

The Future of EU Competition Policy: Balancing Competitiveness and Sustainability

Teresa RIBERA | Executive Vice President and Commissioner, Clean, Just and Competitive Transition, European Commission, Brussels

Jean TIROLE | Professor of Economics, Toulouse School of Economics, Nobel Prize recipient

Pierre RÉGIBEAU | Senior Expert, Analysis Group, Paris - Former Chief Economist, DG COMP

Moderators:

Antoine CHAPSAL | Head of Europe, Analysis Group, Paris/Brussels/London

Séverine SCHRAMECK | Partner, Cleary Gottlieb, Paris

Antoine CHAPSAL

Good evening, everyone, and welcome. It's a great pleasure to be here tonight. For those who don't know me, I'm Antoine Chapsal, partner and Head of Europe for Analysis Group. Before we begin, I would like to thank our co-hosts, Cleary and Concurrences, for making this event possible. A special thanks to two Cleary partners who initiated this event with me, Frédéric de Bure, who is somewhere here, and Séverine Schrameck, with whom I am very pleased to moderate this panel.

Tonight, we are privileged to have a truly exceptional lineup of speakers. First, Ms. Executive Vice President Teresa Ribera. So you are the newly appointed European Commissioner for clean, fair, and competitive transition. Beyond your new role at the European Commission, you have always been a key figure in climate and energy policy, leading Spain's green transition and promoting sustainability on a global scale. Ms. EVP Ribera, I believe that this is your very first panel since taking office, so a special thank and welcome, thank you again for being here with us this evening.

Then, Jean Tirole, you are one of the most distinguished economists of our time. I will try to summarise your work and your career later to introduce your keynote speech. But for now, let's just say you were awarded the Nobel Prize in economics in 2014. You are the chairman of the board of the Jean-Jacques Laffont Foundation at the Toulouse School of Economics, and you have been a key actor and commentator of all major economic policy debates of the last few decades. Thank you for being here tonight and for your continued support over the years.

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Pierre Regibeau, right there. You are a former Chief Economist at the European Commission, DG COMP. After a two-year garden leave, you are back, and we are thrilled to announce that you will be joining the Analysis Group as an antitrust intellectual property expert in a few weeks so, welcome, Pierre. Now, I hand over to Séverine, who will set the stage for our discussion. Thank you so much.

Séverine SCHRAMECK

Thank you, Antoine. It's my pleasure to co-moderate this panel with you today, and I would like to start it by reiterating how glad we are to be there here tonight and how grateful, mostly, we are to all our outstanding panelists for having accepted to share their views with us today, in particular, Ms. EVP Ribera. This really promises to be a truly exceptional discussion. We live in very uncertain times, times where a crisis follows another. Every day, we hear about the multiple threats that may impact our lives in many different manners, be they geopolitical, economical, social, or sanitary, to take just a few examples. However, the threat posed by climate change, which we have now been all conscious of for years, might be the most fundamental one. It will affect not only our societies in terms of dynamics but also our way of life. It will have an impact on each and all of us as individuals.

In 2019, President Ursula von der Leyen presented the Green Deal, a comprehensive strategy to make the EU climate-neutral by 2050. This initiative set ambitious targets to reduce carbon emissions, enhance green innovation, and transition to a circular economy, putting Europe at the forefront of the fight for sustainability, particularly these days, when these issues have fallen on the list of priorities of other world economic powers.

More recently, Mario Draghi's report identified the imperative to establish a joint roadmap for decarbonization and competitiveness. Only one week ago, the European Commission, with you, Ms. EVP Ribera, presented a Clean Industrial deal that aims to make decarbonization both achievable and profitable for the European industry, focusing on energy-intensive companies and the cleantech sector. Twenty years after adopting an economics-based approach to enforcing competition law, the environmental transition has now also sparked renewed questions about the role of competition as a driver of economic growth and environmental sustainability. DG Competition has already started tackling this issue. Just a few examples: the Competition Policy Brief of April 2024 outlined the role of sustainability parameters in measure control, the revised market definition notice also reflects the importance of sustainability considerations as non-price parameters when assessing substitutability in product markets, and of course, the revised guidelines on a horizontal agreement include a whole dedicated chapter on sustainability agreements, which embrace a broad definition of such agreement to make sure that competition policy does not stand in the way of horizontal cooperation that pursues genuine sustainability global development objectives. It is very meaningful that you, Ms. EVP Teresa Ribera, are entrusted to lead us through a clean, just, and competitive transition in that order.

