰ by the Bulgarian incumbent BEH and alleged restrictions of gas exports from Romania to other EU Member States by the Romanian system operator Transgaz²¹. DG Competition will also continue to investigate if France has infringed EU antitrust rules by having granted to State-owned Electricité de France ("EDF") most of the country's concessions for exploiting hydropower²². In 2018, DG Competition will also continue to monitor the environmental sector, in particular waste management.

Within the context of the Energy Union Framework Strategy adopted in 2015, the Commission has worked on a number of legislative proposals. Competition enforcement and advocacy play a key role in making the internal energy market function better by opening markets, avoiding discrimination and creating a level playing field between all market players (regardless of their nationality) and ultimately promoting innovation and investments to create a unified European energy market. DG Competition has therefore actively contributed to the legislative proposals and will continue to do so in 2018.

Digital Single Market

In 2018, and as envisaged in its Strategic Plan 2016-2020, DG Competition will continue its antitrust enforcement activity in the Information and Communication Technologies (ICT) sector to ensure effective competition in these markets. Taking action against anti-competitive foreclosure helps to keep markets competitive, and therefore to maintain incentives to innovate.

Search engines are of central importance to a well-functioning Internet. In June 2017, DG Competition concluded one investigation of Google's practices by way of prohibition decision²³. In 2018, DG Competition will monitor Google's compliance with this decision and will continue its other ongoing investigations of Google's practices, in particular its investigations on examining Google's conduct with regard to a range of mobile apps and services (Android)²⁴ and its investigation on restrictions on the ability of third-party websites to display search advertisements from Google's competitors (AdSense)²⁵.

¹⁸ Case AT.40054 *Ethanol benchmarks*, see IP/15/6259 of 7 December 2015 http://europa.eu/rapid/press-release_IP-15-6259_en.htm

¹⁹ For further information see http://europa.eu/rapid/press-release_STATEMENT-17-285_en.htm.

²⁰ Case AT.39849 *BEH gas*.

²¹ Case AT.40335 *Tranzgas*, see IP/17/1501 of 1 June 2017 http://europa.eu/rapid/press-release_IP-17-1501_en.htm

²² Infringement number 2015/2187 *Concessions hydroélectriques en France*.

²³ In June 2017, the Commission concluded via prohibition Decision that Google had abused a dominant position in the markets for general internet search services by systematically favouring its own comparison shopping product in its general search results. A fine of EUR 2.42 billion was imposed.

²⁴ In April 2016, the Commission sent Google a Statement of Objections in which it reached the preliminary conclusion that the company had abused a dominant position by imposing restrictions on Android device manufacturers and mobile network operators which aimed at preserving and strengthening its dominance in general internet search, see IP/16/1492 of 20 April 2016, http://europa.eu/rapid/press-release_IP-16-1492_en.htm

²⁵ In July 2016, the Commission sent a Statement of Objections to Google outlining its preliminary conclusion that Google had abused a dominant position in search advertising intermediation by artificially restricting the possibility of third party websites to display search advertisements from Google's competitors, see IP/16/2532 of 14 July 2016, http://europa.eu/rapid/press-release_IP-16-2532_en.htm

In the area of telecoms, on 13 September 2016, the Commission adopted two legislative proposals: a proposal for a Directive establishing the "European Electronic Communications Code"²⁶, which recasts the existing directives, and a proposal for a Regulation establishing the Body of European Regulators for Electronic Communications (BEREC), accompanied by two Communications: "Connectivity for a European Gigabit society: Laying the foundations for a competitive Digital Single Market"²⁷ and "5G for Europe: An Action Plan"²⁸. In 2018, DG Competition will continue to remain involved in the legislative process, ensuring that the new rules remain pro-competitive.

In 2018, DG Competition will also continue to investigate a mobile network sharing agreement between the two largest operators in the Czech Republic²⁹.

In the area of baseband chipsets, which process the core communication functions in smartphones, tablets and other mobile broadband devices, DG Competition's investigations of Qualcomm will continue³⁰.

Also, together with DG Connect, DG Competition will continue to ensure that spectrum rules at national level are compatible with EU directives and in particular with the Competition Directive³¹.

In the publishing sector, DG Competition will monitor the implementation by Amazon of its commitments concerning the removal and non-enforcement of parity clauses, sometimes referred to as MFNs or Most Favoured Nation clauses, in its contracts with e-book publishers³². In the audiovisual sector, DG Competition will continue the on-going

²⁶ Proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) - COM(2016)590 and Annexes 1 to 11 - Impact Assessment - SWD(2016)303 - Executive Summary of the Impact Assessment - SWD(2016)304 - Evaluation and Executive Summary - SWD(2016)305, <https://ec.europa.eu/digital-single-market/en/news/proposed-directive-establishing-european-electronic-communications-code>

²⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society - COM(2016)587 and Staff Working Document - SWD(2016)300, <https://ec.europa.eu/digital-single-market/en/news/communication-connectivity-competitive-digital-single-market-towards-european-gigabit-society>

²⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: "5G for Europe: An Action Plan" - COM(2016)588 and Staff Working Document - SWD(2016)306, <https://ec.europa.eu/digital-single-market/en/news/communication-5g-europe-action-plan-and-accompanying-staff-working-document>

²⁹ For further information see IP/16/3539 of 25 October 2016 http://europa.eu/rapid/press-release_IP-16-3539_en.htm

³⁰ Statements of Objections, as regards concerns related to payments to customers conditional on exclusivity and potential "predatory pricing" by charging prices below costs with a view to forcing its competition out of the market were sent to the company on 8 December 2015, see IP/15/6271, http://europa.eu/rapid/press-release_IP-15-6271_en.htm

³¹ Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services.

³² The Commission opened a formal investigation into some of Amazon's e-book distribution arrangements in June 2015. Less than two years later, on 4 May 2017, the Commission adopted a Decision that renders legally binding a set of commitments offered by Amazon to increase competition in e-books distribution. In essence, the commitments ban Amazon from enforcing or putting in place any non-price and price parity clauses in the whole of the EEA for a period of 5 years. For further information see IP/17/1223 of 4 May 2017, http://europa.eu/rapid/press-release_IP-17-1223_en.htm

investigation relating to cross-border provision of pay-TV services from or to the United Kingdom and Ireland³³.

As a follow-up to the e-commerce sector inquiry finalised in 2017³⁴, DG Competition will continue in 2018 to investigate potential anticompetitive agreements and practices in the e-commerce sector that are detrimental to a Digital Single Market. In particular, DG Competition will continue its ongoing investigations into resale price maintenance, cross-border sales restrictions (geo-blocking) and discrimination on the basis of residence.

In 2018, DG Competition will also continue its on-going investigations involving Nike, Sanrio and Universal Studios as regards their role as licensors for certain well-known brands, such as FC Barcelona, Hello Kitty and Minions.³⁵

Deeper and Fairer Internal Market

The Commission is engaging in wide-ranging efforts to support a deeper and fairer internal market. Competition policy goes hand in hand with internal market policy, creating a level playing field and ensuring that free movement rules are not undermined by anti-competitive conducts. As foreseen in its Strategic Plan 2016-2020, DG Competition will, in 2018, continue to monitor markets and proceed with its investigations in a range of important sectors of the internal market for both EU households and businesses, including financial services, agri-food sector, pharmaceutical sector, transport, and manufacturing. DG Competition will also continue to contribute to the Capital Markets Union and the Single Market Strategy of the Commission.

In 2018, DG Competition will continue its investigations in the MasterCard II³⁶ and Visa MIF cases³⁷ on interchange fees in the financial sector. In the fast developing electronic and mobile payments markets it will specifically monitor whether traditional payment operators (e.g. banks and card schemes) may violate the competition rules by trying to maintain their gate-keeping position, or new operators (e.g. handset makers, operating system providers) may leverage their market power to create new gate-keeping or monopolistic positions. In particular, DG Competition will pursue its investigation concerning access to bank account information by competing service providers. It will also monitor whether exclusivity arrangements in money remittance business violate competition rules. Concerning sector specific regulation on payments markets, it will continue to monitor implementation of Regulation 2015/751 on interchange fees for card-based payment transactions (IFR) and of the Regulatory Technical Standards on separation of payment card schemes and processing infrastructure³⁸. In particular, DG Competition will co-operate closely with Member States for coherent interpretation of

³³ In July 2016, the Commission made binding commitments offered by Paramount Pictures, see IP/16/2645 of 26 July 2016, http://europa.eu/rapid/press-release_IP-16-2645_en.htm

³⁴ The Final Report on the e-commerce sector inquiry was published on 10 May 2017: http://ec.europa.eu/competition/antitrust/sector_inquiry_final_report_en.pdf

³⁵ For further information see IP/17/1646 of 14 June 2017 http://europa.eu/rapid/press-release_IP-17-1646_en.htm

³⁶ A Statement of Objections was issued in July 2015, see IP/15/5323 of 9 July 2015, http://europa.eu/rapid/press-release_IP-15-5323_en.htm and a hearing took place in May 2016.

³⁷ A second partial settlement was reached on 26 February 2014, OJ C 147, 16.5.2014, p. 7, but the case continues regarding Visa Inc.'s inter-regional inter-bank fees, Frequently Asked Questions http://europa.eu/rapid/press-release_MEMO-14-138_en.htm

³⁸ On 4 October 2017, the Commission adopted a Delegated Regulation to ensure the application of independence requirements set for card schemes and processing entities in terms of accounting, organisation and decision-making process, C (2017) 6652 final.

these rules, focusing on assisting them in detecting and addressing circumvention. The Directive 2015/2366 on payment services ('PSD II') will be transposed to national laws by mid-January 2018 and the related Regulatory Technical Standards on strong customer authentication and secure communications are expected to enter into force.

Following the decision to allow the IBER to expire in 2017, DG Competition together with the national competition authorities will continue to monitor the functioning of the European insurance markets in 2018.

In 2018, DG Competition will continue to monitor the commitments that were established in the over-the-counter (OTC) credit derivatives market following the adoption by the Commission of two commitment decisions addressed to the International Swaps and Derivatives Association (ISDA) and data provider IHS Markit in July 2016³⁹ as well as the commitments given by Thomson Reuters in 2012⁴⁰ concerning the market for consolidated real-time data feeds. Given the importance of the syndicated loan market for infrastructure and project finance in the EU, DG Competition has also commissioned a study on the functioning of this market that will be completed during 2018⁴¹.

In the pharmaceutical sector, DG Competition will continue its investigation into concerns of excessive pricing by Aspen Pharma concerning five life-saving cancer medicines⁴² as well as its investigation into the market entry of generic Modafinil (sleeping disorder medicine)⁴³.

DG Competition will also continue its investigation related to alleged practices in the beer market⁴⁴ that may segment the internal market along national borders. As mandated by the CMO Regulation, the Commission will submit a report to the legislator on the implementation of competition rules in the agricultural sector, in particular, the new specific competition rules regarding joint selling by producers in the agricultural sector of olive oil, beef and veal and arable crops⁴⁵. In this context, DG Competition commissioned in 2017 a study on *Producer Organisations and their activities in the olive oil, beef and veal, arable crops sectors*⁴⁶ to support this report. In 2018, DG Competition will continue to follow up the report and the study. In 2018, the Commission will also manage a new notification system adopted by the Parliament and Council on the application of a particular derogation to 101 TFEU⁴⁷.

