BEUC The European Consumer Organisation

The Consumer Voice in Europe

Position paper

Bringing antitrust enforcement to the next level: A greater focus on consumers in competition policy and procedures

December 2025

Why it matters to consumers

Competition law aims to protect consumers by ensuring fair market conditions, promoting choices and access, and stimulating lower prices and higher quality. The framework for the enforcement of those rules was adopted more than 20 years ago and should be updated to address new market structures and businesses practices, especially in fast-evolving and dynamic digital sectors.

The announced review of EU Regulation 1/2003 is a timely opportunity to enhance the effectiveness and coherence of competition enforcement to address the complexities of today's digital markets and to ensure that consumers' wellbeing and interests remains at the centre of competition law and policies.

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The European Consumer Organisation (BEUC) is the largest organisation promoting the general interests of Europe's consumers. Founded in 1962, it proudly represents more than 40 independent national consumer organisations from over 30 European countries. Together with our members, we inform EU policies to improve people's lives in a sustainable and fair economy and society.

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BEUC RECOMMENDATIONS

1

Streamlining procedures

To streamline procedures, we recommend reviewing Art. 8 of EU Regulation 1/2003 to enhance the use of interim measures.

2

Improving evidence practices

The Commission should diversify evidence and search for complementary information when reviewing business practices, notably through behavioural economics and other financial evidence. In addition, the EU should introduce market investigation tools at the EU and national levels to deal with market failures that cannot be tackled effectively under Art. 101 and 102 TFEU.

3

Ensuring effective remedies

We recommend revisions to (1) clarify the type of actionable remedies, (2) explicitly refer to the concept of 'restorative remedies' and (3) add a non-exhaustive list of examples for each remedy category that could guide the Commission's practice in the future. Also, the Commission should ensure the systematic involvement and consultation of third parties in remedy design.

4

Facilitating compensation in case of harm

We recommend introducing Art.101 and 102 TFEU in the Annex of the Representative Actions Directive (EU Directive 2020/1828) or amending the EU Damages Directive (EU Directive 2014/104) to introduce collective redress. We recommend amending Regulation 1/2003 (and the relevant provision of the ECN+ Directive) to facilitate restitution in case of harm through commitments, settlements or at authorities' requests. Lastly, the European Commission should encourage the development of fines allocation at national level where a percentage of fines should be addressed to consumer-related projects (such as for projects promoting access to justice, consumer education and awareness).

5

Enhancing cooperation

To enhance cooperation, we recommend making revisions to foster out-of-silo collaboration between authorities beyond the competition area. Lastly, the Commission should strengthen cooperation with stakeholders, particularly consumer organisations. This could include channels to alert authorities about possible anticompetitive practices harming consumer interests, exchanging on priorities, and providing feedback and data for ongoing cases.

Introduction

Building blocks for effective competition law enforcement

Competition law aims to protect consumers by ensuring fair market conditions, promoting choices and access, and stimulating lower prices and higher quality. The enforcement of competition law was overhauled by EU Regulation 1/2003 over 20 years ago. Among others, it gave the European Commission a set of powers to apply competition rules and established a new form of cooperation with national competition authorities in the framework of the European Competition Network (ECN). In 2019, the EU adopted EU Directive 2019/1 (the ECN+ Directive to strengthen the role, independence and tools of national authorities when applying competition rules.

EU Regulation 1/2003 was designed to deal with traditional market structures. However, today's market is characterised by rapid technological developments, such as the rise of digital platforms, data economy, and artificial intelligence. In parallel, Regulation 1/2003 has been seen as 'inconsistent' or 'lagging behind' more recent pieces of legislations, such as notably the ECN+ Directive.[1] Aware of these shortcomings, the European Commission has taken steps to assess whether the current enforcement framework is still fit for purpose and announced a revision of antitrust procedural rules as part of its work program for 2026.

Discussions on what constitutes effective and efficient enforcement are ongoing in various sectors.[2] This reflects a more general tendency to revisit the way rules are applied in a context of limited resources and capacities and increasing complexities, notably in the digital sector.

