



BRUSSELS À JOUR

The Circus is in Town

Markus Röhrig, Laura Stoicescu, Philipp Heuser, Christoph Sielmann and Lino Völzke report on the latest developments from the European capital of competition law.

We take a break from our usual programming to bring you a special issue dedicated to the upcoming EU elections. From a cacophony of crises, scandals and debates, we picked out for you the core competition-related message from each one of the major political groups in the race. Have a read and let us know what you think in the “Comments” section of our LinkedIn post. #thedebateison.

EPP – Revival of the European Champion

Overall, EPP appears to have better things to do than consider the future of EU competition policy. One might wonder why, in its 25-page 2024 manifesto, EPP only allocates less than half a page to competition policy, and even that comes with formatting errors. Could it be because in this half-pager EPP is having a 180-degree change of heart regarding European champions? We believe so. The Commission led by EPP’s Jean-Claude Juncker quite literally derailed the Alstom-Siemens merger in early 2019 strongly arguing against the creation of European champions. France and Germany did not take it lightly and published the same year an industrial policy manifesto which tried to bring the Commission back to the reality of looming competition from Chinese rail giant CRRC. To add insult to injury, the 2024 EPP manifesto states that the creation of European champions via competition policy is necessary if the EU wants to challenge economic competitors such as...China.

The same paragraph mentions enthusiastically the creation of the special SME envoy and EPP’s support for the said envoy. Not only does the job not bear any connection to competition policy, but it was the source of a publicly played out internal power struggle in the Commission in April. More precisely, EPP MEP Markus Pieper had been appointed by Ursula von der Leyen to fill the role allegedly in breach of the official selection procedure. In a Martin Selmayr-copycat scenario, word of it was leaked to the press, in parallel to a pressure campaign led by liberal commissioner Thierry Breton and supported by the European Parliament. The result – Markus Pieper resigned hours into his job, blaming Breton of leading a smear campaign against him.



S&D – The Vulnerable Consumer Standard

The PES Socialists & Democrats (S&D) group [election manifesto](#)¹ includes one explicit reference to competition policy, which sounds quite interesting. They propose a “new approach to competition policy that levels the global playing field for European industries”. Unfortunately, the manifesto does not further specify what that approach would look like. However, in another [press release](#)², they refer to the “new approach” suggested in Enrico Letta’s [report on the single market](#)³, and express their support. That report, *inter alia*, noted the economic and strategic need for EU companies to scale up, in particular in the financial, energy, and electronic communications sectors, and suggested identifying as the relevant market the European market rather than national markets, and taking into account “structural shifts in the global economy” when defining markets. This could, in particular, significantly influence how the Commission decides on future merger cases. In any case, it sounds like the EPP and S&D groups agree on the need for building more European champions.

Interestingly, the S&D group has also suggested that they support prioritizing competition law enforcement in certain industries over others. While this did not make it into the manifesto, a previous S&D [press release](#)⁴ indicates that the S&D group supports a competition policy approach that is more targeted to “vulnerable consumers” rather than “any consumer”. According to S&D MEP René Repasi, under the current regime, the Commission looks at price increases in yachts or luxury watches with the same priority as it looks at increases in gas or food prices, which Repasi calls “not acceptable”. Repasi suggests introducing a “vulnerable consumer standard” under which the Commission could better address the cost-of-living crisis.

Liberals – Healthy Competition and Ordoliberalism

The Alliance of Liberals and Democrats for Europe (ALDE) mentions in its ALDE Party Manifesto of 26 pages for this European election exactly three times the word “competition”. Maybe this is still based on Adam Smith’s 18th century metaphor of the “invisible hand”... one should maybe just leave the economy with no strings attached, and everything will be fine. So, in this context, it makes sense that ALDE wants the EU to take the lead on the World Trade Organization (“WTO”) reforms not only to restore the appellate body as soon as possible but also to “achieve new commitments on competition”.

Having understood and engrained competition as a liberal *per se*, there seems also the distinction possible between “healthy competition” and the rest (of the competition), so keeping “our markets open and resilient against hostile activities and malign behavior” should also lead to the encouragement of such “healthy competition”. That this “healthy competition” is “the only way forward” might remember some of us of James Carville’s slogan “the economy, stupid” while Bill Clinton was running up for the US presidency in 1992. Life can be easy.

¹ https://pes.eu/wp-content/uploads/2024/03/2024_PES_Manifesto_EN.pdf

² <https://pes.eu/economy/the-letta-report-is-a-wake-up-call-to-complete-the-single-market-for-our-green-and-social-future/>

³ <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>

⁴ <https://www.socialistsanddemocrats.eu/newsroom/eu-must-use-all-its-competition-law-tools-curb-greedflation-urge-sds>



Nonetheless, the ALDE Party manifesto does not miss to mention that “the EU had made a major push in regulation digital business in favor of competition, privacy, and equal opportunities in our Single Market”. Maybe this can be seen as some kind of reborn ordoliberal theory: the state must create a proper legal environment for the economy and maintain a healthy level of competition through measures that adhere to market principles. So, what to expect from ALDE after the election? Certainly, a “healthy competition”.

Greens – The Return of the New Competition Tool?

Similar as some of the other parties, the European Greens’ manifesto does not consider EU competition policy at all. Taking a closer look at the German Green party, there are some aspects worth mentioning.

Die Grünen also want to resurrect EU’s “New Competition Tool” (“NCT”), that has been abandoned in June 2023. Before abandoning it, the Commission conducted consultations on what approach it should take on its new powers to probe and intervene in markets, which are characterized by rapid developments and competition deficiencies not necessarily caused by the volition of the market actors, but by the market structure itself. Some of the abandoned ideas are recognizable in the market investigation powers in the DMA. The NCT could have a potential broader, more horizontal scope with sectoral remedies, if the Greens were to call the shots.

Regarding State aid, the German Greens advocate for more exemptions for state aid granted for the setup of ecological production sites to further fuel the green transition. Some of the Temporary Crisis and Transition Framework’s approaches shall be integrated permanently into the GBER dispositions on environmental aids. As the need for a swift transition from an economy based on the emission of green-house gases is ever more present, maybe changes in competition law can also help in the steer.

It seems that the German Bündnis90/Die Grünen have the idea that competition law shall be a mean to realize more consumer welfare as to their political agenda. They claim that the residential rental market shall be included more into EU competition law (presumably, this is based on the buzzword “exploitation”, uttered by the majority of residents in cities when having a look on housing rental prices).

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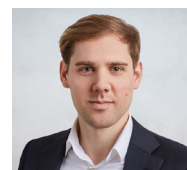
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