³⁹ In July 2016, the Commission made binding commitments offered by ISDA and Markit, see IP/16/2586 of 20 July 2016 http://europa.eu/rapid/press-release_IP-16-2586_en.htm

⁴⁰ In December 2012, the Commission made binding commitments offered by Thomson Reuters, see IP/12/1433 of 20 December 2012 http://europa.eu/rapid/press-release_IP-12-1433_en.htm?locale=en

⁴¹ For further information see http://ec.europa.eu/competition/calls/tenders_open.html and Calls for tenders COMP/2017/008 EU loan syndication and its impact on competition in credit markets.

⁴² Case AT.40394 *Aspen*, for further information see IP/17/1323 of 15 May 2017 http://europa.eu/rapid/press-release_IP-17-1323_en.htm

⁴³ Case AT.39686 *Cephalon*, for further information see IP/17/2063 of 17 July 2017 http://europa.eu/rapid/press-release_IP-17-2063_en.htm

⁴⁴ On 30 June 2016, the Commission opened a formal investigation into AB InBev's practices on the Belgian beer market, see IP 16/2361 of 30 June 2016 http://europa.eu/rapid/press-release_IP-16-2361_en.htm

⁴⁵ By 31 December 2017, as set out in Article 225(d) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347, 20.12.2013, p. 671–854.

⁴⁶ See Annex 1 to Management Plan 2017 – DG Competition.

⁴⁷ Article 209 of the CMO regulation.

In respect to manufacturing, DG Competition will continue to prevent anticompetitive agreements and practices as regards the supply of basic materials in order to ensure that EU high-value added industries such as automotive, aerospace, consumer products and chemicals can obtain the key needed inputs at competitive prices. These industries continue to represent a significant share of EU GDP, make a substantial contribution to the trade balance and also generate the high-value jobs that are at the heart of the Commission's strategy for re-industrialisation.

In 2018, DG Competition will also continue its investigations in relation to transport services, to foster competition in this field. It will continue its investigation in the rail passenger market⁴⁸. In the field of aviation, DG Competition will pursue its ongoing investigation of code share agreements⁴⁹.

Specific objective 2: Effective and coherent application of EU competition law by national competition authorities and national courts

National competition authorities

In 2018, DG Competition will continue working with NCAs on individual cases with a view to ensure coherent and effective application of Articles 101 and 102 TFEU, inter alia by scrutinising envisaged decisions submitted to the Commission in accordance with Regulation 1/2003. It will also further organise and animate multilateral work in the ECN at different levels with a view to contribute to these objectives. The strategic steer comes from the regular half-yearly meetings of the heads of the NCAs with the Director General of DG Competition. Technical work is carried out in the ECN Plenary and in a range of ECN working groups and sectorial subgroups.

On 22 March 2017, the Commission adopted a proposal to empower Member States' competition authorities to be more effective enforcers (ECN+)⁵⁰. The proposal aims to ensure that when applying the same legal provisions - the EU antitrust rules - national competition authorities have appropriate enforcement tools in order to bring about a genuine common competition enforcement area. To that end, the proposal provides for minimum guarantees of independence and resources, effective investigation as well as fining tools to enable national competition authorities to reach their full potential. As mentioned in the Commission Work Programme 2018⁵¹, the proposal for a Directive has been forwarded to the European Parliament and the Council for adoption.

The proposal follows from the 2014 Commission Communication on Ten Years of Regulation 1/2003⁵² which identified concrete areas of action to boost the enforcement powers of NCAs. In November 2015, the Commission launched a public consultation on

⁴⁸ On 10 November 2016, the Commission opened a formal investigation on the Czech rail market following concerns of possible predation by the rail incumbent to foreclose competitors, see IP/16/3656 of 10 November 2016 http://europa.eu/rapid/press-release_IP-16-3656_en.htm

⁴⁹ A Statement of Objections was sent to Brussels Airlines and TAP Portugal on 27 October 2016, see IP/16/3563 of 27 October 2016 http://europa.eu/rapid/press-release_IP-16-3563_en.htm

⁵⁰ For further information see <http://ec.europa.eu/competition/antitrust/nca.html>

⁵¹ Communication of 24 October 2017 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission Work Programme 2018, *An agenda for a more united, stronger and more democratic Europe*, COM(2017) 650 final, https://ec.europa.eu/info/sites/info/files/cwp_2018_en.pdf

⁵² Communication of 9 July 2014 from the Commission, *Ten Years Of Antitrust Enforcement Under Regulation 1/2003: Achievements And Future Perspectives*, COM/2014/0453, <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20140453.do>

how to empower NCAs to be more effective enforcers⁵³. 80% of stakeholders expressed broad support for taking action to ensure that NCAs have the means and instruments they need.

National courts

EU antitrust rules are enforced not only by the European Commission and NCAs (public enforcement), but also by national courts when they protect subjective rights under Articles 101 and 102 TFEU, for example by awarding damages to consumers and companies harmed by infringements of these rules (private enforcement). This is because Articles 101 and 102 TFEU have direct effect and confer rights on individuals which can be enforced before national courts. Effective overall enforcement of antitrust rules in the EU requires interplay between public and private enforcement. In 2018, DG Competition will continue to strengthen its cooperation with national courts. DG Competition is committed to providing support to national courts in individual cases pending before them, by providing information and opinions concerning the application of the antitrust rules.

The deadline to implement Directive 2014/104/EU on antitrust damages actions⁵⁴ in Member States' legal systems expired on 27 December 2016. In line with its recent Communication "*EU law: Better results through better application*"⁵⁵, the Commission has started assessing the completeness of the Directive's implementation. In January 2017, the Commission sent Letters of Formal Notice opening infringement procedures against 21 Member States for non-communication of transposing measures by the deadline. In July 2017, the Commission sent Reasoned Opinions to seven of these Member States which still had not fully transposed the Damages Directive. In 2018, DG Competition will continue to monitor the implementation of the Directive. Further, following the publication in October 2016 of a "Study on quantifying passing-on effects in antitrust damages actions"⁵⁶, the Commission is working towards issuing guidelines for national courts on this subject-matter⁵⁷.

Specific objective 3: EU competition law instruments aligned with market realities and contemporary economic and legal thinking

In order to ensure effective enforcement of EU competition law, it is important to maintain EU competition law instruments aligned with market realities and contemporary economic and legal thinking. In 2016, the Commission reduced for the first time under Regulation 1/2003 the fine in a prohibition decision taking into account the cooperation of

⁵³ The Commission invited feedback from a broad range of stakeholders on potential improvements to guarantee that NCAs (i) have the right tools to detect and sanction violations of the EU competition rules; (ii) have effective leniency programmes that encourage companies to come forward, possibly in several jurisdictions, with evidence of illegal cartels; and (iii) have adequate resources and are sufficiently independent when enforcing EU competition law.

⁵⁴ Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union Text with EEA relevance, OJ L 349, 5.12.2014, p. 1–19.

⁵⁵ Communication from the Commission — *EU law: Better results through better application*, C/2016/8600, OJ C 18, 19.1.2017, p. 10–20.

⁵⁶ See e.g. the study "*Study on Passing On of Overcharges*" (2016) prepared by RBB Economics and Cuatrecasas, Gonçalves Pereira, available at <http://ec.europa.eu/competition/publications/reports/KD0216916ENN.pdf>

⁵⁷ As foreseen in Article 16 of the Antitrust Damages Directive.

the party⁵⁸. DG Competition will consider similar reductions in current investigations, where the parties may be interested in cooperating with the Commission's investigation.

In relation to its continuous process of optimising and streamlining its antitrust procedures – and following publication in 2015-2016 of external guidance on the electronic submissions of documents⁵⁹, on use of the data room procedure⁶⁰ and on the publication of antitrust decisions⁶¹ – the Commission plans to publish updated guidance on confidentiality claims in access to file, explaining the obligation of undertakings to indicate business secrets and other confidential information, as well as the manner in which non-confidential versions should be prepared. In 2018, the Commission plans to publish guidance on the use of voluntary confidentiality rings, including suitable templates for the parties and information providers, in order to further develop the use of voluntary confidentiality rings as a regular tool in access to file.

The Block Exemption Regulation on maritime consortia will expire in April 2020⁶². In the period until then, the Commission will assess the extent to which this exemption corresponds to current market needs and realities and is necessary. Following a previous assessment by the Commission, the Block Exemption Regulation was significantly amended and simplified in 2009 and renewed without further modifications in 2014.

1.2. Merger control

EU merger control (Council Regulation (EC) 139/2004)

The purpose of EU merger control⁶³ is to ensure that market structures remain competitive while facilitating smooth restructuring of the industry, not only as regards EU-based companies, but any company active on the EU markets. Industry restructuring is an important way of fostering efficient allocation of production assets. But, there are also situations where industry consolidation can give rise to harmful effects on competition, taking into account the merging companies' degree of market power and other market features. EU merger control ensures that changes in the market structure which lead to harmful effects on competition do not occur⁶⁴.

⁵⁸ Case AT.39759 *ARA foreclosure*, IP/16/3116 of 20 September 2016.

⁵⁹ Recommendations for the Use of Electronic Document Submissions in Antitrust and Cartel Case Proceedings http://ec.europa.eu/competition/contacts/electronic_documents_en.pdf

⁶⁰ Best Practices on the disclosure of information in data rooms in proceedings under Articles 101 and 102 TFEU and under the EU Merger Regulation http://ec.europa.eu/competition/mergers/legislation/disclosure_information_data_rooms_en.pdf

⁶¹ Guidance on the preparation of public versions of Commission Decisions adopted under Articles 7 to 10, 23 and 24 of Regulation 1/2003 http://ec.europa.eu/competition/antitrust/guidance_on_preparation_of_public_versions_antitrust_04062_015.pdf

⁶² Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia), OJ L 256, 29.9.2009, p.31), as amended by Commission Regulation (EU) No 697/2014 of 24 June 2014, OJ L 184, 25.6.2014, p. 6.

⁶³ 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.

⁶⁴ DG Competition exclusively assesses those proposed merger transactions that exceed the thresholds of the EU Merger Regulation. Below these thresholds, Member States are competent to assess the transaction under their national legislation, referral rules allowing for some flexibility in the entire control system.

Specific objective 4: Facilitating smooth market restructuring by assessing non-harmful mergers in a streamlined manner

EU merger control⁶⁵ aims to facilitate smooth market restructuring by assessing non-harmful mergers in a streamlined manner, while preventing the emergence of market structures which impede effective competition and the deterioration of such structures in cases where competition is already less effective. Thus EU merger control guarantees a rapid assessment and clearance of non-problematic mergers.⁶⁶

The vast majority of cases notified are approved in a simplified procedure⁶⁷ without the need to open an in-depth investigation. The simplified procedure is applied in relation to approximately 72% of all final Commission decisions in mergers. DG Competition expects this trend to continue also in 2018.

The substantial growth in merger activity in recent years is reflected in the significant increase of the number of merger notifications received by the Commission. DG Competition expects this trend to continue in 2018.