At BEUC, we believe that effective enforcement should aim to promote compliance, deterrence and, where needed, allow restitution and compensation for consumers harmed by illegal practices. In this context, **enforcement should build on several key pillars**:

1. **Sound architecture and sufficient resources for authorities:** It is necessary to strengthen the cooperation between the EU Commission and national competition authorities. This should contribute to minimizing the risk of parallel proceedings, promote consistency in the application of the rules, and ensure efficiency in the context of tight resources and budget constraints. The ECN-Network is also a chain which is as strong as its weakest link. As in all networks, the strength of the network is dependent on its component parts. As such, EU and national regulators should act independently and have sufficient resources to make use of their investigations and enforcement powers.

[1] SWD (2024) 217 final

[2] e.g., in the area of consumer law enforcement with the announced revision of the CPC Regulation (EU Regulation 2017/2394).

2. Efficient procedures: They are essential to promote transparency, accountability, and predictability for all parties involved in the proceedings. They should stimulate the resolution of cases in a timely manner.

3. Strong cooperation with authorities (including beyond the competition authorities) and with stakeholders: As the European Commission has pointed out, enforcement is first and foremost a cooperative endeavor between various actors.[3] First, there should be cooperation between authorities and stakeholders such as consumer groups, as they are well placed to monitor the effects of certain conduct on the markets concerned. Second, this cooperation should also take place between authorities from different sectors (data protection, consumer protection, etc.). Market practices should no longer be viewed and addressed in silos.

4. Ensuring redress in case of harm: Enforcement should be meaningful for consumers as their interests are directly or indirectly affected by anticompetitive practices. Public and private enforcement should work in tandem and support each other.

Staying on the course while upgrading enforcement

EU competition law pursues several objectives, which include the protection of consumer well-being[4], efficiency[5], effective competition structure[6], the protection of input providers[7], fairness[8] or plurality in a democratic society[9]. The goal is to ensure that consumers can benefit from the competitive process through enhanced quality, lower prices, greater access and choices, and innovation.

As the EU General Court has emphasised:

> *'[T]he ultimate purpose of the rules that seek to ensure that competition is not distorted in the internal market is to increase the well-being of consumer (...). Competition law and competition policy (...) have an undeniable impact on the specific economic interests of final customers who purchase goods or services.[10]"*

[3] Commission communication, *Enforcing EU law for a Europe that delivers*, COM(2022)518final, 13 October 2022

[4] Case C-377/20 *Servizio Elettrico Nazionale and Others* ECLI:EU:C:2022:379 para 46 'the well-being of both intermediary and final consumers must be regarded as the ultimate objective warranting the intervention of competition law'.

[5] Communication from the Commission - Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings' [2009] OJ C 45/7, paras 1, 5-7; Communication from the Commission – Notice - Guidelines on vertical restraints [2022] OJ C 248/1, para 10.

[6] (e.g.) Case C-377/20 *Servizio Elettrico Nazionale and Others* ECLI:EU:C:2022:379 para 44

[7] (e.g.) *Raw tobacco Italy* (Case COMP/C.38.281/B.2)

[8] (e.g.) Case 26/75 *General Motors Continental v Commission* [1975]

[9] The General Court explicitly recognised the importance of consumer choice 'to ensure plurality in a democratic society'. Case T-604/18 *Google and Alphabet v Commission (Google Android)* ECLI:EU:T:2022:541 para 1028.

[10] Joint Cases T-213/01 and T-214/01 *Österreichische Postsparkasse* and Bank für Arbeit und Wirtschaft v Commission [2006] ECR II-1601, para 115

Competition law relies on flexible standards to cope with many different situations and market failures. Therefore, there is no need to change or widen these standards to accommodate new political priorities, such as industrial policy or competitiveness since competition is what drives innovation and competitiveness. It is however essential to strengthen the enforcement of competition law and review the tools authorities have at their disposal for this purpose.

