New measures to fight against illegal competition practices in the internal market

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The EU's committee of permanent representatives (Coreper) today endorsed an agreement between the Council, represented by the Bulgarian presidency, and the European Parliament on new measures to bring the **enforcement of competition rules in line with the digital age** and to tackle **illegal competition practices** in the EU.

The new rules will strengthen cooperation between national competition authorities and the European Commission, and will be an effective way of ensuring that free and open competition is not distorted in the internal market.

> Effective enforcement of competition rules is necessary to protect consumers from illegal business practices that keep the prices of goods and services artificially high. At the same time, the improved enforcement will ensure that companies compete fairly in Europe, enabling them to generate wealth and create jobs.
>
> *Emil Karanikolov, Minister for the economy of Bulgaria*

A truly common competition enforcement area in Europe provides a more even **level playing field for businesses** operating in the internal market and reduces unequal conditions for consumers.

Distortion in competition undermines **consumer confidence in the internal market**, including in the digital environment.

The new directive provides better tools for the public enforcement of competition rules.

Better enforcement of competition rules

EU competition rules are enforced by the national competition authorities (NCAs) of the member states in parallel to the Commission. The NCAs and the Commission form together a network of competition authorities, called the

European Competition Network, which ensures that competition rules are applied.

Currently, differences in the application of these rules make that businesses engaged in anti-competitive practices can face different outcomes of proceedings depending on the country in which they are active. For example, businesses can in some cases avoid fines simply by restructuring.

Under the new rules, NCAs will be better equipped to detect agreements, decisions or concerted practices prohibited by competition law and prevent any abuse of dominant position.

The new measures provide the NCAs with common instruments and effective enforcement powers to ensure that they will have:

- independence when enforcing EU antitrust rules, without interferences that would put at risk their impartiality
- the powers and resources needed to collect relevant information on businesses subject to investigation, while respecting their rights to defence
- adequate tools for imposing sanctions for infringements
- coordinated leniency programmes to encourage companies to reveal secret cartels by applying common criteria to grant immunity or reduction of fines.

Next steps

The Council and the European Parliament are expected to adopt the directive after the summer break, after which it will be published in the EU's Official Journal.

Following the entry into force of the directive, member states will have two years to incorporate the new provisions into their domestic law.

Background

EU competition law is rooted in articles 101 and 102 of the EU treaty :

- Article 101 prohibits agreements between market operators which restrict competition, such as the creation of a cartel involving price-fixing and/or market sharing.
- Article 102 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.

The Commission presented the proposal to enable member states' competition authorities to be more effective enforcers of EU antitrust rules ("ECN Plus") on 23 March 2017.

The European Parliament approved its position in the plenary session of 13 March 2018.

The Council and the Parliament held three rounds of negotiations leading to a political agreement on 30 May 2018.

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