Specific objective 5: Prevention of anti-competitive effects of mergers

Industry restructuring is an important way of fostering efficient allocation of production assets. But, there are also situations where industry consolidation can give rise to harmful effects on competition, taking into account the merging companies' degree of market power and other market features. EU merger control ensures that changes in the market structure which lead to significant impediment to effective competition do not occur.

In 2018, DG Competition will remain vigilant in order to ensure that markets are kept open and competitive in the internal market and to effectively underpin the Commission's priorities including in the field of Energy Union, Digital Single Market, Deeper, Fairer Internal Market and Capital Markets Union.

Following the recent consolidation wave in the agro-chemical sector, in 2018 DG Competition will continue to investigate the effects on prices, qualities and innovation of the proposed acquisition of Monsanto by Bayer⁶⁸. In 2018, DG Competition will also continue to carefully review mergers in concentrated markets, such as, basic industries, manufacturing and commodities markets. The Commission will review planned acquisition of Alstom by Siemens, active on high speed trains manufacturing, and will also investigate mergers in markets which are seeing multiple instances of consolidation, such as the steel industry (announced transactions involving ArcelorMittal / Ilva and Thyssenkrupp / Tata Steel), and aerospace (UTC / Rockwell).

In 2018, DG Competition will also continue to investigate the ongoing European restructuring of the passenger airline markets following the insolvency of major airlines,

⁶⁵ 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.

⁶⁶ See also DG Competition Strategic Plan 2016-2020..

⁶⁷ Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004, OJ C 366, 14.12.2013, p. 4.

⁶⁸ Case M.8084 *Bayer / Monsanto*, for further information see IP/17/2762 of 22 August 2017 http://europa.eu/rapid/press-release_IP-17-2762_en.htm

such as Air Berlin and Alitalia, and the ongoing worldwide consolidation of the container liner shipping⁶⁹ sectors.

Specific objective 6: EU competition law instruments aligned with market realities and contemporary economic and legal thinking

In 2016, the Commission launched a public consultation in the context of an ongoing evaluation⁷⁰ of procedural and jurisdictional aspects of EU merger control. This ongoing evaluation builds upon the results of the 2014 public consultation to the White Paper "*Towards more effective EU merger control*".

The public consultation was open until mid-February 2017 and attracted wide interest. A summary of the results of the public consultation, together with the non-confidential versions of the contributions received, were published on the Commission's Competition website on 28 July 2017. The results of the public consultation show that overall the EU merger control system works well and there is no need for a fundamental overhaul. Nevertheless there appears to be scope for some limited improvements. In 2018, the Commission will reflect, taking into account amongst other things the results of the evaluation, on whether such potential improvements merit, a reform of the EU Merger Regulation.

1.3. State aid control

State aid control (Articles 107, 106(2) and 93 TFEU)

State aid control is an integral part of EU competition policy and a necessary safeguard to preserve effective competition and free trade in the internal market.

The Treaty establishes the principle that State aid which distorts or threatens to distort competition is prohibited in so far as it affects trade between Member States (Article 107(1) TFEU). However, State aid, which contributes to well-defined objectives of common European interest without unduly distorting competition between undertakings and trade between Member States, may be considered compatible with the internal market (under Article 107(3) TFEU). Moreover, aid with a social character granted to individual consumers and aid to make good damage caused by natural disasters and other exceptional occurrences are compatible (under Article 107(2) TFEU). State aid to undertakings for discharging services of general economic interest (SGEI) may be found compatible with the internal market (under Article 106.2 TFEU or Article 93 TFEU for transport). Likewise State aid for coordination of transport may be deemed compatible (Article 93 TFEU). The objectives of the Commission's control of State aid activity are to ensure that aid is growth-enhancing, efficient and effective and where aid is granted, that it does not restrict competition but addresses market failures to the benefit of society as a whole. In addition to this, the Commission is effectively engaged in preventing and recovering incompatible State aid.

State aid rules help Member States target subsidies to areas where they are really needed, i.e. where the market by itself will not undertake investments needed to make the EU economy stronger and more competitive. In the broader context of the EU's agenda to foster growth, State aid policy facilitates well-designed aid targeted at market failures and objectives of common European interest as envisaged in DG Competition Strategic Plan 2016-2020.

⁶⁹ Following the clearance decisions in 2017 with commitments in Case M.8330 - MAERSK LINE / Hamburg Süd (HSDG), and without commitments in Cases M.8472 NYK/MOL/K LINE/JV (combination of the three leading Japanese container liner shipping companies) and M.8594 COSCO/OOIL.

⁷⁰ Consultation on Evaluation of procedural and jurisdictional aspects of EU merger control, launched on 7 October 2016 until 13 January 2017
http://ec.europa.eu/competition/consultations/2016_merger_control/index_en.html

Specific objective 7: Overall effectiveness of State Aid Modernisation, increasing the share of better targeted growth-enhancing aid

The ambitious State Aid Modernisation (SAM) reform⁷¹ was launched in 2012⁷² and aimed at promoting good aid that supports investments and spurs growth while contributing to Member States' efforts towards budgetary consolidation. In 2016, the Commission adopted the last remaining item in completing SAM - the Notice on the Notion of Aid⁷³ which provides guidance on the scope of State aid control with a view to facilitate public investment in the EU.

One of the cornerstones of the State Aid Modernisation reform has been the new General Block Exemption Regulation (GBER)⁷⁴, which simplified aid granting procedures for Member States by authorising without prior notification a wide range of measures fulfilling horizontal common interest objectives. Only cases with the biggest potential to distort competition in the Single Market will remain for ex-ante assessment (notification).

As a result of the reform, a significantly larger number of measures are exempted from prior notification, in exchange for strengthened controls at Member State level, greater transparency and better evaluation of the impact of aid.⁷⁵ A further extension of the GBER has been adopted⁷⁶ in order to cover investments in port and airport infrastructure, as was already announced at the time of adoption of the GBER. As regards airports, Member States can now make public investments in regional airports handling up to three million passengers per year. The Regulation also allows public authorities to cover operating costs of small airports handling up to 200 000 passengers per year. While they can make an important contribution to the connectivity of a region they are unlikely to distort competition in the EU Single Market.

With regard to ports, Member States can now make public investments of up to EUR 150 million in sea ports and up to EUR 50 million in inland ports with full legal certainty and without prior control by the Commission. The Regulation allows public authorities to cover the costs of dredging in ports and access waterways.

In addition, the Regulation includes a number of new simplifications in other areas. In particular, the Commission will only look at bigger State aid cases that involve a higher

⁷¹ For a comprehensive overview of State Aid Modernisation, see http://ec.europa.eu/competition/state_aid/modernisation/index_en.html

⁷² Communication of 8 May 2012 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *EU State Aid Modernisation (SAM)*, COM(2012) 209 final.

⁷³ Commission notice on the Notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, OJ C 262, 19.7.2016, p. 1.

⁷⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 TFEU, OJ L 187, 26.6.2014, p. 1.

⁷⁵ "We have handed back powers where it make more sense for national governments to deal with things. Thanks to the good work of Commissioner Vestager, we have delegated 90% of State aid decisions to the regional or local level", State of the Union speech on 13 September 2017 http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

⁷⁶ Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, OJ L 156, 20.6.2017, p. 1–18.

amount of aid for culture projects up to EUR 150 million for investments and EUR 75 million for operating costs (and only if these measures actually constitute State aid, which in most instances is not the case) and for multi-purpose sports arenas.

The Commission has also made it easier for public authorities to compensate companies for the additional costs they face when operating in the EU's outermost regions taking account of the specific challenges these companies are facing such as their remoteness and dependence on a few traded products.

The SAM reform also implied a greater role for the Member States in State aid control including in designing State aid measures to fit the rules (particularly the GBER), taking responsibility and complying with the transparency and evaluation⁷⁷ requirements. In line with the entry into force of the transparency obligation, since 1 July 2016, DG Competition in cooperation with the Member States has provided an informatics tool (the Transparency Award Module – TAM) to facilitate the compliance with the transparency requirement and to ensure the publication of aid awards granted above a certain threshold⁷⁸. In 2018, the main focus of DG Competition, in partnership with the Member States, is to ensure effective compliance with the new rules. DG Competition will continue to support the Member States in meeting the SAM obligations, including the transparency requirement. In this context, DG Competition will continue to facilitate and encourage the interoperability between registry systems existing in certain Member States and the TAM.

Aid to research, development and innovation (RDI)

In 2018, DG Competition will continue implementing the State aid rules in the area of RDI with the aim of making sure that public funding goes to research projects that would not have happened otherwise, that is to say to projects that go beyond the state of the art and which bring innovative products and services to the market and ultimately to consumers. DG COMP will also continue cooperating closely with DG Research and Innovation on "Seal of excellence". DG COMP is also expecting to receive the results of the study, launched in autumn 2017, collecting and assessing the factual evidence on the extent to which, if any, the current State aid rules have an impact on RDI activities in a manner or to degree which is disproportionate to the objectives of these rules.⁷⁹

In order to support projects of strategic joint European interest the Commission adopted in 2014 a Communication on Important Projects of Common European Interest (IPCEI)⁸⁰, setting out the applicable rules for the financing of such projects, so as to ensure that the level playing field in the internal market is preserved. DG Competition expects that with the help of good cooperation with the Member States the assessment of the first IPCEI in the RDI area, concerning microelectronics, will be finalised in 2018. Additional IPCEIs in different areas of overarching industrial importance for Europe are currently in the process of being explored by Member States, industry and stakeholders.

⁷⁷ Evaluation has so far concerned 35 schemes in 13 Member States representing about EUR 40 billion in total annual budget. The initial focus in 2014-2015 was mostly on large aid schemes implemented under the GBER for either R&D&I or regional aid. In 2016, the practice was extended to notified broadband and energy schemes as well.

⁷⁸ Aid awards equal to or above EUR 500.000.

⁷⁹ See http://ec.europa.eu/competition/calls/exante_en.html.

⁸⁰ For further information see IP/ 14/673 of 13 June 2014 http://europa.eu/rapid/press-release_IP-14-673_en.htm

Aid to risk finance

In order to support the objectives of Capital Markets Union leading to improved access to finance and more sustainable investments in Europe, DG Competition continues to apply the risk finance regime in 2018. The risk finance regime provides the framework for seamless support of new ventures from their creation to their development into global players, so as to help them overcome the critical stages – the so-called "valley of death" – where private financing is either unavailable or not available in the necessary amount or form.

Regional aid

Regional State aid policy continues to be an important instrument in the EU's toolbox to achieve greater cohesion also in 2018. Spending on regional aid is an important component of the overall State aid spending by Member States: in the period 2009-2015, regional aid amounted to EUR 93.5 billion, or some 17.1% of total State aid granted by Member States in that period. In 2018, DG Competition will continue to apply regional aid rules as set out in the Regional aid guidelines 2014-2020⁸¹ and in Articles 13-15 of the GBER. Following the Report on compliance with State aid rules in European Structural and Investment Fund (ESIF) operations by the European Court of Auditors (ECA)⁸², in 2018 DG Competition will continue to strengthen its efforts to increase awareness and knowledge of State aid rules among ESIF stakeholders in the Member States, including Managing Authorities and national audit authorities. It will also continue to cooperate closely with other DGs responsible for ESIF programmes and financial instruments.