1. Streamlining procedures

1.1. The issue

Today's digital age is characterised by fast technological developments and changes in business strategies. Yet, the enforcement of competition law often remains a slow process that is not adapted to such fast changes in business practices. The European Commission's investigations under Articles 101 and 102 TFEU have taken on average 4.5 years [11], if not longer:

- In the *Rail Rolling Stock*[12] case, the Commission's investigation spanned six years from the start of the inspections to the Statement of Objections.
- In the *Google Shopping case*[13], the European Commission formally started the proceedings in November 2010 and adopted a decision nearly seven years later. In November 2021, the General Court largely upheld the Commission's decision. In total, it took nearly 11 years to confirm that Google's practices had violated Article 102 TFEU.[14]

Some procedural tools in Regulation 1/2003 can be used to achieve faster results, but they are often underused to date. This is notably the case with interim measures. The European Commission can order interim measures in cases of urgency due to the risk of serious and irreparable damage to competition. In practice, this threshold has been difficult to meet.

[12] Press release IP/22/3585 of 10 June 2022.
[13] Commission decision of 27 June 2017, Case AT. 39740 - *Google Search (Shopping)*.
[14] Case T-612/17 *Google and Alphabet v Commission (Google Shopping)* [2021].

1.2. Ways forward

The requirements for interim measures in Regulation 1/2003 are in practice demanding. While the ECN+ Directive has encouraged the harmonisation of competition authorities' power to issue interim measures, differences continue to exist at national level:

- 15 authorities have opted for the same legal test as the one applied by the European Commission for interim measures.
- 12 authorities have a less strict substantive test. For instance, in Poland or Portugal the harm should be merely "difficult to repair".
- Other authorities do not necessarily need to show "irreparable harm" and can also use interim measures to prevent "harm against the general economic interest" or against certain categories of stakeholders. In addition, some countries allow interim measures where there is merely a "likelihood of infringements" of competition law.

For example, the French competition authority can impose interim measures where an infringement may cause serious and immediate harm to the sector,[15] consumers, or undertakings.[16] The authority keeps the interim measures in effect until they issue their decision on the merits of the case. During that period, the targeted trader is also requested to send regular implementation reports to the Authority to ensure the effectiveness of the interim measures. Interim measures have turned out to be a tool used regularly by the French authority when enforcing competition rules:

> *"The Autorité is well equipped to meet the numerous and varied challenges of the digital age. We can take action effectively and efficiently, thanks to the flexibility of competition law and the toolbox of instruments at our disposal. In 2023, we ordered interim measures against Meta in the online ad verification sector in just six months" (French Competition Authority annual report 2023)*[17].

In Belgium, the competition authority can impose interim measures if the anticompetitive practice is susceptible to causing serious and imminent harm that cannot be easily remedied.[18] In practice, it is noteworthy that the French and Belgian Authorities tend to be

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[15] Art. L. 464-1 of the French Code de Commerce is the legal basis to impose interim measures *('si la pratique dénoncée porte une atteinte grave et immédiate à l'économie générale, à celle du secteur intéressé, à l'intérêt des consommateurs ou à l'entreprise plaignante'*).

[16] The French Competition Authority for instance used interim measures again Meta as it considered that the practices were likely to constitute an abuse of dominant position in online advertising services (www.autoritedelaconcurrence.fr/sites/default/files/2024-09/240903_ADLC_UK_RA2023_planche_BAT-15M.pdf)

[17] www.autoritedelaconcurrence.fr/sites/default/files/2024-09/240903_ADLC_UK_RA2023_planche_BAT-15M.pdf

[18] Article IV.64 of the Belgian Code de droit économique ('*Le Collège de la concurrence peut, selon les conditions prévues au présent article, prendre des mesures provisoires destinées à suspendre les pratiques restrictives de concurrence faisant l'objet de l'instruction, s'il est urgent d'éviter une situation susceptible de provoquer un préjudice grave, imminent et difficilement réparable aux entreprises dont les intérêts sont affectés par ces pratiques ou de nuire à l'intérêt économique général'*).