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We see a convergence of factors that signal potential, if not an already ongoing shift in competition policy. The question arises of whether it should now incorporate both competitiveness and sustainability as one of its core objectives, particularly as many businesses are looking to combine forces to fight climate change. How to shape economic policies to reach sustainability objectives. Jean Tirole, you are a Nobel Prize of economy and have been working on these issues for a long time. With your expertise, with the expertise of EVP Ribera and you, Pierre Régibeau, we look forward to a thought-provoking discussion on the evolving role of competition policy in promoting sustainability as the EU adapts to a new global economic reality with a complex landscape. With that, Antoine, I may let you kick off our panel.

Antoine CHAPSAL

Thank you, Séverine. You rightly mentioned whether competition policy should now include competitiveness and sustainability as core objectives. We have seen competition authority argue that sustainability, and in particular, the achievement of climate goals, should be considered as an objective in competition enforcement. Maybe my first question should be, to what extent should sustainability objectives offset more traditional competition concerns such as price increases and output reductions?

Teresa RIBERA

Thank you so much. I feel quite honored to be part of this panel and to be in this hall with so many people who have devoted their professional lives to competition and economics in general, but also competition law, which is very important to win cases when the Commission arrives to the court, being challenged in some cases by some of you. Now, I think that if I stick to my mission letter, what I have been asked to do is to keep on going, to modernize the approach on how we enforce the competition policy, not to change the competition policy dramatically, but to be sure that we continue a strategy that allows us to evolve, to take into consideration the reality, including the market forces. This is part of what is already in the market. I think that this is not new. As you have already stated, several approaches have facilitated a much more acknowledgeable understanding and position from the Competition Services, not only in the Commission but in the national authorities and beyond the national authorities in the European Union. Yes, we do need to take this into account to some extent. However, trying to achieve these goals only through competition policy wouldn't work because that's not its purpose. Competition policy operates within the limits and legal framework set by the treaties. To guide the public, we provide various guidelines that explain how our approach evolves. Several aspects are important in this context, such as defining the relevant market—a key issue when revisiting the Draghi report. Additionally, we should consider how we can contribute to these goals or at least avoid making them harder to achieve.

If academia describes some market failures very well, it is precisely failures connected to the lack of consideration of climate or environmental impact. I think that, yes, we are learning, and yes, we will have to take this as a very relevant aspect, but as I said, not because it is the main purpose

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of the competition tools or the main purpose of the competition law. That's not the case. But of course, we need to assess today's market reality.

Jean TIROLE

Yes. Good evening. I fully agree with what Ms. Ribera has said. Just to put things in perspective, the usual debate about whether we want to stay within the realm of competition or if we want to broaden the scope of competition policy, add inequality, environment, whatever, public health, media plurality, all the market failures that the Commissioner was talking about, and God knows there are lots of market failure, but we should not forget there's also a huge government failure because government is there to correct the market failure and just doesn't do that. We see that most clearly in the realm of the environment and many other fields. I wrote a formula and a search sentence on Vickers: Should competition monopolize merger policy? I believe those goals are usually legitimate, but the question is, should the regulators regulate the regulator? Because there is a huge government failure, we don't tackle, for example, climate change, not enough. Should various agencies, including the DG Comp, correct the market failure that the politicians don't fix themselves? I have maybe four reservations.

Again, I'm all in favor, of course, of all those criteria. But the first is a lack of capability. If we do that, the agencies, the ministries, the courts, and whoever is in charge of doing it should be able to check the claims, the emissions of firms that take the environment, and the methodology used to define what's green and what's not green. They should also have the instruments. It's not clear if the instrument, for example, to correct inequality is education and, of course, distribution. Is the agency able to do it? If the issue is the environment, does it have a carbon tax? The second

reservation I have is that too many cooks spoil the broth. That's a question of who is in charge. We must do much more regarding the environment, but is the Ministry of the Environment in charge? Or is that DG COMP? Is that the ECB? Is that the court, our public procurement officers in charge? That's serious. In France and some other countries, like Greece, and I don't know about Spain, we have a law saying you have to consider the environmental criteria in public procurement.

You just wonder, why do we do that? There is a simple instrument; there is a carbon tax to force firms to internalize that. Why are we asking somebody else to do it? But you have lots of people who are doing it now, and that raises the issue of accountability. I don't want to speak for too long, but let me briefly mention two other problems with this mix. The issue of missions. That's something I've worked on a lot with Mathias de Dewatripont, who is here today—the necessity of having clear missions and narrow-minded missions. I like narrow-minded people, and I'm narrow-minded myself. It is much harder for the Prime Minister to have a mission because he controls everything. However, at least the agencies or ministries have the advantage of having a relatively clear mission, which protects them. Something I'm very concerned about is that independent agencies here or the ECB might, at some point, lose their independence because they are going into soil which is basically political soil. That might be an issue in the future.