Energy Union

Specific objective 8: Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules

State aid control in the areas of energy and environment contributes to reaching the EU ambitious energy and climate targets at the least possible cost for taxpayers and without undue distortions of competition. In 2018, DG Competition will continue to apply the State aid rules applicable to the energy sector, most of which are embedded in the Environmental and Energy State Aid Guidelines (EEAG).

Support to energy from renewable sources will continue to be one of the key areas of work. This concerns a small proportion of non-notified schemes that still require to be aligned with the EEAG, and new schemes that either replaces an older scheme or that include new features. After the conclusion of the Capacity mechanism sector inquiry⁸³, DG Competition will continue in 2018 to pay close attention to the capacity mechanisms, where DG Competition is assessing the compliance of various types of individual existing and planned capacity mechanisms in several Member States. Examples include market-wide capacity mechanisms and strategic reserves.

⁸¹ Guidelines on regional State aid for 2014-2020, OJ C 209, p 1 of 23.7.2013.

⁸² Court of Auditors Special Report 24/2016 – "More efforts needed to raise awareness of and enforce compliance with State aid rule sin cohesion policy"

⁸³ On 16 November 2016, the Commission published the final report of its capacity mechanism sector inquiry, see IP/2016/4021 of 16 November 2016 http://europa.eu/rapid/press-release_IP-16-4021_en.htm.

Aid for e-mobility

As regards Commission initiatives with reference to environmental and emission objectives as well as the use of alternative fuels, DG Competition expects that notification of measures from Member States for the construction of infrastructure facilitating the uptake of alternative fuels will intensify further during 2018-20 to encourage the switch to e-vehicles or vehicles running on other alternative fuels. As regards e-vehicles, also aid measures are expected to complement the infrastructure measures, including measures for the uptake of public transport vehicles running on alternative fuels.

Digital Single Market

In the broadband sector private companies tend to invest mostly in urban highly populated areas in view of the return on investment. As a result, in certain areas – in particular rural areas – public funds are needed to ensure the sustainability of investment supporting the deployment of broadband networks for the sake of inclusion and development. Public spending next to private investments continue to be key to achieve the longer term objectives set by the Digital Agenda for Europe⁸⁴ and based on the "Gigabit Society" targets up to and beyond 2025⁸⁵. In 2018, State aid control continues to ensure that publicly funded networks do not crowd out private investments. The Commission will be taking new decisions that will be linked to the new connectivity targets and will continue to stimulate the use of the GBER. DG Competition will continue to actively contribute to the new European network of Broadband Competence Offices⁸⁶ and the Toolkit for Rural Broadband⁸⁷ throughout 2018.

In 2018, in the media and broadcasting area the Commission continues to rely on the guidance of the Cinema Communication⁸⁸ and the Broadcasting Communication⁸⁹ to ensure that support is well-designed in order to meet the underlying objectives of common interest while limiting negative effects on competition.

Taking actions against selective tax advantages

⁸⁴ Communication of 26 August 2010 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *A Digital Agenda for Europe*, COM/2010/0245 f/2 [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52010DC0245R\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52010DC0245R(01)) Coverage of 30 Mbps download for all Europeans and take-up of 100 Mbps subscriptions for at least 50% of European households.

⁸⁵ As defined in the Communication of 14 September 2016 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – *Connectivity for a Competitive Digital Single Market – Towards a European Gigabit Society*, COM(2016) 587 final:

- Gigabit connectivity for all main socio-economic drivers such as schools, transport hubs and main providers of public services as well as digitally intensive enterprises.
- All urban areas and all major terrestrial transport paths to have uninterrupted 5G coverage.
- All European households, rural or urban, will have access to Internet connectivity offering a downlink of at least 100 Mbps, upgradable to Gigabit speed.

⁸⁶ For further information see <https://ec.europa.eu/digital-single-market/en/broadband-competence-offices>.

⁸⁷ For further information see <https://ec.europa.eu/digital-single-market/en/news/european-commission-joins-forces-help-bringing-more-broadband-rural-areas>.

⁸⁸ Communication from the Commission on State aid for films and other audio-visual works (2013/C 332/01).

⁸⁹ Communication from the Commission on the application of State aid rules to public service broadcasting, OJ C 257 of 27.10.2009, p.1 to 14.

Fair tax competition is essential for the integrity of the Single Market and for keeping the playing field level for European companies. For these reasons, the fight against tax evasion and tax avoidance is high on the Commission's agenda⁹⁰. DG Competition contributes to this by investigating whether Member States have granted selective fiscal advantages to individual undertakings or groups of undertakings⁹¹. While designing tax systems and collecting taxes are competences of EU Member States, they have to comply with internal market rules and competition law.

The Commission has in the last years taken a number of decisions against Member States endorsing aggressive tax planning structures of multinationals. This applies to preferential tax schemes, like the Belgian Excess Profit system⁹² or individual tax rulings, like the case of Apple (Ireland)⁹³ and Amazon (Luxembourg)⁹⁴. In these cases the national tax authorities accepted to artificially lower the taxes due by certain companies. Therefore, the Commission has ordered the respective Member States to recover the unpaid taxes from these companies, in order to remove the unfair competitive advantage they have enjoyed and to restore equal treatment with other companies.

The Commission will in 2018 continue its pending formal investigations into tax rulings granted to McDonald's and Engie by Luxembourg, as well as the Group Financing Exemption from the Controlled Foreign Company rules implemented by the United Kingdom and Inter IKEA by the Netherlands in order to decide whether these measures provided the companies with undue financial advantages.⁹⁵ The Commission remains available to continue advising the Member States in changes to their national tax legislation, such as for Luxembourg, Cyprus or the Netherlands.⁹⁶

Beyond the area of aggressive tax planning, the Commission is committed to ensuring a level fiscal playing field between undertakings operating in the internal market and will remain vigilant to guarantee that Member States do not use fiscal tools to unduly favour certain companies/sectors and shelter national companies from international competition.

Following adoption in 2017 of the Commission decisions regarding the corporate tax exemptions for ports' economic activities in Belgium and France⁹⁷ the Commission will

⁹⁰ Mission Letter by President Juncker to Commissioner Vestager, 1 November 2014 http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/vestager_en.pdf

⁹¹ In 2013 DG Competition set up a task force to investigate ex-officio whether Member States grant special tax deals to companies, in particular to multinational companies. This Task Force, which was in the meantime transformed into a permanent unit, has been systematically investigating the tax ruling practice in all Member States. In the overall context DG Competition's contribution consists, *inter alia*, in ensuring that tax authorities do not grant fiscal advantages to selected companies or kind of companies.

⁹² For further information see IP/16/42 of 12 January 2016 http://europa.eu/rapid/press-release_IP-16-42_en.htm

⁹³ For further information see IP/16/2923 of 30 August 2016 http://europa.eu/rapid/press-release_IP-16-2923_en.htm

⁹⁴ For further information see IP/17/3701 of 4 October 2017 http://europa.eu/rapid/press-release_IP-17-3701_en.htm

⁹⁵ For further information see IP/15/6221 of 3 December 2015, http://europa.eu/rapid/press-release_IP-15-6221_en.htm; IP/16/3085 of 19 September 2016, http://europa.eu/rapid/press-release_IP-16-3085_en.htm; IP/17/4201 of 26 October 2017 http://europa.eu/rapid/press-release_IP-17-4201_en.htm; and IP/17/5343 of 18 December 2017 http://europa.eu/rapid/press-release_IP-17-5343_en.htm.

⁹⁶ These changes to the national legislation concerned for example the financing companies in Luxembourg and Cyprus.

⁹⁷ For the Ports Taxation in Belgium, see http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38393 and for the Ports

continue in 2018 looking at similar measures to prevent undue tax advantages that distort competition.

Financial services

Specific objective 9: Stability and promotion of competition in the banking sector

In 2018, DG Competition will continue playing its role in State aid control activities in the financial and banking sectors.

The framework of the Banking Union introduced by the EU to deal with banks' failure is still about to be implemented. The bail-in provisions of the Bank Recovery and Resolution Directive (BRRD)⁹⁸ entered into force on 1 January 2016 with the aim of shifting the cost of bank failures to shareholders and creditors, and reduce the amount of State intervention at the detriment of the taxpayer. At this stage, banks are implementing the provisions of the BRRD which will allow for the full application of the legal framework; at the same time, the new institutions in charge of supervision and resolution of systemic banks (namely the Single Supervisory Mechanism (SSM) and the Single Resolution Board (SRB)) are gradually assuming their new functions leaving only a few cases, pre-dating the introduction of the new framework, to be resolved. Most importantly, assessment of conformity with the State aid framework needs to be ensured not only under national insolvency proceedings but also within the new framework in case funding of resolution is supported by a national or the Single Resolution Fund (SRF), or aid is authorised as a temporary buffer in the form of "precautionary recapitalisation" and, last but not least, in order to confirm the absence of aid when State intervention is taking place under normal market conditions.

In this context, DG Competition will continue to play a key role in 2018 in assessing public support in the financial sector - either for ailing banks to exit the market or in order to authorise public intervention in case of a temporary liquidity strain. This is important in order to make sure that public support is kept to the necessary minimum and that adequate measures are taken to ensure return to viability and minimise distortions of competition, to preserve equality of treatment among Member States and to maintain the integrity of the internal market.

Deeper and fairer internal market in the real economy

A competitive level playing field for businesses in the real economy is key to ensuring a deeper and fairer internal market contributing to increased productivity and long term growth, also reducing input costs for other businesses and services.

Taxation in France, see

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38398. Moreover, in January 2016 the Commission adopted a negative Decision as regards the corporate tax exemption for Dutch public seaports, see

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_25338

⁹⁸ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council Text with EEA relevance, OJ L 173, 12.6.2014, p. 190–348.

Aid to manufacturing and undertakings in difficulty

In 2018, State aid control in manufacturing industries will continue to be geared at enforcing the rules for rescue and restructuring of firms in difficulty in the "real" economy. These rules address aid to undertakings in difficulty, which absent the public funding would normally exit the market, leaving their assets and market share available to more efficient competitors. Such aid has is particularly distortive because it slows down growth and market-driven restructuring. Public funding towards companies in difficulty is therefore allowed only under strict conditions ensuring, in particular, that the aid contributes to objectives of common interest.

In this respect, the Commission will pursue the ongoing proceedings in the the area of nuclear fuel sector. This sector case involves a particularly concentrated market worldwide as well as issues of security of supply under the Euratom Treaty. The Commission will also continue in 2018 its investigation of alleged aid to the Romanian chemical (chlorine) producer Oltchim, also in the context of the sale of the company.⁹⁹

Aid in transport

State aid control in the transport sector plays a key role in limiting distortions of competition on transport markets, traditionally marked by significant public intervention. It also ensures that public funding is targeted at projects and activities that deliver tangible benefits in terms of mobility.