the ones using interim measures the most frequently.[19] As such, meeting the threshold and the requirements for interim measures have a clear impact on authorities' use of them. This was already highlighted by the European Commission in 2025 when they concluded that "it appears that more streamlined proceedings, possibly in combination with a less stringent substantive legal test for imposing interim measures leads to greater use of this enforcement tool".[20]

2. Improving evidence practices

2.1. The issue

In fast-growing and dynamic markets where business practices constantly evolve, authorities can suffer from information asymmetries and lack of expertise. This can make it difficult to differentiate genuine efficiencies and innovation that support consumer interest from anticompetitive behaviour and other harmful practices. Moreover, some business practices have proven difficult to investigate and tackle under existing competition law.

2.2. Ways forward

Diversifying evidence in competition cases

Competition authorities have increasingly been relying on various evidence-types when assessing business practices. Among others, behavioural economics and behavioural insights have played an important role.

Behavioural economics assumes human beings are "boundedly rational". This means that we do not always behave in the same way economic theories predict as our decision can be affected by several biases. In competition law, the behaviour of consumers matters a lot because it can affect companies' ability to retain existing customers and steer others away from rivals. Behavioural economics can therefore be relevant to analyse how product differentiation affects consumer behaviour or how traders may exploit consumer biases to retain or influence consumers.

[19]Between 1 May 2004 and 1 June 2024, a total of 95 decisions imposing interim measures were adopted by 16 national competition authorities (Austria, Belgium, Croatia, Cyprus, Czechia, France, Greece, Italy, Latvia, Luxembourg, Malta, Poland, Portugal, Slovakia, Spain and Sweden). Out of these 95 decisions, more than half were adopted by three national competition authorities: the French competition authority (20); the Belgian competition authority (18) and the Italian competition authority (14).

[20] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52024DC0394

In the Google Shopping and Google Android antitrust cases, Google made use of the well-documented '*saliency bias'* (*i.e.*, users' attention is focused on what is most salient or prominent for them) and '*status quo bias'* (people do not like changes and tend to stick to default options) to build and consolidate its abuse of dominant position.[21] The relevance and role of behavioural insights and behavioural economics has gained traction over the years in the eyes of policymakers and judges.[22]

Beyond behavioural insights, other types of information, such as financial evidence (*e.g* accounts, financial reporting, communications to shareholders and investors that are published in financial performance and targets) can help assess business practices by revealing a company's incentives and to test theories against actual financial data.

Developing market investigation tools at EU and national levels

European and national legislators should also consider the introduction of a new competition tool or market investigation tool to deal with market failures which cannot be tackled effectively under the current regulatory framework. Unlike existing competition law rules which targets anticompetitive behaviour, market investigation tools can identify market-wide factors that go beyond the conduct of a particular market player and that can harm effective competition (*e.g.*, specific structural features such as high concentration and barriers to entry, or issues with the demand-side, such as consumer switching). In addition, this could improve market functioning for the future rather than sanction past practices.

Already discussed in 2020,[23] the European Commission can take inspiration from other countries that have decided to introduce this in their national toolboxes:

- The UK has a widely recognised and used market investigation tool.[24] It has undertaken market investigations and imposed remedies in a wide range of consumer-facing markets, including retail banking, energy, funeral services, healthcare, local buses, and car insurance and is currently looking at veterinary services.

[21] See *e.g.,* A.Fletcher 'The EU Google decisions: extreme enforcement or the tip or the behavioural iceberg?' (2019, www.behavioural-science.ac.uk/documents/cpi-fletcher.pdf).
[22] see CJEU, case C-646/22, *Compass Banca,* 14 November 2024, ECLI:EU:C:2024:957).
[23] https://competition-policy.ec.europa.eu/public-consultations/2020-new-comp-tool_en
[24] UK Enterprise Act 2002, Part 4: https://www.legislation.gov.uk/ukpga/2002/40/part/4.