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Finally, and it's connected, we should encourage governance to pass the buck. It's very hard for the governments to redistribute. It's very hard to reduce carbon emissions, and so on. We know there is a huge opposition to that. Nonetheless, it's the government's job to do that. My own view is that we should be doing competition policy. But I will stop here, and let Pierre talk now.

Pierre RÉGIBEAU

I will not express a position that is really different, but maybe with some nuances. Clearly, everybody here on this stage agrees that climate targets and environmental protection are legitimate goals of EU policy. Since competition policy is one of the tools of the Commission, it is probably useful to think of those targets and those goals in the context of competition policy. What makes it even more important is that while we sometimes are very busy with temporary crises like COVID and Ukraine, the green crisis will face us not for three, four, or five years, but for decades to come. Clearly, yes, we should think about green issues in the context of competition policy.

Now, however, we have lots of policy tools. It's important to use the right policy tools for the right issues. That doesn't mean that there is one policy tool for one issue - sometimes, you gain from combining them, but we have to be careful. You only want to use a tool if it's essentially provided, it has huge incentive effects, and if it is transparent. The last thing that you want, and I'm rejoining something that Jean says there, is for a politician to use competition policy not because it's the best tool, but because it's a less transparent tool, is the one where they don't have to take their political responsibility. This is not what competition policy is for. What is naturally potentially useful to green objectives? Clearly, state aid is an area where you cannot neglect green targets. As the executive vice president said, in state aid, the first step is always to identify the market failure; clearly, environmental issues are ripe for market failure. But things have become

less obvious when considering the rest of the competition policy. There's not even mentioned abuse of dominance. Why would we tolerate abuse of dominance for green reasons? I can't even think of a far-fetch example. But what about mergers? Well, generally speaking, as an economist, I would say that a merger is unlikely to be the right solution for almost any green issues. Why? Because, to some extent, consumers, even if they don't care enough about green, care about green, so to that extent, there's a competitive dimension in investing in green and so on.

As you know, if there is no efficiency, if you combine two entities, they will not compete with each other and that tends to reduce green. It's just something to be careful about. In the name of helping and reaching green targets, you would not want to end up essentially decreasing the efforts a firm puts into achieving these goals. Now, it's not always the case. It's certainly not the case when there are efficiencies. What efficiencies are we looking at? Complementarities are likely efficiencies. Most firms in the world have not developed a huge expertise in green. Some people will know a little, and others will know another bit, but to explore those synergies, you can do it with agreement. You don't need a full merger. It's only going to be the rare case where the

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full merger itself passes a test of necessity, that the full integration, including the coordination of prices, could be necessary. That can be the case, for example, if competition does not ensure enough of a reward, and it is impossible for the government to effectively substitute itself for a price increase by giving subsidies or taxing old technologies.

In that case, as Jean pointed out, yes, theoretically, I can come up with governmental solutions that would be better than allowing the merger, but the government does not always work very well so there might be cases where we could consider that overall paying the firms through an increase in prices might not be the worst thing in the specific cases. Finally, I think this is the argument that we have to pay a lot of attention to; it's not just about the techniques themselves and the products but also about green innovation for two reasons. First, the EU only accounts for 8% of CO emissions. Even if we're perfect, it won't help that much. On the other hand, if we innovate, we have green technologies. We can share them for a fee, which is great for us, with the rest of the world. There, I would say that competition policy should be careful not to get in the way of green innovation. There, for those of you who think of potential arguments for potentially justifying not only agreements but whole mergers, that's probably the most fertile field. Because what is the reason why you might need to have one entity rather than others besides complementarity? That has to do with the imperfection of intellectual property rights and markets for property rights. Because otherwise, I would tell you, look, you think that if you can have a bigger market share, you will innovate more. But why don't you license to also make money? But we know that licensing markets don't always work well because intellectual property rights do not always work well. That depends on the industry. In that case, it might make sense to have the integration of two parties into a commonly owned ownership where you're not going to screw up yourself to fix the incentive.