The aviation market is fully liberalised and truly pan-European. Therefore, airlines should receive State aid only exceptionally, and aid to airports should not give rise to undue competition distortions on the downstream air transport market. In 2018, the Commission will continue to focus on the aviation cases that potentially involve significant distortions of competition. These cases include operating aid granted to airlines through marketing agreements or other types of financial support to airports that are passed on to airlines as well as air public service obligations without an adequate justification. The Commission will continue advising the Member States to ensure that the aid to airports complies with the Aviation Guidelines¹⁰⁰.

In the rail sector, in 2018 the Commisison will continue to enforce of State aid rules in order to prepare and accompany the liberalisation brought about by the 4th Railway Package¹⁰¹ in 2019. In this respect, the application of the State aid rules will ensure that public funding by Member States does not distort competition in rail transport services or raises barriers to entry for new entrants. In its enforcement activities, DG Competition will continue to work closely with DG MOVE, the national competition authorities and national rail regulators to ensure fair, transparent and non-discriminatory access to the rail market for all operators. Formal investigations to be pursued in 2018 also concern restructuring aid to a number of national railway companies, for example CFR Marfa in

⁹⁹ Case SA.36086 *Potential aid to Oltchim*, Commission decision of 8 April 2016.

¹⁰⁰ Communication from the Commission, Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014, p. 3 available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2014.099.01.0003.01.ENG.

¹⁰¹ Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail; Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure.

Romania.¹⁰² State aid also has a role to play in supporting the interoperability of European rail transport services, and fostering the modal shift aiming at the provision of cheaper and environmentally friendly transport services to businesses and citizens alike in the internal market.

In the maritime sector, DG Competition will continue to ensure a consistent application of the 2004 Maritime State aid Guidelines.

Aid to the postal sector

Despite the complete liberalisation of the postal sector in the EU between 2011 and 2013, the letter market remains heavily concentrated and subject to very significant State intervention. While Member States enjoy a wide discretion in the definition of SGEIs, it must be ensured that their financing does not overcompensate postal incumbents and unduly distort competition not only in the markets directly affected by the aid such as the traditional letter market but also, through potential cross-subsidisation, in neighbouring markets and in particular the fast-expanding field of parcel delivery.

In 2018, the Commission will continue its assessment of SGEI compensations to be granted to postal operators¹⁰³. The Commission will also continue its investigation regarding the Spanish incumbent Correos¹⁰⁴.

Specific objective 10: Prevention and recovery of incompatible aid

Over the years, the architecture of State aid control has evolved. Today, 34% of aid is granted under block-exempted schemes which are not examined by the Commission prior to their entry into force¹⁰⁵. Overall, 84% of aid is granted on the basis of previously approved aid schemes or Block Exemption Regulations¹⁰⁶. In that context, it is essential for the Commission to verify that Member States apply the schemes correctly and that they have granted aid only if all required conditions were met. Moreover, DG Competition's State aid control activity also aims at ensuring effective prevention and recovery of incompatible State aid in order to prevent that Member States re-create artificial barriers to intra-community trade.

When unlawful aid is declared incompatible, the Commission is obliged to ask for its recovery by the Member State who granted it in order to restore the situation in the market prior to the granting of the aid. The purpose is to re-establish the situation that existed on the market prior to the granting of the aid in order to ensure that the level-playing field in the internal market is maintained. In 2018, DG Competition aims to make

¹⁰² Case SA. SA.43549 (2017/C) – CFR Marfa, see IP/17/5345 of 18 December 2017 http://europa.eu/rapid/press-release_IP-17-5345_en.htm.

¹⁰³ For further information see IP/11/1571 of 20 December 2011 http://europa.eu/rapid/press-release_IP-11-1571_en.htm.

¹⁰⁴ Case SA.37977 (2016/C) – Complaint regarding unlawful State aid in favour of Sociedad Estatal Correos y Telégrafos S.A., see IP/16/284 of 11 February 2016 http://europa.eu/rapid/press-release_IP-16-284_en.htm.

¹⁰⁵ This percentage concerns aid in terms of volume. Banking schemes are not considered here. For the latest publicly available figures (2016), see Scoreboard, EU 28 (2010-2015) http://ec.europa.eu/competition/state_aid/scoreboard/.

¹⁰⁶ Ibid.

further progress towards effective and rapid enforcement of recovery decisions¹⁰⁷. It is also envisaged that the Commission conducts a study on the enforcement of State aid law by national courts.¹⁰⁸

Specific objective 11: Monitoring of aid measures

In order to ensure that aid granted under existing aid schemes (without being individually notified and examined by the Commission) effectively complies with State aid rules, DG Competition performs a systematic, sample based, ex-post control (so-called "monitoring exercise"). The exercise covers all Member States and all main types of aid. In 2018, DG Competition will continue its monitoring efforts, in particular in the areas where the implementation of State aid rules seems to raise more issues.

Specific objective 12: EU competition law instruments aligned with market realities and contemporary economic and legal thinking

In view of maintaining EU competition law instruments aligned with market realities and contemporary economic and legal thinking, DG Competition will focus on ensuring an effective implementation of the State Aid Modernisation package in 2018 by further developing its new partnership with Member States. In this context, an extension of the General Block Exemption Regulation (GBER)¹⁰⁹ to cover investments in port and airport infrastructure (as well as some other technical adjustments based on the experience of the first years of application of the GBER) was adopted in June 2017¹¹⁰.

In 2016, the Commission launched a review¹¹¹ of the Simplified Procedure Notice¹¹² and of the Best Practices Code¹¹³. The Simplified Procedure Notice sets out the conditions under which the Commission adopts short-form decisions declaring certain types of State support measures compatible with the internal market and provides guidance in respect of the procedure to be followed.

The Best Practices Code provides guidance on the day-to-day conducts of State aid procedures and exchange of information between the Commission and Member States. In

¹⁰⁷ By 31 December 2017, the total amount of illegal and incompatible aid recovered from beneficiaries since 1999 stood at EUR 34.7 billion. At the same time, a total of approximately EUR 18.3 billion is currently outstanding. In 2017, the Commission adopted 6 new recovery decisions and an amount of EUR 1.3 billion was recovered by the Member States. At the end of 2017, the Commission had 44 pending active recovery cases (DG Competition calculations).

¹⁰⁸ Commission notice on the enforcement of State aid law by national courts, OJ C 85, 9.4.2009, p. 1.

¹⁰⁹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU), OJ L 187, 26.6.2014, p. 1.

¹¹⁰ Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs (OJ L 156, 20.6.2017, p. 1).

¹¹¹ The Commission launched a public consultation on the Simplified Procedure Notice during January to April 2016. http://ec.europa.eu/competition/consultations/2016_simplified_procedure/index_en.html

¹¹² Commission Notice on a Simplified procedure for the treatment of certain types of State aid, OJ C 136, 16.6.2009, p. 3-12.

¹¹³ Notice from the Commission, Best Practices Code on the conduct of State aid proceedings http://ec.europa.eu/competition/state_aid/legislation/best_practices_code_en.pdf

that respect, it encourages Member States to engage in informal discussions with Commission services and use pre-notification contacts¹¹⁴.

In the light of the comments received from the public consultations, the Commission is reviewing these texts¹¹⁵ with the objective to ensure coherence and consistency in the application of the various instruments of the State Aid framework.

1.4.Promoting competition culture and international cooperation in the area of competition policy; maintaining and strengthening the Commission's reputation world-wide and striving for greater transparency and basic disciplines on subsidies control

DG Competition engages in advocacy activities and promotes competition culture, including State aid control, in the EU and world-wide. Maintaining and strengthening the Commission's reputation world-wide and promoting international cooperation in this area is also defined as a priority for the present Commission in the area of competition policy¹¹⁶.

Specific objective 13: Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level

In 2018, DG Competition will continue to work in close cooperation with other Commission services on the Commission's wider economic policy and economic governance agenda, including participating to horizontal policy coordination exercises such as the European Semester and the support to structural reforms as well as contribute to other policy initiatives of the Commission. Such cooperation is aimed at:

- (i) Ensuring a consistent approach to competition-related issues across the Commission;
- (ii) Ensuring that competition policy is a key contributor in achieving long-term Commission objectives such as growth and competitiveness;
- (iii) Complementing other Commission policy areas with specific competition-related knowledge.

In 2018, DG Competition will also continue to work together with other services of the Commission and with other institutions, in particular the European Parliament, the Council and the European Central Bank (ECB).

Specific objective 14: Explaining competition policy and its benefits

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 support smart, sustainable and inclusive growth as well as to be efficient and non-distortive market operators. Explaining competition policy and demonstrating its benefits to citizens and stakeholders at all levels is a priority for the new Commission in the field of competition policy. DG Competition regularly assesses the economic impact of its market interventions illustrating the benefits of such interventions in terms of lower prices and better quality products. In 2018, DG Competition will

¹¹⁴ The Commission launched a public consultation on the Best Practices Code on 25 November 2016 until 25 February 2017. http://ec.europa.eu/competition/consultations/2016_cbp/index_en.html

¹¹⁵ It is envisaged that the revised Best Practices Code will repeal and replace the Simplified Procedure Notice both of which pre-date State Aid Modernisation.

¹¹⁶ Mission Letter by President Juncker to Commissioner Vestager.

continue its collaborative effort with the Joint Research Centre and DG ECFIN to model the macroeconomic impact of competition policy.

In 2018, DG Competition will continue, together with national competition authorities in the European Competition Network (ECN), its advocacy efforts aimed at demonstrating the benefits of competition to citizens as well as stakeholders and explaining to businesses and Member States the economic and legal approach used by DG Competition when taking decisions¹¹⁷. It intends to publish again *EU competition policy in action – COMP in Action*, first published in 2016¹¹⁸. In 2018, DG Competition plans to conduct again *Eurobarometer Flash Survey on Citizens' Perception about Competition Policy*¹¹⁹. The results of the survey benefit competition advocacy efforts by the Commission and the national competition authorities as stated in the DG Competition Strategic Plan 2016-2020.

Specific objective 15: Promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control

In 2018, DG Competition aims at promoting international cooperation and convergence in the area of competition policy, a greater transparency and basic disciplines on subsidy control by undertaking a wide range of activities with international bodies and third countries.

A continued field of activity concerns the negotiation of Free Trade Agreements (FTAs) which include competition and State aid provisions in order to ensure a level playing field for European and foreign companies. DG Competition aims in particular to include strong commitments on subsidies, beyond what exists in WTO, extending transparency to services subsidies, broader consultation possibilities and conditioning the most distortive subsidies. Important agreements being negotiated include the FTA with Azerbaijan, Indonesia, Mercosur countries¹²⁰, Mexico and Chile. Negotiations with Kyrgyzstan, New Zealand and Australia are expected to be launched in 2018.

Another field of activity is the technical cooperation with the Commission's main trading partners with which DG Competition has signed Memoranda of Understanding on Cooperation (MoUs). DG Competition's technical cooperation activities with the Chinese competition authorities are most notable and will continue in the coming years (2018-2022) Moreover, DG Competition will expand its activities in Asia for this period to

¹¹⁷ DG Competition's printed publications were sent to 6 452 subscribers/readers and the digital publications to 34 880 in 2015.