- Greece, Norway,[25] Iceland, Germany,[26] Italy[27] and Denmark[28] have market investigation tools, while others[29] are considering introducing market investigation tools for their competition authorities. In many countries, this seems to be the result of the cost-of-living crisis and inflationary practices.

One topic where a market investigation tool at the EU level could make a difference is territorial supply constraints. These practices fragment the single market, restrict consumer choice and access to products. They can also unjustifiably push prices up as products cannot be sourced from Member States where prices are lower due to artificial obstacles that have been put in place by producers to restrict so-called parallel trade.

3. Ensuring effective remedies

3.1. The issue

Remedies remain a pivotal tool for effective antitrust enforcement. Competition law intervention should not only address past infringements but also restore and preserve effective competition in the long term. This is even more true considering that fines risk losing their deterrent function regarding traders with big turnovers. Those may prefer paying a fine rather than accepting a remedy that aims to rebalance the harm suffered by market participants because of their anticompetitive conduct.

Yet, the European Commission found[30] that in fewer than half of the cases analysed, remedies were fully effective in achieving their goal. In addition, the effectiveness gap was especially significant for purely behavioural remedies (*e.g.*, price commitments, access obligations, etc.), since businesses did not fully implement them, making them ineffective.[31] Based on this analysis, one can conclude that antitrust remedies have had limited success in the last 20 years.[32]

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[25] As of 1st June 2025, Lov 5. mars 2004 nr. 12 om konkurranse mellom foretak og kontroll med foretakssammenslutningerj instituted a market investigation tool.

[26] Section 32f introduced via the new amendment law to the German Competition Act (the 11th GWB Amendment) on 7 November 2023 *(www.gesetze-im-nternet.de/englisch_gwb/englisch_gwb.html#p0256)*. Following a sector inquiry phase, the German competition authority can now implement any measure in cases of significant and persistent disturbance of competition on the markets, without first having to demonstrate a violation of the law. The significant and persistent disturbance of competition must be established on at least one nationwide market, several markets or across markets.

[27] Art. 1 of the Italian Assets Decree Law 104/2023 (converted with amendments by Italian Law 136/2023), see https://en.agcm.it/en/media/press-releases/2023/11/IC56

[28] A proposal to update the national Competition Act was adopted by the Danish parliament in May 2024. The changes are expected to enter into force in July 2024.

[29] Sweden, Czechia, the Netherlands, and Belgium.

[30] https://op.europa.eu/en/publication-detail/-/publication/a5132bd9-fb05-11ef-b7db-01aa75ed71a1

[31] European Commission, '*Ex Post Evaluation of the Implementation and Effectiveness of Antitrust Remedies*' (2022) COMP/2022/OP/0009.

[32] V. Turner, 'Behavioural remedies: The European Commission releases an external report assessing the implementation and impact of its antitrust remedies over the past 20 years', *Concurrences*, 20 February 2025

Moreover, remedies should aim to be effective for all stakeholders negatively affected by the anticompetitive behaviour. Yet stakeholders such as consumer organisations are not involved in the design of remedies.

3.2. Ways forward

Clarifying the type of actionable remedies

The effectiveness of remedies can be improved through several procedural adjustments. The revision of Regulation 1/2003 is an opportunity to clarify the remedy types that the Commission can use by providing a non-exhaustive list of possible remedies. The current framework remains vague and only states that the Commission can impose any behavioural or structural remedies which are proportionate to the infringement committed and necessary to bring the infringement effectively to an end.[33] This should be reworded and explicitly refer to the concept of "restorative remedies". In addition, the non-exhaustive list of possible remedies could include:

- **Behavioral remedies**, such as prohibiting certain types of agreements, refusals to supply or discriminatory practices; imposing conditions on acquisitions; setting pricing or information/transparency obligations; establishing requirements on interoperability, firewalls, and introducing consumer price-transparency or simple switching measures.
- **Structural remedies**, such as accounting or organizational separation of business units, divestment of minority, cross or common shareholdings and, as a last resort subject to strict safeguards, selling of part of the business; and
- **Restorative remedies**, which would aim to restore effective competition and could be coupled with other types of sanctions.