Séverine SCHRAMECK

Thanks, Pierre. This is a nice transition to our next question, which is about revising the horizontal merger guidelines. You have announced, and I think it's also in your mission letter, Ms. EVP Ribera, that there will be such a revision. It has been argued by many people, maybe even people within this room, that under the current guidelines, the efficiency test is too strict. Too strict also to allow the Commission to consider potential benefits for sustainability resulting from a merger fully. As you mentioned, there might be some. Is this something that should be changed, that we could expect to be changed in the new guidelines? If so, how do we assess the ex-ante sustainability effects of a merger? How do we make sure that we have the right way to evaluate whether the benefits will be enough to outweigh the potential negative effects of a merger?

Teresa RIBERA

My expectation when coming here was to come to take notes. To take notes and learn how I can perform better, I will try to wrap up what I've heard to be sure that what I've listened to means what I think I've heard. First, of course, we cannot do politics or try to achieve other sectoral goals which are very important through the competition tools. Second, there is nothing that

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prevents or even advises us against taking into consideration that sustainability and climate are things relevant in terms of market courses. We have policy goals that have been supported by the European Union, which are very important and are part of the societal expectations on business development that play in a context where we are in charge of being sure that there is a level playing field, that the market behaves transparently, that there are not abuses in the functioning of the market, that there may be a new generation of innovators challenging context in the existing ones. At the same time, we have also learned that the relevant markets may be much bigger than the traditional markets where our business has been operating.

In fact, we need to assess to what extent this combination of rules and principles, including those policy goals that are not part of our mission, operate in a context that is exactly the same context where we operate and are supported exactly by the same stakeholders that we need to serve for the need to take into consideration all this reality. That's what I've understood from the previous comments made by my peers in this panel. Then, I will talk about the guidelines for mergers. Because it's true, this is something that is so fashionable: the champions, who are the champions, and how we get more champions. To what extent relaxing the assessment of the merger conditions may be a solution. Then, of course, someone would remind us, "Hey, being a champion is not a goal. We need to protect the consumers, and we need to protect the well-functioning market. You cannot say you will sign a free check to do whatever mergers." That's true, and I fully suspect that. I think that through the process, we count on very professional people who can make a broad assessment of how potential operations may prevent a well-functioning market, may create disturbance, or may have no problem.

That is a good thing. At the same time, we also know that in many cases, we could think in terms of how these market forces work and to what extent, to facilitate innovation, there is a possibility that makes sense to combine different specialties or possibilities or capacities that may play horizontally and not just in a vertical way. That's because this is a role we need to play in these cases and find out to what extent it works or not. Happily, we have more than 20 years of the court stating this type of situation where sometimes they have supported the position being defended and being decided by the DG competition. In some other cases, this has not been the case. The question right now, which is pretty fair, is whether it may be a good opportunity to open

this discussion and make a sound assessment on whether we may come up with updated guidelines. It is not so easy to differentiate when it is a horizontal or vertical merger operation. To what extent may there be an opportunity to update, taking into consideration that, of course, the market forces have been under renovation for a long time? Now sustainability concerns may become particularly important, given the fact that the relevant markets in many of these potential operations dealing with sustainability, may have evolved in such a way that there is room to accept that, theoretically, this can take. So to say that I have my pen ready to take note of whatever you may say about this.

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But no worries, if you have no ideas yet, we will open this conversation in the coming weeks and wait for your assessment because it will be very important. I'm speaking about updating guidelines, which may facilitate many things and of course, we expect to have consistent approaches that facilitate the life of whichever company wants to enter into this eventual merger operations and that counts on a good basis or good pre-assessment on whether this may be viable.

Séverine SCHRAMECK

Pierre, you seem to have ideas on the matter as well. I don't know if Jean wants to comment before.

Jean TIROLE

I can say a few words, possibly on two points. The first is about how you measure the gains in, say, the environment. Again, you need to have a staff to do that and not just rely on the claims of the firms because the claims will always be huge, of course. If you have this measurement ability, you can sometimes incorporate the environmental criterion. Chapter nine of the horizontal merger guidelines got it right. They say we should correct the residual market failure. There's a price of carbon in Europe. Let's use this carbon price in Europe and use that as a measurement tool. Now, for the environment, it's not too hard if we can measure emissions. If you start talking about non-degradable plastic, privacy, or things like that, it's a little bit more difficult to put numbers on it. I emphasize that because, again, I am coming back to France; sorry, that's what I know, but this law in France basically says to the local authorities to include the environment in your criteria. It's nice. How can you be against that? It's wonderful, except they didn't say whether the carbon price was €1 or €1,000.

