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Which Competition Policy Should be Adopted to Support Growth in France and Europe?

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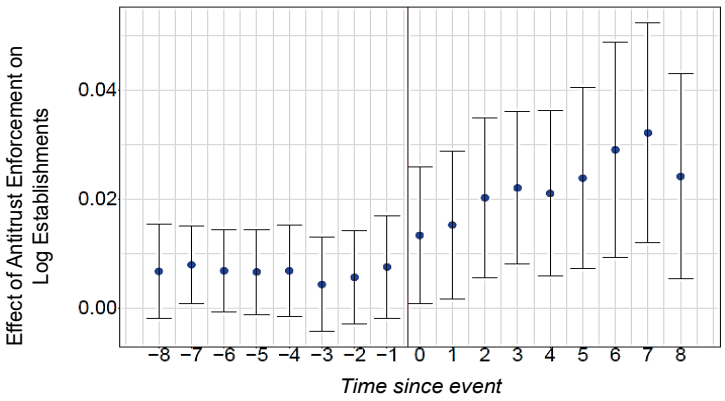
- Competition on a market drives down prices, improves quality and diversifies the supply of goods and services for the benefit of households and businesses. In addition to these effects on each product or market, healthy competition is key for economic growth (e.g. through business creation, see Chart). A lack of competition in the upstream value chain can increase the cost of intermediate goods for downstream businesses. Moreover, competition drives selection of the most efficient businesses and encourages them to stand out by investing and innovating.

- Nevertheless, too much competitive pressure can sometimes harm businesses. By reducing markups, it can limit their ability to finance investment and curb the incentive to innovate when the future return on an innovation is lower. In some sectors, such as tech and manufacturing, moderate concentration can generate economies of scale through lower production costs from increased production volumes, support R&D and increase competitiveness.

- Competition policy is currently being upgraded and is widely seen as necessary by stakeholders. The review of the EU merger guidelines launched by the European Commission aims to give more weight to innovation, sustainability and resilience criteria in merger cost-benefit analysis. By better accounting for efficiency gains associated with consolidation, some mergers that increase competitiveness and innovation could be more easily approved.

Effects of competition law enforcement on business creation



Source: T. Babina et al. (2023), "Antitrust enforcement increases economic activity", NBER, Working Paper 31597.

How to read this Chart: This Chart presents year-by-year estimates of the effect of antitrust enforcement on the number of establishments in the United States from 1976 to 2015. These actions are estimated to have driven a 3% increase in start-ups eight years after the lawsuit was first filed.

1. Highly intense competition supports market dynamism

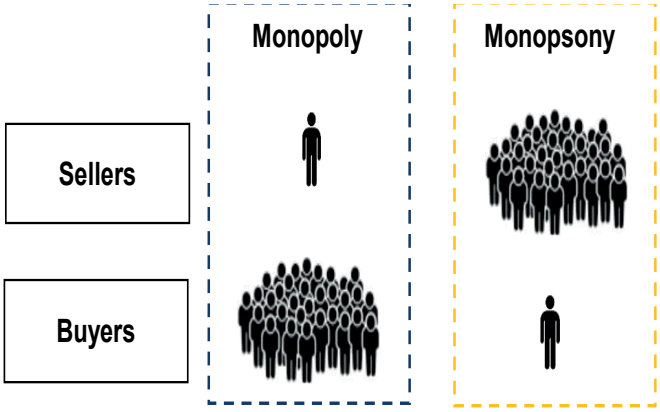
1.1 Competition reduces distortion along value chains

Competition promotes a more varied and higher quality supply of goods and services at lower prices. This benefits end consumers, but also enables businesses to operate in an environment where bargaining power is better balanced along the value chain.