¹¹⁸ EU competition policy in action, *COMP in Action (2017)*, available at <http://ec.europa.eu/competition/publications/kd0216250enn.pdf> [UPDATE LINK when 2017 edition is available]

¹¹⁹ Eurobarometer Flash 403 on Citizens' Perception about Competition Policy (2014) published in March 2015, http://ec.europa.eu/competition/publications/reports/surveys_en.html. See also Flash EB 264 EU citizens' perceptions about competition policy (2009), http://ec.europa.eu/competition/publications/reports/surveys_en.html According to the results of the survey, more than 80% of EU citizens believe that competition between companies can lead to better prices, more choice, innovation and economic growth. On the question used as an indicator, 74% of EU citizens respond that effective competition has a positive impact on them as a consumer. EU citizens identify competition concerns in sectors which largely correspond also to the priority sectors that DG Competition focuses on.

¹²⁰ Argentina, Brazil, Paraguay, and Uruguay.

comprise also Japan, Korea, India and the ASEAN countries¹²¹. DG Competition is also providing technical assistance as a follow-up to recently concluded FTAs with countries such as Ukraine.

In 2017, DG Competition signed a Memorandum of Understanding with the National Development and Reform Commission of the Peoples' Republic of China on a dialogue concerning State aid control and Fair Competition Review. This will lead to the start of a new line of cooperation regarding State aid control, which DG Competition will continue to follow-up in 2018.

DG Competition, together with DG Trade, will also continue to support discussions on enhanced subsidy disciplines in the World Trade Organisation (WTO) and the Organisation for Economic Cooperation and Development (OECD). Across the board, the intermediary objective is to achieve more transparency on subsidies to goods and services, with a view to broaden the scope of horizontal subsidies provision in the long-term, and to stimulate further reflections on prohibitions of certain subsidies. DG Competition is also actively supporting DG Trade's sectoral initiatives to address subsidies in the international context, such as for steel (G20 Global Forum on steel excess capacity), for semiconductors (Regional support guidelines for the semiconductor industry), for shipbuilding (OECD). Finally, DG Competition, with the support of DG Trade, has also created a dedicated forum with EU Member States to raise awareness as regards international subsidy policies and to exchange views on ongoing developments at multilateral and bilateral level, as well as regards subsidies given by third countries.

In 2018, DG Competition will continue the work on a second generation agreement with Canada¹²², which will enable both competition agencies to exchange evidence they have obtained in their respective investigations. DG Competition will also continue negotiations on a similar second generation agreement with Japan¹²³ in 2018.

During 2018, DG Competition will continue to provide assistance to candidate countries and potential candidate countries as regards the implementation of the EU acquis in the competition policy field and, more generally, contribute to fostering a competition culture. DG Competition will also continue to support the Commission in the assessment of the ability of candidate countries to apply EU legislation.

In 2018, DG Competition will also continue to participate actively in international fora such as the Competition Committee of OECD, the International Competition Network (ICN) and the United Nations Conference on Trade and Development (UNCTAD) by means of written contributions and participation in meetings, conferences and workshops.

Finally, following the Article 50 TEU notification by the United Kingdom, the Commission is preparing the withdrawal of the United Kingdom from the EU. DG Competition will

¹²¹ Association of Southeast Asian Nations.

¹²² Proposal for a Council Decision on the signing, on behalf of the European Union, of the Agreement between the European Union and the Government of Canada regarding the application of their competition laws, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52016PC0421> and Proposal for a Council Decision on the conclusion of the Agreement between the European Union and the Government of Canada regarding the application of their competition laws, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52016PC0423>

¹²³ Council Decision authorising the opening of negotiations with the Government of Japan for an agreement on cooperation in the area of competition policy between the European Union and the Government of Japan http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.120.01.0019.01.ENG

continue assisting the Commission's Task Force for the Preparation and Conduct of the Negotiations in the relevant areas.

Specific objective 16: Ensuring the highest standards in the enforcement of competition policy

DG Competition is committed to ensuring competition policy enforcement of the highest standards. In 2018, DG Competition will continue to adhere to the highest standards of professionalism, intellectual rigour and integrity so as to ensure the highest standards in the enforcement of competition policy. In 2018, DG Competition will finalise the implementation of its action plan on Smarter Working Initiatives to identify further sources of efficiency and synergies as well as making DG Competition a better workplace. In 2018, DG Competition plans to conduct again *Eurobarometer Standard Qualitative Study DG Competition Stakeholder Survey* among its professional stakeholders on some key quality parameters¹²⁴ related to DG Competition's work as foreseen in DG Competition Strategic Plan 2016-2020.¹²⁵

¹²⁴ These parameters include i) Soundness of legal and economic analysis (clarity and comprehensibility of decisions, predictability of decisions, predictability of fines imposed, understanding the markets and quality of economic analysis), ii) Transparency and procedural fairness (level of transparency of DG Competition's work, listening and informing in a timely manner, publication of non-confidential versions of decisions, stakeholder consultations on new rules, observance of procedural rules and burden on businesses and organisations), iii) Economic effectiveness (effectiveness of detection policy, deterrent effect of fines, impact of existing antitrust rules on planned business transactions, timeliness of decisions, focus on the right sectors, adaptation to the technological changes and globalisation, impact on the markets, use of settlements in cartel cases and commitment decisions in antitrust cases, enforcement of decisions and contribution to the EU's economic growth) and iv) Communication and promotion of competition culture (clarity and comprehensibility of external communication, choice of communication and media channels and promotion of competition culture and policy convergence at the international level).

¹²⁵ Eurobarometer Standard Qualitative Study – Qualitative Eurobarometer survey about the perceived quality of DG Competition's actions (2014) published in March 2015, http://ec.europa.eu/competition/publications/reports/surveys_en.html; see also Qualitative Eurobarometer survey about the perceived quality of DG Competition's actions (2010), http://ec.europa.eu/competition/publications/reports/surveys_en.html.

PART 2. MAIN ORGANISATIONAL MANAGEMENT OUTPUTS FOR THE YEAR

A. Human resource management

16 February 2017, DG Competition joined, alongside the other Commission services, the second pilot phase of the HR Modernisation Project. The pilot phase, which was due to end 31 December 2017, has been prolonged until mid-2018.

This modernisation project brought significant changes to the way that HR services are delivered in the Commission. The Account Management Centre (AMC)¹²⁶ inside DG HR is responsible for HR services and everyday HR transactions whilst the HR Business Correspondent (HR BC) in each DG is responsible for defining the HR Strategy and taking HR decisions, in consultation with the management of the DG. The HR BC also ensures that the DG gets the HR services it needs, in cooperation with the AMC.

It is to be noted that DG Competition's HR policy does not only form an integral part of its HR Strategy, but is also embedded in its 'Smarter Working Initiative'. An action plan was established and comprises several HR initiatives to be developed or to be further implemented in the coming months and years.

DG Competition's 10 DOs – the charter for good people management

In May 2017, 2 years after the implementation of the '10 DOs for people management', a set of best practices signed by all its managers, DG Competition launched a staff survey. The staff was asked for its opinion on managers' compliance with the 10 DOs and on the extent to which they are relevant for the daily work. In light of the positive results, it was decided to proceed with renewed 10 DOs and further monitor their compliance in 2018 and beyond. To include newly-appointed managers and Deputy Heads of Unit, a new signing ceremony is planned to take place early 2018.

180° feedback development exercise for DG Competition's managers

As an integral part of staff motivation, engagement, and retention strategy in DG Competition, a 180° feedback exercise for managers was launched in September 2014 and spread over several rounds. The general objective for the launch of this initiative was to help cultivate a coherent managerial culture and enhance staff engagement. So far, DG Competition's Director-General, 11 Senior Managers, 48 Heads of Units and 28 Deputy Heads of Unit participated in the exercise. In 2018, DG Competition intends to launch the exercise for newly appointed managers and to repeat the exercise for the managers who participated in 2014¹²⁷. It will also develop follow-up training modules, to be offered to all managers.

Flexible working arrangements and fit@work

In 2017, several conferences and events with respect to the new Health and Wellbeing Action Plan for 2017-2020 were organised within the Commission. In addition, DG Competition organised its first "Open Day" for all staff in October 2017, which gathered representatives from DG HR and the OIB, as well as from the Horizontal Management Directorate and the HR Business Correspondent Team. One of the objectives of the day

¹²⁶ DG Competition is supported by AMC 1, which serves the following group of DGs: COMP, ECFIN, EMPL, FISMA, GROW, TAXUD and TRADE.

¹²⁷ This will be done until the foreseen organisation of the exercise at Commission level has become effective.

was to present the new Action Plan and the broad range of fit@work initiatives. DG COMP intends to renew this initiative in 2018.

In 2018, DG Competition will further strive to offer tailor-made initiatives to the needs of the DG. Initiatives launched in the past years, such as the "Guidelines on flexible working arrangements in DG Competition", will be further monitored.

Other initiatives

A brochure for newcomers on mobility and careers in DG Competition was published in autumn 2016 in response to the comparatively high rate of outward mobility that the DG has seen over the past years. The brochure contains information about the entire range of work areas in DG Competition and about opportunities for mobility inside the DG. By describing a variety of management, as well as non-management careers, it also aims at enriching the vision of career progression among staff. The need for a review of the brochure will be assessed in 2018.

Colleagues who left DG Competition in the past 5 years and who are susceptible to return to the DG were added to the distribution list of internal publications of vacancy notices at the end of 2017, with a view to their possible return to DG Competition in 2018 and beyond.

As regards career development and guidance, in 2018 DG Competition strives to continue securing staff integration through dedicated coaching and mentoring, appointing a coach as well as a mentor to every newcomer. Furthermore, it will continue to hold entrance, career development, exit and return interviews.

In addition, DG Competition created in 2016 a career guidance pool of experienced managers to give staff the possibility to ask a manager from the pool for a confidential discussion on possible next career steps and to identify areas of further development/training needs. In 2018, DG Competition plans to further promote this pool and to enlarge it with additional experienced managers.

DG Competition participated in the Commission's Career Day 9 November 2017 and intends to continue contributing to such corporate initiatives in 2018. Further reflection on alternative career paths (e.g. Senior Experts/Assistants) and on additional initiatives to retain and attract experienced staff will also be further pursued in 2018.

Objective 1: Attract, motivate and retain highly qualified staff**Main outputs in 2018:**

Output	Indicator	Target
<i>Implementation of the Action Plan in the framework of DG Competition's Smarter Working Initiative</i>	<i>Staff engagement index</i>	<i>Maintain above Commission average</i>

19 July 2017, the Commission adopted a Communication on *A better workplace for all: from equal opportunities towards diversity and inclusion*¹²⁸. The Diversity and Inclusion Charter is an integral part of the Communication, setting out the guiding principle for the Commission's HR policies. It also reinforces and formalises the institution's commitment to diversity and inclusion. In 2018 and beyond, DG Competition is committed to giving all staff members the same opportunities independent of their background and undertakes to respect the principle of non-discrimination in all its forms and at all stages of human resources management.