What should you take into account? What is a green measure? There were no guidelines. It's like, go ahead and help your friends. I'm exaggerating a little bit, but there is a little bit of that. I can expect a fair amount of corruption from that. That bothers me. But let's assume we can measure it and give good guidelines. That's the thing we should be doing. Then there's the issue of the efficiency test. Yes, it's too strict because in the efficiency test; you have to compare the gains from consumers in one market with losses to consumers in another. But you don't consider the net amount, at least not in Europe, in Chapter 9, again. The CMA in the UK does, so it allows us to make some comparisons. However, there are issues, even with the CMA case, because the CMA compares the benefits and the cost, for example, the cost in terms of competition, higher prices, and the benefits in terms of the environment. That's fine. But if you think about the environment, less than 1% of the pollution in the world is in the UK.

If you compare the cost for UK consumers with the benefit for UK citizens of reduced pollution, then the environmental criteria will never play any role—the same thing for fair trade, sustainable cotton, etc. The gains are not in the UK, or won't be in Europe. There is an issue about what is the jurisdiction? And that's a very broad issue, of course, every time we talk about fair trade or the environment or aid. We face this issue, but we have to solve it somehow because it's pretty rare

that the same people are both a consumer and beneficiaries of our environmental or societal benefits.

Pierre RÉGIBEAU

Okay, so let me say a few words on that. First, going to variation. What are the two kinds of variation we would have to get into if we were to take green efficiency seriously? One is what we call non-use benefits. I like the fact that you have a park in town, even if I never go to the park. There are techniques in environmental economics in order to evaluate those things. They do involve a fair amount of footwork, like surveys and things like that. The second thing, of course, are the externalities. Again, how do you measure externalities? If you look at CO emission, we have the ETS, which supposedly is going to give you the right price for this production is. I say, supposedly, why? Because, of course, what's happening in the ETS and the cost of those permits depend on how many permits you put in the markets. Unfortunately, I have never seen a thorough study of what the price should be. You put a given amount of the market, you think it's right, and then there's the price, this should go the other way, you should have a study that tells you the cost of CO emissions to Europe. Then, you should infer how many permits you should have on the market. We haven't done that. Since we haven't done that, just using ZDS price would not necessarily be good. As long as we don't have this point of reference, frankly, estimating the benefit from externality is a bit of a hopeless project.

In theory, we can evaluate those things, but there is a lot of specific expertise necessary for that, and maybe some reform of the ETS. Because of that, and you're thinking about the revision of the guideline because it's so specific to green, rather than start messing up with the standard of efficiencies in general terms, I would actually be in favor of having a specific chapter or paragraph on green externalities. Actually, you could even go further. Now, the second point is a bit subtle. That is to do whether we have to take into account, as we do currently, externalities only within the relevant market, or whether we take the externalities for European consumers outside of the market. As an economist, you should take into account the externalities of all European consumers. But that's actually not that completely obvious. Why? Because when we do mergers and efficiency, we focus on the relevant market, and we say, Okay, the price might go up, but the cost or quality will improve enough that consumers are better off.

If consumers are better off, who would object? There's nobody to object. Now, take the example where you would agree to a merger that will increase the price in the relevant market more than the benefit to the people in that market. Now, they are losers. You cannot just say nobody cares about it. You're much more in the realm of policy when you make some investment in term of getting an objective. You invest essentially the pain that you inflict on those consumers to achieve an objective. Then is it just enough to say, "Okay, well, overall, it's positive". That's not what we usually do. We have limited resources. When we look at policy projects, we look at the social rate of return, and we only do those with a high enough social rate of return. If we have an attitude where any merger that just quips by with something positive is okay, then it essentially amounts

to favoring less efficient projects over a potentially more efficient project. I would not advise to do this.

Teresa RIBERA

No, me neither. No, I have a point on what you say because in fact, if I follow your argument, the question is that since we cannot measure the externalities, it is just too bad, we cannot take that into consideration. But we should try. You have commented on public procurement, the two of you, on two occasions. In my former position, I tried to pay attention to something which was important. If I only take into consideration the lowest possible price in a given circumstance, that is the European one, where there may be suppliers that do not reflect in a transparent manner the real cost, we may be entering into such a situation that when we take into consideration a given time, longer time, we will be favoring no supply. We would not be counting on any safe space to ensure innovation, to reinvest, to improve the quality of our industries, and so on and so on. The problem is that we need to find a balance between transparency, impact on consumers, both final consumers and industrial consumers, and capacity to promote more efficient, sustainable, and more performant products in the time to come, which is not our main mission, but we cannot be blind because it is a market force.