Third-party's participation in remedy design

Remedy design should systematically involve the consultation of third parties, including consumer representatives in consumer-facing markets. Third parties who intend to benefit from or be part of the remedy design will likely be better placed to assess the likely effectiveness and viability of remedies proposed by the infringing company. While third party consultation may take some time, the delay caused would be minimal compared to the delay of ineffective remedies that need to be corrected afterwards.

(www.concurrences.com/en/review/issues/no-7-2025/chroniques/general/behavioral-remedies-the-ex-post-evaluation-of-antitrust-remedies-in-the-eu-a).

[33] Article 7(1) Reg. 1/2003.

4. Ensuring access to redress in case of harm

4.1. The issue

Consumers can be harmed in many ways by anticompetitive practices. This can be quantifiable (*e.g.,* paying higher prices caused by cartels or abuses of dominant positions) or non-quantifiable (e.g. being prevented from switching products). Although the harm suffered by individual consumers can sometimes be low, the aggregated harm by all consumers can be significant. In this context, individual consumers have no incentive to seek compensation as they expect the costs of doing so (through litigation or other pathways) to be higher than the expected benefits.

4.2. Ways forward

Making collective redress actions available for breaches of competition law

Today, the use of collective redress actions seeking compensation for consumers harmed by anticompetitive practices is limited and the situation remains uneven across Europe. Some Member States have allowed collective redress action for competition law infringements. This is notably the case of Austria, Belgium, or France.

In France, collective redress action for competition infringements must be a follow-on action building on the final decision of the national or European regulator. This option is also available in other European countries like the United Kingdom. BEUC's member Which? started an action against telecom company Qualcomm, seeking compensation for consumers who suffered from an abuse of dominant position.[34] In 2009, Which? Also started a claim for damages before the UK Competition Appeal Tribunal (CAT). Following the settlement agreement, Which? secured compensation for consumers.[35]

Whereas collective redress is an important tool to deal with mass harm situations, pool resources and evidence, and enhance access to courts, several European countries still do not allow this.

This possibility should be introduced by either adding competition law (Art.101-102 TFUE in the RAD Annex) or introducing collective redress in the EU Damages Directive.

[34] www.which.co.uk/news/article/qualcomm-smartphone-collective-claim-ajFjL4t8XA93

[35] Specifically, for those who had purchased England and Manchester United replica football kits after the company participated in a retail price-fixing cartel Reference to Consumers' Association v JJB Sports PLC (Court/CAT: Competition Appeal Tribunal, 2007–2008).

Facilitating restitution in case of harm through commitments, settlements or at authorities' requests

Authorities should encourage traders to propose restitution (voluntary financial contribution to consumers or other civil society representing them) as part of their commitments and/or in settlements. This approach has been used in the past by both the European Commission[36] and competition authorities at national level[37]. This possibility should further be specified in Regulation 1/2003. The Commission and national authorities should also have the possibility to order the trader to compensate consumers for the harm they suffered. This option already exists in consumer law enforcement in some European countries (*e.g.*, in Poland)[38]. It was also put forward in 2016 by the European Commission for a revised CPC Regulation.[39]

Encouraging 'fine pots' at national level

A percentage of fines collected by competition authorities could be used for consumer-related projects (*e.g.,* projects promoting access to justice, consumer education or awareness-raising activities). This would be a way to ease the harm the anti-competitive behaviour caused to consumer interests. Additionally, it contributes to a form of "corrective justice" that strengthens the link between competition law enforcement and consumers. Such funds have been established and set up in several EU countries.[40]

5. Strengthening cooperation

5.1. The issue

EU Regulation 1/2003 has set down rules on the cooperation and exchanges of information between the European Commission and national competition authorities. In parallel, ECN+ Directive has strengthened the role of national consumer authorities.

[36] Directorate-General for Competition Miguel Ángel Pena Castellot 'Commission settles allegations of abuse and clears patent pools in the CD market' [2003] Number 3 Competition Policy Newsletter <https://op.europa.eu/en/publication-detail/-/publication/769abdd3-b1aa-11e9-9d01-01aa75ed71a1/language-de> accessed 2 April 2024.