19 July 2017, the Commission also adopted a renewed approach to its commitment to reach at least 40% female managers by the end of 2019 (Decision SEC(2017)359). To this effect, the Decision sets quantitative targets of first female appointments to be made per Directorate-General and service at middle management level. In view of the demography of DG Competition and the predominance of women in the lower and middle AD-grades, the 2019 target would appear achievable. In 2018, DG Competition will in addition cooperate with DG Human Resources to identify potential female candidates from other Directorate Generals.

To help raise the number of female managers, DG Competition intends to organise in 2018 a lunchtime session for eligible female colleagues (with the presence of other female Heads of Unit who can talk about their experiences, possible difficulties in order to combine work and private life, etc.). The DG also intends to create a female mentoring scheme (experienced female HoU outside the Directorate of the female colleagues act as mentors).

Objective 2: The DG deploys effectively its resources in support of the delivery of the Commission priorities and core business, has a competent and engaged workforce, which is driven by an effective and gender-balanced management and which can deploy its full potential within supportive and healthy working conditions.

Main outputs in 2018:

Output	Indicator	Target
<i>Implementation of initiatives aimed at increasing the number of female candidates to middle management positions: identification of possible candidates, mentoring scheme,</i>	<i>Female representation in middle management</i>	<i>Increase the number of female Heads of Unit by 2 (by 01/11/2019) in line with the Commission</i>

¹²⁸ Communication of 19 July 2017 from the Commission *A better workplace for all: from equal opportunities towards diversity and inclusion*, C(2017)5300 final <https://ec.europa.eu/info/sites/info/files/communication-equal-opportunities-diversity-inclusion-2017.pdf>

<i>outreaching activities (lunchtime session, open day, etc.)</i>		decision on female representation in management
<i>Local fit@work and well-being initiatives, tailor-made to DG Competition's needs</i>	<i>Percentage of staff who feel that the Commission cares about their well-being</i>	<i>Maintain above Commission average</i>

B. Financial Management: Internal control and Risk management

Competition policy is implemented through enforcement and involves predominantly procedural (case-handling) and advocacy activities. DG Competition manages a relatively modest administrative budget of EUR 7.5 million under direct centralised management. The budget covers the administrative costs in support of DG Competition's operations such as mission costs, expert groups, advisory committees, conferences, studies, consultations, expert advice and IT. Financial management is therefore not a critical challenge for the DG's operations.

In 2018, DG Competition will continue its rigorous management of its financial activities and further analyse its financial circuits in order to assess the functioning of the internal control system. It will in particular consider differentiating the frequency and/or the intensity of the controls and analysing whether there is scope to further improve the efficiency of its financial operations without risking the legality and regularity of its transactions.

Objective 1: Effective and reliable internal control system giving the necessary guarantees concerning the legality and the regularity of the underlying transactions.

Main outputs in 2018:

Output	Indicator	Target
<i>All transactions are reviewed ex-ante by the financial sector and allow the required corrections to be made during the transaction process.</i>	<i>Transactions made in accordance with financial circuits</i>	<i>100%</i>
	<i>Error rate detected on the legality and regularity of the underlying transactions for administrative budget implementation</i>	<i>< 2%</i>

Objective 2: Effective and reliable internal control system in line with sound financial management.

Main outputs in 2018:

Output	Indicator	Target
<i>To ensure that the controls in place do not contain systematic weaknesses</i>	<i>Number of instances of overriding controls or deviations from established procedures</i>	<i>< 10</i>

<i>Compliance with contractual payment delays</i>	<i>Payments executed within the contractual limits</i>	<i>> 90%</i>
<i>Implement the financial resources allocated to DG Competition</i>	<i>Budget execution with respect to budget appropriations</i>	<i>> 90%</i>
<i>Implementation of the new Internal Control Framework (ICF)</i>	<i>Completion status of the implementation of the revised internal control framework</i>	<i>Assessment of the functioning of internal controls for AAR 2018 carried out with the new framework</i>

In 2018, DG Competition intends to continue its follow-up of inadvertent disclosures of confidential information, and report on the implementation of the AFS and Code on Ethics. The foreseen review of the DG's AFS and Code on Ethics has been postponed following the adoption by the Commission on 4 April 2016 of a Communication on Synergies and Efficiencies in the Commission, which sets the path for the implementation of a new HR Service Delivery Model which will modify the roles and responsibilities of DGs on HR matters.

In parallel, the Commission is expected to adopt a new Decision on Outside Activities and Assignments and DG Human Resources is due to publish an updated Practical Guide to Staff on Ethics and Conduct. DG Competition's AFS and Code of Ethics will be reviewed in light of these documents, taking into account DG OLAF's updated methodology for the development of DG's Anti-Fraud Strategies¹²⁹ and the results of the pilot phase of the new local HR Business Correspondents and centralised Account Management Centres. In the meantime, DG Competition will continue to invite newcomers to attend compulsory ethics training, and to ensure that awareness raising activities are organised.

Objective 3: Minimisation of the risk of fraud through application of effective anti-fraud measures, integrated in all activities of the DG, based on the DG's anti-fraud strategy (AFS) aimed at the prevention, detection and reparation of fraud.

Main outputs in 2018:

Output	Indicator	Target
<i>Implementation of the anti-fraud actions in the previous AFS</i>	<i>% of implementation of actions planned in the updated anti-fraud strategy</i>	<i>100%</i>
<i>Monitoring of</i>	<i>Fraud and ethics awareness is</i>	<i>90% newcomers attending</i>

¹²⁹ DG OLAF – *Methodology and guidance for DGs' anti-fraud strategies*, published on 16 February 2016, available at <https://myintracomm.ec.europa.eu/serv/en/fraud-prevention/FPDNetwork/Documents/201602%20-%20Updated%20guidelines%20AFS.pdf>

<i>attendance at ethics training and follow-up</i>	<i>increased for target population as identified in the DG's AFS and Code on Ethics</i>	<i>ethics training</i>
<i>Review of anti-fraud actions undertaken and proposal for further actions</i>	<i>Regular monitoring of the implementation of the AFS and Code on Ethics, and reporting to management</i>	<i>Report to management once a year</i>
<i>Monitoring and reporting of incidents and follow-up of recommendations</i>	<i>Knowledge and respect by staff of DG Competition's security rules and incident reporting procedures</i>	<i>Reduction of inadvertent disclosures of confidential information</i>

C. Better Regulation [only for DGs managing regulatory acquis]

The main planned outputs linked to the Better Regulation objective in the Strategic Plan are listed in Part 1 under the relevant specific objective. They are presented in the tables under the headings "All new initiatives and REFIT initiatives from the Commission Work Programme" and "other important items".

All new initiatives and REFIT initiatives from the Commission Work Programme		
Output	Indicator	Target
Proposal(s) for the next generation of programmes (under the post-2020 MFF)	Adoption by the Commission	Q2 2018

D. Information management aspects

Document management is essential to the core business of DG Competition since competition enforcement must be based on factual evidence. Documents are delivered to case handlers in an electronic format in the reference file hosted within the electronic Case Management Information systems. In 2018 and 2019 DG Competition will continue the development of a common Case Management System for the Commission services participating in the Case Management Rationalisation project (CASE@EC). CASE@EC will be implemented within DG Competition in full synchronisation with ARES/HERMES. This will ensure that all documents received or sent by DG Competition, within the limits of the available technology and in line with our confidentiality/security requirements, are stored in the central repository of the Commission. The first implementation will be released by the end of 2018 for State aid enforcement.

According to the new corporate strategy for data, information and knowledge management adopted by the Commission in 2016, DG Competition has developed and implemented its approach tailored to its constraints in terms of sensitive information. The Deputy Director-General with special responsibility for mergers is a member of the Information Management Steering Board (IMSB) created to oversee the implementation of the corporate strategy. DG Competition will contribute to the pillar 1 (improving information retrieval and delivery) of the work programme 2018-2019 of the IMSB through CASE@EC while ensuring the compliance with the rules on access to documents.

DG Competition will also continue to develop knowledge management and information sharing/search tools like 'COMPWiki' to empower staff to share knowledge and best practices. The newly developed "Knowledge Base" will make various information sources – COMPWiki, Commission and Court decisions, Legal Service notes, and information from

the case management system – accessible to case handlers in a single user-friendly interface. Staff will also continue to employ collaborative tools such as COMP Collaborative Platform and e-Discovery for their daily activities. In addition, DG Competition will explore the possible contribution of Artificial Intelligence technologies to help staff review electronically stored documents originating from companies under scrutiny.

As regards information exchanges between DG Competition and the Member States, DG Competition continues to operate and improve the secure electronic information sharing systems developed under the ABCDE action of the ISA² programme, notably: (i) ECN2 to support exchanges on competition cases and policy within the European Competition Network (Commission and National Competition Authorities) and (ii) a suite of various State Aid applications used by Member State administrations. Moreover, DG Competition is developing new common IT solutions that can be reused in EU countries to automate and support (i) the process of requesting information from businesses for investigatory purposes, (ii) immunity and leniency programmes in cartel investigations, and (iii) confidentiality negotiations concerning access to case files of investigated companies.

DG Competition has opted for the “Commission file reader” setting to be activated in the HAN September 2017 release. This setting would be valid mainly for non-case related files, due to the requirements in terms of security for case files. Currently, the file is created through a job account which overwrites the defaults. It is planned to review the policy of opening files to the Commission in the framework of Case@EC.

Finally, DG Competition has deployed more electronic means within its management validation circuit (e-signataires based on e-mails, while awaiting implementation of such functionality in CASE@EC).

Objective: Information and knowledge in your DG is shared and reusable by other DGs. Important documents are registered, filed and retrievable.		
Main outputs in 2018:		
Output	Indicator	Target
<i>Instead of Ares, internally DG Competition uses its own registration/document system (EDMA). In EDMA 100% of documents are filed, including also those that are sent from EDMA to other DGs via Ares, since filing is mandatory in DG Competition.</i>	<i>Percentage of registered documents that are not filed¹³⁰ (ratio)</i>	<i>0% (Ares) 0% (EDMA)</i>

¹³⁰ Each registered document must be filed in at least one official file of the *Chef de file*, as required by the *e-Domec policy rules* (and by ICS 11 requirements). The indicator is to be measured via reporting tools available in Ares.

<i>Instead of HAN, inside DG Competition documents are exchanged and made visible in DG Competition's own registration/document system (EDMA), in which 99% of files are accessible to the whole DG. Security can be and is implemented in EDMA, also at the attachment level. The target here is not a quality measure, but reflects a policy decision taken in DG Competition on accessibility.</i>	<i>Percentage of HAN files readable/accessible by all units in the DG</i>	<i>99% (EDMA)</i>
<i>This number reflects only files in HAN containing documents exchanged with other DGs, which is and should remain an exception. In its own registration/document system (EDMA), DG Competition shares no files with other DGs. Competition regulations set out a strict professional secrecy obligation and limitations on use of data for any other purposes than competition cases. Therefore, by definition DG Competition files are restricted to DG Competition.</i>	<i>Percentage of HAN files shared with other DGs</i>	<i>0% (EDMA)</i>
<i>Proportion of units using either the Collaborative Platform or e-Discovery</i>	<i>Percentage of sectoral and policy units using collaborative tools to manage their activities</i>	<i>100%</i>
<i>Use of electronic validation to increase efficiency and facilitate follow-up.</i>	<i>Number of documents eligible to an electronic validation circuit.</i>	<i>80% of relevant documents are validated electronically¹³¹</i>

E. External communication activities

DG Competition has made no commitment for spending in significant external communication actions in 2018 but will rather continue to focus its external communication actions on mass media through close cooperation with the Spokesperson's Service.