I think that it could not be a good piece of advice if we say, “Well, this is so impossible that in fact, we need to give up on this”. On the contrary, I think that this is a try to identify how public procurement may take into consideration elements that are not just price elements, which is not easy. Of course, as you said, the most difficult issue is how we objectivize this other criterion to be taken into consideration to avoid corruption in the worst-case scenario or at least being challenged because it is not so easy to explain, to reason, why the decision was this one and not this other one. This is pretty challenging. But at the same time, I think that if we stick to the traditional way we understand what we are doing, we may even be going on the contrary sense of our main purpose, which is a level playing field and a well-functioning market, because we will be favoring those that do not care about labor cost, for instance. The lower the labor cost, the better the price that they offer.

I think that it is time to keep on doing something that is not starting from scratch. Happily, the very professional people working in the DG Competition, thanks to the former chief economist, among others, have evolved into this type of consideration, trying to reflect a proper evolution of the guidelines and regulations to facilitate these things being considered. I think that the existing assessment on how to deal with this merger was from, I don't know when, but a long time ago and it is time to update it and to share in a transparent manner how we can proceed. It is time to wonder to what extent not only state aid but the other traditional competition tools and the new tools that try to respond to the new challenges and the new market forces that are real forces in our market count on an updated vision and that's what we are trying to do, and that's how I read my mission letter.

Séverine SCHRAMECK

We see you have ambitious objectives for the coming months and years. That's really good to hear. Can we switch a little bit of topic, if that's okay? Moving to antitrust which is also of interest to many people in this room. We see that more and more companies are willing to cooperate in setting sustainability standards for an industry or favor more sustainable products. However, there is always this issue of Article 101, which they are facing and which led to the new horizontal guidelines tackling that issue. But we do see initiatives from different authorities, including the European Commission, of course, the Dutch Competition Authority, the CMA in the UK, and the French Competition Authority, which have all issued lines, and some of them have also implemented an open-door policy inviting companies to seek informal guidance on their agreements. We are seeing heterogeneity in the different approaches of the different authorities, which has or is starting to create some legal certainty issues in Europe. Do you share this view? If so, do you think the European Commission should do more to create a one-stop shop guidance scheme? Should it encourage cross-border initiatives, including with jurisdiction outside of Europe?

Teresa RIBERA

I believe this is more about learning from experience than addressing an actual problem. The guidelines issued in 2023 were generally well-received and helpful. While some national authorities may have approached certain aspects differently, the overall divergence is insignificant. Issues have been resolved informally and without major conflicts. The European Competition Network provides a platform for national authorities to share concerns, making this a good time to discuss potential improvements. Ensuring a secure space for sharing sensitive information requires careful consideration. While existing guidance already addresses many aspects, variations in national approaches can create a sense of uncertainty. It is important to address these differences proactively to prevent any confusion or discomfort. That said, we have the tools and the capacity to handle this effectively and intelligently.

Jean TIROLE

The issue is clear. If you want to be more virtuous as a firm and you're the only one to do it, then you'll lose market share because the others have a lower production cost. If you're using degradable plastic, for example, then it won't be as good in terms of profit as less virtuous plastic. Somehow, they have to move together as opposed to the first mover advantage, which is actually a disadvantage. How do you do that? The issue, of course, is that there could be some agreement among competitors. I think it's natural to bring actually to the competition authority, the prime, and say, "Maybe we'll do better in that dimension collectively". Then there's this difficult issue because some of the writing says that it is fine if you don't constrain your competitors to do that. But sometimes you have to constrain; otherwise, you will lose the market share. That's difficult. In the end, that means the competition authority has to decide. It's not up to the industry to decide, but it's doing policy. It's doing public policy. Obviously, again, if you have a clear criterion.

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I mean, I'm always repeating the same thing, but it's important because of the discretionary aspect. The competition authority will ensure, and that's not controversial, that there is no exchange of information beyond what is needed and ancillary restraints using a startup to erect barriers to entry, which is a standard strategy of firms. All those things we all agree on. Of course, that's why the competition authority should also make the decision. But there is this, again, the same issues of measurement, the same issue of who is doing public policy in the end. Is that the politics, or is that the role of a specialized and independent agency? That's a very important question.

