



Commission report finds active competition enforcement continues to contribute to affordable and innovative medicines

Brussels, 26 January 2024

The European Commission has published a report providing an overview of the enforcement of EU antitrust and merger rules by the Commission and the national competition authorities ('NCAs') in the pharmaceutical sector between 2018 and 2022. Today's report shows that active enforcement of antitrust and merger rules continues to play an important role in delivering European patients' access to a wider choice of affordable and innovative medicines. In particular, it helped to achieve this goal during the challenging period of the coronavirus pandemic.

The Commission drafted the report covering medicines and certain medical products in cooperation with the NCAs of the 27 EU Member States, with which the Commission works in the [European Competition Network](#) ('ECN'). It follows a previous [report](#) covering the years 2009-2017 that was published in [January 2019](#).

The authorities will continue their enforcement efforts in the pharmaceutical sector as a matter of high priority in view of its economic relevance and its impact on peoples' well-being and lives.

Main findings of the report

Antitrust enforcement has contributed to fairer prices for medicines

With respect to **anti-competitive agreements and cases of abuse of a dominant position**, since 2018 the Commission and national competition authorities have:

- adopted **26 decisions** against anti-competitive practices in the supply of medicines, by imposing fines **totalling over €780 million** or making legally binding commitments offered by companies to remedy their anti-competitive behaviour; and
- investigated more than 70 other cases, 40 of which were ultimately closed and 30 of which are currently ongoing.

The **anti-competitive practices** concerned harmed **innovation and prices**, and ranged from: (i) the **misuse of the patent system** and **abusive litigation to prolong patent exclusivity**; (ii) the **disparagement of a competitor's products** to protect the dominant company's sales; (iii) **pay for-delay agreements**, where originator and generic companies colluded to keep generics off the market and share the originator's profits from doing so; and (iv) **excessive prices** charged for off-patent medicines.

Merger control has kept medicines' prices lower and markets competitive

Higher prices, concentrated markets and reduced choice or research and development may also result from **mergers between pharmaceutical companies**. The Commission reviewed more than **30 mergers** in the pharmaceutical sector and found concerns in five cases, where mergers could have led to price increases, patients and national health systems being deprived of some medicines, or a reduction in innovative efforts to develop new medicines. The Commission cleared four of these mergers only after the companies offered remedies to address the Commission's concerns and preserve the existing degree of competition. One case was abandoned after the Commission raised initial competition concerns.

Proactive monitoring helped guiding market operators

The competition authorities undertook **60 market monitoring and advocacy activities** that (i) offered **insight into the functioning of the markets**; (ii) informed a more **pro-competitive design of regulation** and legislation; and (iii) provided **guidance to market participants**, and even **triggered antitrust investigations** in certain individual cases.

The report also describes the guidance and coordination initiatives undertaken by the ECN to respond to the coronavirus pandemic, in particular the joint [Statement](#) on the application of the EU antitrust rules in the context of the coronavirus outbreak, which was issued by the ECN and the EFTA

Surveillance Authority. Such statement was aimed at providing a common ECN response as to how EU competition law was to be applied during the crisis.

Background

Today's report and executive summary are available in all official EU languages on the [Commission's competition website](#).

The report published today follows a previous [report](#) on competition enforcement in the pharmaceutical sector, covering the years 2009-2017 and published in [January 2019](#).

For competition policy and its enforcement activities in the pharmaceutical sector to be effective, they need to take account of the particularities and the resulting competitive dynamics of this sector, such as the specific structure of demand and supply involving a variety of stakeholders and the comprehensive legislative and regulatory framework in the different Member States. On this last point, the European Commission adopted on [26 April 2023](#) a [pharmaceutical package](#) proposing to the Council and the European Parliament to revise the EU's pharmaceutical legislation, based on preparatory work in the period since the adoption of the Pharmaceutical Strategy for Europe in 2020. This proposed revision of the pharmaceutical legislation aims at making medicines more accessible (in all Member States), available (to address risks of shortages), and affordable (to national health systems and patients), while supporting competitiveness of the EU pharmaceutical industry, combatting antimicrobial resistance, and ensuring higher environmental standards of medicines.

The Commission and NCAs co-operate closely within the ECN. [NCAs are fully empowered to apply Articles 101 and 102 of the Treaty of the Functioning of the European Union \(TFEU\)](#). [If a certain conduct does not](#) affect cross-border trade, the national competition authorities apply their national antitrust laws, which are often a reflection of EU law. The Commission is entrusted with reviewing mergers with an [EU dimension, i.e. where the merging companies' turnovers meet the thresholds laid out in the EU Merger Regulation](#). [If these thresholds are not met, a merger can be caught by national jurisdictions](#) and reviewed by one or several NCAs.

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Quotes:

"Today's report highlights the continuous enforcement efforts by competition authorities across Europe in making sure pharmaceutical markets work properly. Their well-functioning is essential to provide more affordable medicines and more choice to patients and healthcare systems, especially in the context of healthcare crises. We will continue our work in this crucial sector as a matter of priority, making sure we keep up with the ever-changing ways companies seek to unduly protect themselves from competition."

Margrethe Vestager, Executive Vice-President in charge of competition policy - 26/01/2024

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