Objective: Citizens perceive that the EU is working to improve their lives and engage with the EU. They feel that their concerns are taken into consideration in European decision making and they know about their rights in the EU.

Main outputs in 2018:

Output	Indicator	Target
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¹³¹ Some documents still require at the end of the validation process a signature on paper, such as *eGreff* forms and financial documents.

Implement demand-led initiative inviting stakeholders to request speakers from DG COMP to explain EU competition rules/policy at their events	Number of stakeholders inviting DG COMP speakers to their events	<i>Increasing trend</i>
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F. Example(s) of initiatives to improve economy and efficiency of financial and non-financial activities of the DG

In 2018, as an example of an initiative to improve economy and efficiency of its financial activities, DG Competition will continue its analysis of its financial circuits in order to assess the functioning of the internal control system. It will in particular consider differentiating the frequency and/or the intensity of the controls and analysing whether there is scope to further improve the efficiency of its financial operations without risking the legality and regularity of its transactions.

The State aid modernisation (SAM) adopted by the Commission in 2014 entailed an important shift of responsibility for State aid control to the Member States, with more possibilities for Member States to grant aid under the General Block Exemption Regulation (GBER). This shift of responsibility has already shown important efficiency gains: currently, more than 95% of new implemented aid measures fall under the new GBER (+26p.p. compared to pre-SAM) and therefore can be implemented by the Member States without delay, while also liberating resources at the level of the Commission services to focus on more significant State aid cases. In this context, a multilateral partnership has been created to foster closer working relationships with and between Member States and to ensure a uniform application of the rules. In 2018, the Commission services will continue to promote this dialogue with and among Member States on issues related to the implementation of the State aid rules, with a view to promoting higher efficiency and better State aid control systems at national and EU level. As part of this enhanced collaboration, the Commission services will also endeavour to meet requests for training sessions by Member States on particular State aid topics.

As part of State aid modernisation, the Commission has created a specific platform, the Transparency Award Module (TAM), to facilitate compliance by Member States with the transparency requirements of the new State aid rules. In 2018, the Commission services will endeavour to finalize on this topic the Commission's staff paper "Encoding information in the Transparency Award Module for State aid", which will be publicly available, and will continue to facilitate and encourage the interoperability between registry systems existing in certain Member States and the TAM.

ANNEXES TO THE MANAGEMENT PLAN

Annex 1. Tables

Antitrust and cartels

Relevant general objective: A New Boost for Jobs, Growth and Investment		
Specific objective 1: Effective enforcement of antitrust rules with a view to protecting consumer welfare		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Conduct of investigations and adoption of Commission decisions in the field of antitrust and cartels in accordance with EU competition law	Intervention rate ¹³²	2018 (no target ¹³³)
Specific objective 2: Effective and coherent application of EU competition law by the national competition authorities		
		Related to spending programme(s) -
Main outputs in 2018:		
All new initiatives and REFIT initiatives from the Commission Work Programme		
Output	Indicator	Target
Proposal for a Directive on empowering the National Competition Authorities to be more effective enforcers (ECN+)	Adoption by the European Parliament and the Council	2018/2019
Other important outputs		
Output	Indicator	Target
Support to NCAs on individual cases with a view to ensure coherent and effective application of Articles 101 and 102 TFEU	Regular contacts	2018 (no target)
Half-yearly meetings of the heads of the NCAs with the Director	Regular meetings	2018 (no target)

¹³² Intervention rate consists of final antitrust and cartel decisions by the Commission.

¹³³ It is not meaningful to set numerical targets for competition policy enforcement. Most of the indicators used to measure the Commission's performance include trends as targets (stable, increase, decrease, no target). On-going investigation by the Commission is always without prejudice to the final decision to be taken by the Commission in the case. However, DG Competition, like most competition authorities, provides the number of decisions (or intervention rate) to indicate the level of activity and output for the preceding year, also for deterrence purposes. As regards antitrust and cartel enforcement, a target would also depend on factors beyond the Commission's control (decisions of the parties or other market players to disclose infringements through the leniency programme, whistleblowing, complaints or the availability of information to the Commission to detect infringements ex officio). In each and every case, the Commission must fully respect the rights of defence of the parties.

General of DG Competition, regular meetings of ECN Plenary, ECN working groups and sectorial subgroups.		
Specific objective 2: Effective and coherent application of EU competition law by national courts		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Support to national courts in individual cases pending before them	Information and opinions provided to national courts concerning the application of the EU antitrust rules	2018 (no target)
Guidelines for national courts on quantifying passing-on effects in antitrust damages actions	Adoption	No target

Specific objective 3: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking		Related to spending programme(s)
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target date
Guidance on the use of voluntary confidentiality rings	Publication	2018
Updated guidance on confidentiality claims in access to file	Publication	2018

Merger control

Specific objective 4: Facilitating smooth market restructuring by assessing non-harmful mergers in a streamlined manner		Related to spending programme(s): -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Assessment of non-harmful mergers in a streamlined manner and adoption of Commission decisions in the field of merger control in accordance with EU competition law	Number of Commission decisions adopted in a simplified procedure	2018 (no target ¹³⁴)
Lessening the burden for businesses	Ratio of merger decisions taken by the Commission	Stable level

¹³⁴ DG Competition's enforcement activities in the merger area are driven by merger activity on the markets and notifications by companies. As this is a factor beyond the control of the Commission, no output target can be set.

	in a simplified procedure	
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Specific objective 5: Prevention of anticompetitive effects of mergers with a view to protecting consumer welfare		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Conduct of investigations and adoption of Commission decisions in the field of merger control in accordance with EU competition law	Number of merger decisions adopted by the Commission ("non-simplified") per year	2018 (no target)
Level of enforcement activity	Number of merger decisions adopted by the Commission per year	2018 (no target)
Commission's merger decisions subject to commitments, withdrawals in phase II, or prohibitions	Intervention rate per year	2018 (no target)

Specific objective 6: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target date
Evaluation of procedural and jurisdictional aspects of EU Merger Control (2017/COMP/003)	Finalisation and publication of Evaluation Staff Working Document	2018

State aid control

Specific objective 7: Overall effectiveness of State Aid Modernisation, increasing share of better targeted growth-enhancing aid		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Level of enforcement activity	Number of opening decisions per year (2015)	2018 (no target ¹³⁵)

¹³⁵ DG Competition's enforcement activities in the State aid area are also driven by notifications by Member States. As this is a factor beyond the control of the Commission, no output target can be set.

Specific objective 8: Compliance of renewable support schemes and capacity remuneration mechanisms with State aid rules		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Conduct of investigations and adoption of decisions in the field of State aid in accordance with EU State aid rules	Adoption of Commission decisions	2018 (no target)
Specific objective 9: Stability and promotion of competition in the banking sector		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Conduct of investigations and adoption of decisions in the field of State aid in accordance with EU State aid rules	Adoption of Commission decisions	2018 (no target)
Specific objective 10: Prevention and recovery of incompatible aid		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Adoption of recovery decisions in the field of State aid in accordance with EU State aid rules	Adoption of Commission decisions	2018 (no target)
Specific objective 11: Monitoring of aid measures		Related to spending programme(s) -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Monitoring of decisions in the field of State aid in accordance with EU State aid rules	Number of aid measures subject to ex-post monitoring	At least 75

Specific objective 12: EU competition law instruments maintained aligned with market realities and contemporary economic and legal thinking		Related to spending programme(s) -
Main outputs in 2018:		
All new initiatives and REFIT initiatives from the Commission Work Programme		
Output	Indicator	Target
Best Practices Code ¹³⁶	Adoption of a Commission notice	2018

Promoting competition culture and international cooperation in the area of competition policy: maintaining and strengthening the Commission's reputation world-wide

Specific objective 13 Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level		Related to spending programme(s): -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Review of competition aspects of initiatives adopted and implemented at EU level ¹³⁷	Number of substantial replies to Commission inter-service consultations	2018 (no target)
European Semester country specific recommendations ¹³⁸	Number of country specific recommendations promoted or co-monitored by DG Competition	2018 (no target)
ECN Communication and Advocacy Working Group	Annual meeting	2018

Specific objective 14: Explaining competition policy and its benefits		Related to spending programme(s): -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Actions to explain EU competition rules to stakeholders	Number of people reached with communication actions directly supporting EU competition policy ¹³⁹	Throughout 2018

¹³⁶ It is envisaged that the revised Best Practices Code will repeal and replace the Simplified Procedure Notice both of which pre-date State Aid Modernisation.

¹³⁷ Number of substantial replies to Commission inter-service consultations: replies in which DG Competition either provides a positive reply under the conditions that its reservations are taken into account or a negative reply (DG Competition calculation).

¹³⁸ DG Competition calculation.

¹³⁹ Collated monitoring data collected by DGs from their actions, from monitoring and evaluation contractors; from Opinion polls etc. (DG Competition calculation).

DG Competition's publications	Number of subscribers/readers of DG Competition's publications ¹⁴⁰	Increasing trend
Conduct Eurobarometer Flash Citizens' Survey on Competition Policy	Percentage of positive replies agreeing that effective competition has a positive impact on consumers	2018

Specific objective 15: Promoting international cooperation and convergence in the area of competition policy and greater transparency and basic disciplines on subsidies control internationally		Related to spending programme(s): -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Level of convergence with third countries' competition authorities and inclusion of WTO and provisions on subsidies	Number of competition cooperation agreements and free trade agreements containing competition and subsidies clauses	37 agreements (2019)
Contribution of the Commission to increased international convergence of competition policy on multilateral for a	Number of contributions ¹⁴¹ to OECD, ICN and UNCTAD	15-20 (2018-2020)
Contribution of the Commission to increased international convergence of competition policy bilaterally	Number of technical assistance workshops organised with third countries	(2018-2022) China (12) Brazil (1) Japan, Korea, India, ASEAN (min. 2)

Specific objective 16 Ensuring the highest standards in the enforcement of competition policy		Related to spending programme(s): -
Main outputs in 2018:		
Other important outputs		
Output	Indicator	Target
Actions to explain EU competition rules to stakeholders	Number of people reached with communication actions directly supporting EU competition policy ¹⁴²	Throughout 2018
Conduct Eurobarometer Qualitative Study DG Competition Stakeholder	Indicators included in DG Competition Strategic Plan	2018

¹⁴⁰ Baseline 2015 – DG Competition's publications sent to 6 452 subscribers/readers and the digital publications to 34 880.

¹⁴¹ E.g. Studies/papers presented, written contributions, participation in oral discussions.

¹⁴² Collated monitoring data collected by DGs from their actions, from monitoring and evaluation contractors; from Opinion polls etc. (DG Competition calculation).

Survey	2016-2020: 1. Legal soundness of Commission decisions in competition cases 2. Quality of economic analysis 3. Market knowledge 4. Impact on the markets 5. Timeliness of decisions 6. Informing in a timely manner	
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