Pierre RÉGIBEAU

I'm actually fairly optimistic on this count. First, why would you want the firms to cooperate? The obvious thing that has been there forever is if there are some cost synergies, complementarities, and so on. Fine, we all know that. I no longer want to hear the industry on this side say, "Oh, we never know when we will violate the law or not." it's been there for 25 years. You know, take risks. But what's different about the green side is that you must distinguish between two situations. One is a more standard situation where you want to innovate, to have a greener product, and consumers care enough about it that it's actually going to be at least sufficiently profitable to have the green product if at least consumers recognize this as a true green product. This issue has already been addressed with the commission in the late revision when we have all these sections on labeling. The whole point of labeling is to be able to distinguish yourself. But we recognize also that if everybody has his label, nobody can know what's going, what's happening. So, some concentration of labels can be tolerated in the market.

So that point has been dealt with, and I think quite intelligently in the revised guidelines. What becomes harder, and that's the case Jean invoked, is because of the externalities, which are something that you would want, but it would not pay for itself. There, in a way, if you're the only one to do it, you're going to be screwed. I agree there needs to be some standards set there, but we must be careful about what standards we're discussing. We're not talking about the interoperability standards that we used to. With interoperability standards, it's very natural to let the parties work very closely and deeply with each other because you have to define complex technologies that work with each other. That's not the issue here. The issue here is much more quality or minimum standard. So yes, we should allow for this coordination, but the minimum necessary. There are well-established principles. For example, you should tend to define performance, not how the performance is reached, i.e. level of CO emission or percentage of non-recyclable material, without imposing how that should be imposed.

The more you deviate from this standard and you say, "Oh, but for some reason, we have to agree on a specific technology", well, then competition policy would say, Why? Maybe there will be cases where, yes, it's unavoidable to reach those standards, those minimum standards, you need to agree on a specific technology, but it's not obvious. So you've got to make the case. The more closely you want to work together, the tougher we should be with you, and you should be able to justify it. I think, in most cases, having associations that define minimum standards, define interval performance should suffice in most industries.

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Jean TIROLE

That also raises the issue of business review letters, the open-door policies. Should the competition authority be doing the job? Because you are going to get thousands of those proposals, right? Or should you just pick your fight among the best proposals?

Pierre RÉGIBEAU

You don't. You think that you'd get thousands of such proposals, and you have a whole industry that screams that they would like to talk and know, and then if you want to speak, we're ready to talk. But the number of people who show up is actually very low.

Séverine SCHRAMECK

I believe it depends on the authority and how the policy is crafted.

Antoine CHAPSAL

Maybe the last point I would like to tackle today is state aid because we have this new state aid framework as part of the Clean Industrial Deal. Maybe a question for the Commission. How is the Commission going to strike the right balance between promoting sustainability and preventing member states from using the new state aid framework to favor national energy champions, which could undermine the level playing field that you were mentioning?

Teresa RIBERA

We do not intend to promote national energy champions. But I have a colleague in the Commission who makes a joke when introducing himself, saying, traditionally, you had to swear on the Bible. Now, you need to swear on the Draghi's report. But dealing with this aspect, the stated guidelines, we propose to go through a review to try to facilitate a better understanding, according to the lessons learned during these years of the crisis, the energy crisis, how to promote a quick response to the main concerns being expressed in the clean industry, and so the energy, the decarbonization of the industry, and the manufacturing of clean tech. What we have tried to work on, I insist very much on this, according to the existing experience and the Court, the pronouncements of the Court dealing the state aid, is to give some orientation on how to simplify and what the intensity and the combination of things that may be taken into consideration without creating or undoing the single markets, the level playing field among member states, and the level playing field among the different companies. And, well, you will know what all of this is about in the coming days because we will open the draft for public consultation very soon.

Jean TIROLE

Unsurprisingly, I would recommend using the standard economic tools first in terms of energy transition. Not only them but, obviously, carbon pricing. It's very efficient, and it's very simple. I

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repeat it because that's very important. I know it's not well accepted, but that's what works. In all its forms, for example, economists are not terribly satisfied with CBAM, carbon border adjustment mechanisms, because it's not perfect, fine. But at least it's economics-based. It's based on the difference between carbon prices in the countries. It's a way of protecting our industry. We should also have more Europe, so I will do some Draghi here. More Europe, of course. I mean, electricity, we have been saying it for 20 years or more. We have an energy market and an electricity market, but we still have 27, I don't know how many grids and how many regulators of electricity. That's not the way to build a market. We need to reduce something about it. We need to do disruptive innovation. Again, that's something we don't do very well. I'll talk a little bit about that later on, but we don't do that very well in Europe. Disruptive innovation, we need it very, very badly, given the reluctance to have a carbon price.