[37] BEUC, *Evaluation of the framework for antitrust enforcement of Articles 101 and 102 TFEU, BEUC's response to the public consultation in relation to the evaluation of Regulation 1/2003*, 2022.

[38] For example, in December 2025, the Polish consumer Authority (UOKiK) recently imposed a fine to a trader and ordered refund to consumers who unduly had paid the illegal fees (https://uokik.gov.pl/en/discount-and-penalty-play-unduly-charges-customers-decision-of-the-president-of-uokik, December 2025).

[39] https://eur-lex.europa.eu/resource.html?uri=cellar:6518cdf5-2332-11e6-86d0-01aa75ed71a1.0002.02/DOC_1&format=PDF (the idea was left aside at later stage during the parliamentary discussion)https://eur-lex.europa.eu/resource.html?uri=cellar:6518cdf5-2332-11e6-86d0-01aa75ed71a1.0002.02/DOC_1&format=PDF (the idea was then left aside at later stage during the parliamentary discussions. It may come back in the context of the upcoming revision of the CPC Regulation).

[40] The idea of financing consumer projects with a contribution from competition fines has been implemented for example in Portugal (see Parliament Law No. 17/2022 of 17 August which transposed the ECN+ Directive [2022]: Art.35, para 8).

However, business practices have become increasingly crosscutting with a risk that authorities approach issues in silos. Currently, Regulation 1/2003 does not provide for a legal framework to facilitate cooperation with other authorities beyond the area of competition law. Regulation 1/2003 is lagging behind compared to national practices, where cooperation agreements between competition authorities and other sectoral authorities have been set up.[41]

5.2. Ways forward

Out-of-silos cooperation between authorities

Competition enforcement can benefit from more cooperation, evidence, and input from authorities acting in other sectors. This can be done by amending Art. 11 and 12 of Regulation 1/2003 to provide a clearer legal basis for such a cooperation and for the confidential sharing of information. Extending coordination and information exchange to instruments such as sector inquiries would strengthen competition law enforcement across the Single Market. [42]

This could be particularly useful when deliberating different theories of harm for which the expertise of different sectoral regulators could be of significant value as well as for the design of remedies, notably in mergers and commitment procedures in antitrust proceedings. Regulation 1/2003 should follow the path of other EU pieces of legislation that seek to promote cross-cutting cooperation between authorities. For instance, the Digital Market Act established a High-Level Expert Group with experts from several enforcement networks (EDBP, ERGA, CPC, BEREC, etc) to ensure coherence in the way rules are implemented towards gatekeepers.[43]

Cooperation with consumer organisations

Cooperation and exchanges between the EU Commission, national competition authorities and stakeholders such as consumer organisations should be encouraged. Creating communication channels between consumer organisations and national competition agencies would allow the former to take a more proactive role in the enforcement of competition rules. This includes alerting authorities about anticompetitive practices causing harm to consumer interests, exchanging on priorities and providing feedback and data to support ongoing cases.

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[41] E.g., in France, the French Competition Authority and the Data Protection Authority (CNIL) published in December 2023 a joint declaration "Data protection and competition: a common ambition" to strengthen their cooperation (www.cnil.fr/fr/protection-des-donnees-et-concurrence-la-cnil-et-lautorite-de-la-concurrence-signent-une-declaration. Similar cooperation agreements can be found in the Netherlands.

[42] www.acm.nl/en/about-acm/collaboration/national-cooperation

[43] The DMA High-Level Expert Group comprised representatives from the Body of the European Regulators for Electronic Communications (BEREC), the European Data Protection Supervisor (EDPS) and European Data Protection Board, the European Competition Network (ECN), the Consumer Protection Cooperation Network (CPC Network), and the European Regulatory Group of Audiovisual Media Regulators (ERGA). It intends to ensure that the rules applying to gatekeepers are implemented in a coherent and complementary way.