

## STRENGTHENING EU MERGER CONTROL: A CONSUMER-CENTRED CHECKLIST FOR COMPETITIVE MARKETS

Merger control is crucial to determining whether mergers and acquisitions could harm competition and consumers, notably by increasing prices or limiting consumers' choice. Consolidation in the food sector may raise the costs of everyday products, while a merger between two airlines could limit regional connectivity and leave travellers with fewer options. When a transaction raises anticompetitive concerns, authorities must protect markets and consumers by imposing remedies or, as a last resort in case of significant harm, prohibit the deal.

In May 2025, the EU Commission launched a review of its Horizontal (2004) and Non-Horizontal (2008) Merger Guidelines, key documents guiding the assessment of mergers. Since their adoption, Europe's economic and competitive landscape has changed significantly. Many consumer-facing industries have become more concentrated, digital markets have reshaped competitive dynamics, and new drivers of market power have emerged. An update is therefore necessary to reflect these changes and clarify the Commission's evolving practice.

This consumer checklist outlines BEUC's recommendations for the Commission, reaffirming that effective competition is the key driver for well-functioning markets that benefit all European consumers.

### 1

#### EU COMPETITIVENESS NEEDS MORE COMPETITORS, NOT MORE CONSOLIDATION

The argument that European businesses must consolidate to remain competitive globally is widespread, but not supported by evidence. The Commission's own analysis shows that rising concentration across EU markets negatively impacts not only prices – and therefore consumers' purchasing power – but also the EU's competitiveness and economic growth.<sup>1</sup>

In telecoms, for example, the arrival of new competitors in several EU countries has lowered prices, improved offerings and strengthened connectivity. Similarly, countries with more competitive telecoms markets (e.g. Spain and Portugal) have achieved higher fibre coverage than more consolidated ones (e.g. Belgium or Germany).<sup>2</sup>

Effective merger control is therefore fully compatible with scale, innovation and investment. In fact, weakening the current framework in the name of European Champions would harm both consumers and the Single market.

### 2

#### THE CONSUMERS' INTERESTS MUST REMAIN A GUIDING PRINCIPLE

EU merger control already allows a wide range of parameters to be considered beyond prices (such as sustainability, innovation, media pluralism, or privacy). While merger control analysis should remain primarily focused on price effects, these considerations play a valuable complementary role to assess consumers' interests. Targeted improvements and additional guidance on how these parameters should be included in practice would therefore be welcomed.

However, these factors should continue to be treated as non-price parameters of competition, and not become standalone criteria. Merger control must continue to focus on the protection and development of competitive markets to be able to deliver lower prices, better quality products and services, and more choice for consumers.

<sup>1</sup> Report on "Protecting competition in a changing world", European Commission, 2024.

<sup>2</sup> State of the Digital Decade 2025 Report, European Commission, 2025.

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### MEASURABLE EFFECTS OF MERGERS SHOULD BE PRIORITISED TO ENSURE EFFECTIVE COMPETITION

When reviewing mergers, competition authorities have to make forward-looking assessments about the effects of a transaction that has not yet taken place.

As such, uncertainty is inherent to merger control. However, this must not become a justification to excessively rely on the merging parties' assertions or to lower the bar for accepting "efficiency claims" (i.e. the potential medium to long-term economic benefits generated by a merger that companies use to justify their deals). Such claims are difficult to verify and have a poor track record: promised investments and alleged innovation gains often fail to materialise, with no means to remedy consumer harm if they do not.

Conversely, authorities should give more weight to measurable price effects than to long-term and uncertain efficiency projections. The burden of proof must therefore remain firmly on the merging parties. To ensure a high standard of evidence, the existing test (which requires claimed efficiencies to be verifiable, attributable to the merger, and passed on to consumers) should also be kept and rigorously applied. Behavioural and investment-based remedies should be treated with equal caution, since they similarly rely on forward-looking commitments that may be difficult to monitor and enforce over time.

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### COMPETITION AUTHORITIES SHOULD HAVE THE RIGHT TOOLS AND POWERS FOR REVIEWING MERGERS

Excessive market power can give companies disproportionate political influence over regulation and opinion. Merger control is the most efficient tool to prevent this outcome and protect our democracies. The revision of the guidelines should therefore align with broader efforts by national competition authorities to improve evidence standards and strengthen their own powers.

Authorities should notably have "call-in powers", allowing them to review transactions below the notification thresholds which can however have an important impact on competition and consumers. To mitigate information asymmetries between authorities and merging companies, BEUC also supports introducing rebuttable presumptions – which would shift the burden of proof onto merging parties to show that their transaction does not harm competition – under well-defined circumstances (e.g. transactions involving dominant market players, occurring in highly concentrated markets, or with significant horizontal overlaps).

Finally, competition authorities need the input of all relevant stakeholders (including consumer organisations) to conduct their work, as they can bring additional useful evidence.