Now it's solid in the game that disruptive innovation is very important. In terms of sovereignty, it's a more difficult question. What do you do? You don't want to rely on a rogue state. I won't name any country. The problem is that there are more and more rogue states nowadays, and it's getting very tough. You want to be able to produce your energy at home to a large extent. That was not a concern before, but given the situation, it's becoming a concern. The risk, of course, is that we do it wrong, and it will still be good to use market mechanisms in this domain. If we want to limit our imports of various things, we could have tradable, sellable quotas for imports, we could have a tax, and whatever, but something which is market-oriented and doesn't decide this firm is going to do it, and it's going to be this particular energy and so on to have something which is more open to competition. We won't get it right, but at least we will limit the damage.

Pierre RÉGIBEAU

Just a few words since we're running over time. First, to achieve this objective efficiently, remember tenders auctions tend to work, but it's also useful to distinguish between different problems. If you have green problems, which are local problems, like diesel pollution, It's not a global problem. It's a usual state aid approach, and it works pretty well. Germany wants to deal with this. They want to encourage the production of more efficient diesel and so on. One can make the argument that's fine. But When you start talking about global here, like CO₂, you have a risk that some state with resources might say, “Oh, we're doing it because it decreases CEO.” and we are going to do all of the CO₂ decrease that the EU committed here in our country as this guy is for favoring your company. So, it's essentially a question of the allocation of the targets. When you've got a more global problem, it's very important to have the first targets set at the European level and have a way of making sure that this is not the problem that I mentioned. That's already a problem with CO₂, but that gets even harder when discussing self-efficiencies.

I'm completely in favor of the integration of self-sufficiency consideration in state aid and competition policy. But again, does one country get to subsidize their company to satisfy all of the self-sufficiency needs of Europe? By the way, another point of self-sufficiency is that actually, the way we've dealt with this first of a kind and so on, we actually have a framework right now that doesn't start where they should start, which is defining what are the self-sufficiency needs. If

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you have a self-sufficiency need in the chips, what capacity do we need to meet it? If we don't have this to start with, how can we make sensible policy?

Teresa RIBERA

I think that we are about to end. I think that what you said is quite true. I think that, yes, when thinking about state aid, we also need to consider that ensuring that we do not distort or unmake the single market is absolutely crucial. So this temptation, depending on the fiscal space that each country may have, needs to be prevented and avoided. Secondly, of course, it would be fantastic to have a general state aid approach based on the European dimension and the tender process so that the different companies can compete and we have the European budget to cope with the European interest. The most similar thing that we have managed to develop is the IPCEIs and to what extent this can combine public funding coming from the member states and public funding coming from the commission with the private funding coming from the interested companies in a process that it is more or less competitive between the different people that apply for these initiatives. I think that it is a good thing. Still, of course, it relies very much on the fiscal capacity of the member states to support the concrete initiatives that may be identified.

But it is an important aspect that we still have room for improvement, even if it will not solve everything. I've seen that we have fantastic professionals, but I don't know if we are perfect. I think that, in fact, what has been the whole story and background of this independent authority that is the DG Competition is that they have been quite professional in how they seek the evidence, follow the procedures, try to have an open mind on how they can combine the existing references to make decisions and how they try to keep an eye to be sure that they follow, understand, and anticipate the evolution of the markets and the market forces. I think that we can all agree not only that there are sustainability goals that are common policy goals supported by all European citizens in general, but this also a common aspiration to update our industrial capacity, not to resign ourselves to decide, "Okay, someone will come with the very low-cost products to serve our needs" because we will be impoverishing our economy. I think that to be fair, we need to find out how we can accommodate within our framework, with our limitations, the way we use the tools we have, and to assess to what extent the tools we have are enough. I think that reality is changing and not always going in the right direction, as you commented in your introductory remarks. But I honestly think that we live in the best place with the best professionals to take care of the competition tools in Europe.

Pierre RÉGIBEAU

I think that if, five years from now, we can sit here and say, "Of course, you haven't solved all the problems, but you've made some progress in incorporating some less traditional dimensions of policy within our traditional approach to competition policy without damage", that would be great.

Jean TIROLE

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Obviously, we need more Europe again, and we need to have principles set by the Commission to guide us. We need to have a lot of guidance, I would say. That's very important. We cannot just let people without measurements, without principles, without anything decide on decisions that are political in the first place.

Teresa RIBERA

I take note that we will be receiving your recommendations and pieces of advice in this term because you are right; you are also part of the community, and I think that we have huge challenges and we will need to work and learn and take into consideration your good pieces of evidence and recommendations to improve the quality of what we do and to achieve the goals that we want to achieve.

Séverine SCHRAMECK

Thank you very much. Thank you.