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Special Commission report on competition policy

At its June 1971 session, the European Parliament, basing itself on a resolution concerning the rules of competition and the position of European businesses in the Common Market and the world economy (Strasbourg, 7 June 1971), asked the Commission to prepare a special annual report on competition policy developments.

The first of these reports has just been drawn up and forwarded to the Parliament. It is a comprehensive review of 10 years of Community activity in the field of competition policy and of the measures that, over the years, have laid the basis for Community practice and case law regarding state interventions and business activities that hamper competition and must, therefore, be eliminated.

Policy towards firms

The report is divided into four parts:

1. Competition policy affecting firms;
2. Competition policy affecting state interventions in favour of firms;
3. Growth of concentration in the Community;
4. Matters of interest to consumers.

The broad lines of the Community's competition policy are based on Commission decisions, judgments of the Court of Justice and also memoranda and regulations resulting from the application of the rules of competition concerning firms. These broad lines deserve a special mention:

1. Restrictions on competition and behaviour that prejudices the uniformity of the Common Market are priority matters for legal proceedings. This is the case as regards the splitting of the market into sales areas, sharing of clients and collective agreements on exclusive rights. There is also a ban on agreements that indirectly restrict demand to particular producers.

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Exclusive distribution agreements may not prevent traders and users from acquiring products in any Member States on normal terms;

2. Firms found guilty of illegally restricting competition and, therefore, of seriously prejudicing the interests of consumers must expect to be fined heavily;
3. The Commission is determined to oppose the abuse of dominant positions in the Common Market. Subject to any different interpretation of the provision by the Court of Justice, it also applies Article 86 of the EEC Treaty to concentrations by firms holding a dominant position to the prejudice of consumers;
4. The Commission is resolved to strengthen the competitive position of firms by exempting from the prohibition of understandings by virtue of regulations or individual decisions certain forms of cooperation deemed to have a beneficial effect. This is notably the case with cooperation between small and medium-sized enterprises for which such cooperation is the only means they have of being able to compete with large firms;
5. The Commission does not apply the ban referred to in Article 85 to restrictions of competition which, according to the criteria it has laid down, do not have any appreciable effects on the Common Market.

Policy towards state interventions

The competition policy does, however, not only entail observance of certain rules of competition by firms, but it must also ensure Community interests in the field of state aids and national trading monopolies.

The Commission's views on national aids are essentially fashioned by three sets of considerations:

1. National aids, conceived unilaterally, must be dovetailed into the Community context of the problems they are intended to solve. If not, they will only result in outbidding and, therefore, a waste of resources, mutual cancelling out of national policies, and even the simple transfer of difficulties from one Member State to another or the emergence of new difficulties at Community level. In this respect, it is essential, in particular, that the amount of aid should be adapted to the gravity of the problems to be solved. When evaluating the latter, account must be taken of both national and Community-wide aspects.

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2. The aids must also make an efficient contribution to improving sectoral and regional structures within the Community - which is their justification - while distorting competition as little as possible. Aids, whether of a regional or sectoral nature, should result in the firms concerned being capable eventually of facing market competition on their own feet. This means that they should be granted on a sufficiently temporary and even degressive basis so as to provide strong incentives to carry out the necessary adjustments. This also means that, as a general rule, aids for conservation or to current operations are excluded. The aids must not be so extensive as to remove most of the risks involved in business operations. They must be granted to firms and activities whose development or restructuration, in view of the general trend in the sector concerned, augur well for their future ability to become competitive. The aids must also be as transparent as possible to enable not only Community authorities to evaluate their extent and the public and local authorities to calculate exactly the amount of expenditure incurred, but also the firms concerned to obtain a good insight into their real competitive position.

3. Finally, when it looks into national initiatives, the Commission never loses sight of the social and human needs that, over and above strict economic reasons, may justify them. This may lead the Commission to allow aids whose only effect is to ease the brutal effects of changes that are, nonetheless, necessary. In such cases, however, these aids must be part and parcel of a general action programme in which provision is made for other measures capable of remedying the underlying causes of the social problems arising.

As for the adjustment of national trading monopolies, the Commission considers that the best thing to do would be to abolish the exclusive rights enjoyed by these and thus remove any source of discrimination. As this has not yet been achieved, the Member States propose to abolish them soon, except in one or two special cases. As for national commercial monopolies which, for the moment, exist merely because they are in line with the common policies at present taking form, the Commission has won acceptance for the removal of the most harmful forms of discrimination.

Growth of concentration

In view of the lack of coherent, systematic information which would enable comparative analyses to be made at the European level of the present situation of and developments in concentrations, as well as of their causes and effects, the Commission drew up a programme of study on this question in 1971-72. The main points of this

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programme are contained in the special report, along with general trends in concentrations between firms in member countries, on the one hand, and those in the Community and in non-member countries, on the other, during the period 1966-70.

Matters of interest to consumers

The competition policy pursued by the Commission is one of the ways of increasing the efficiency of the economic system, promoting growth and satisfying consumer needs under the best possible conditions. It is not only a matter of increasing the quantity of goods and making them more freely available to consumers, but also of improving the quality. By encouraging innovation, the competition policy contributes to this improvement in quality.

Competition also protects the interest of consumers by influencing action in the field of price harmonization within the Common Market. Price differences still exist in the Community but, in so far as they are due to infringements of the rules of competition, and especially to market-sharing agreements, the Community is contributing to their correction through its competition policy.

The Commission, furthermore, is striving to give consumers the information and protection necessary for them to benefit fully from the Common Market. This is intended to enable them to be more aware of their economic role and to make better informed choices on the market, and also to protect their rights and health.

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