Excessive market concentration in the upstream value chain, such as in the case of a monopoly[1] (see Figure 1), can penalise downstream businesses. Competition authorities share this concern in the artificial intelligence (AI) sector: high concentration in upstream links (chips, data, etc.) risks restricting access to these key inputs, thereby hampering the emergence of potentially more efficient competitive models.[2] Conversely, dynamic competition upstream, with a wide range of products, enables downstream businesses to reduce their production costs and gain access to a wider range of intermediate goods.[3]

A similar mechanism can also come into play when value chains are more concentrated downstream than upstream. In this case, downstream businesses may impose purchasing prices below the marginal production cost thanks to their market power over upstream suppliers. This monopsony (see Figure 1) or oligopsony effect[4] is observed, for example, in the dairy sector, which is more concentrated downstream than upstream.[5]

Figure 1: Monopoly vs monopsony



Source: DG Trésor.

How to read this Figure: Monopolies and monopsonies present different risks: a single seller in a monopoly can set higher prices than in a competitive situation, whereas a single buyer in a monopsony can impose lower purchasing prices.

1.2 Better allocation of production factors through market selection is a source of productivity gains and growth

Competition also improves the allocation of resources and distribution of market shares by fostering growth among the most productive businesses[6] and renewing the business landscape. Competition induces effective market selection: less-competitive firms disappear while more-efficient firms with lower costs and more attractive offerings gain market shares and optimise the use of the workforce, resources and financing.

(1) A monopoly is a market situation in which a single seller supplies a multitude of buyers.
(2) S. Chardon-Boucaud *et al.* (2024), "The Artificial Intelligence Value Chain: What Economic Stakes and Role for France?", *Trésor-Economics*, No. 354, and French Competition Authority Opinion 24-A-05 (June 2024) on Generative AI.
(3) European Parliament (2019), "Key to a Fair Single Market".
(4) An oligopsony is a situation in which a small number of buyers exists for a large number of sellers.
(5) R. Avignon & E. Guigue (2025), "Markups and Markdowns in the French Dairy Market".
(6) S. Dauda (2020), "The Effects of Competition on Jobs and Economic Transformation", World Bank.

This reallocation of production factors generates productivity gains,[7] as shown by studies on different sectors and countries. For example, enforcement of antitrust laws has reportedly improved firm productivity in Mexico.[8] In the United States, nearly all of the productivity gains in the retail trade sector in the 1990s can be attributed to the displacement of market shares from less-efficient establishments to more-productive ones.[9] The introduction of new innovative technologies, such as the minimill in the US steel industry,[10] also increased production efficiency and stimulated US growth by replacing old technologies and heightening competition.

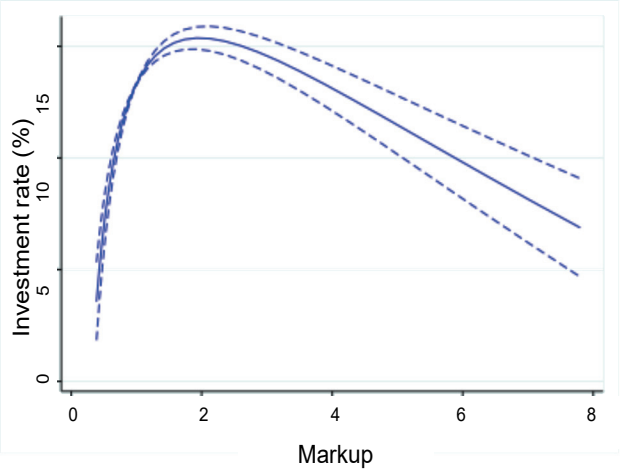
In addition to these productivity gains, competition can also foster growth via business start-ups and job creation. A study by Babina *et al.* (2023)[11] shows that antitrust enforcement actions by the US Department of Justice (DOJ)[12] will increase employment by 5.4% and business formation by 4.1% in the United States in the long run.

1.3 A well-tuned competition policy should drive the emergence of innovative businesses and maintain sufficient incentives to invest and innovate

A number of studies show that healthy competition fosters an innovative productive system. A firm in a monopoly situation has less incentive to innovate if its dominant position is never threatened, which secures it rents without the need to renew or improve its offering.[13] Empirically, such firms have a low rate of investment due to this lack of incentive, even though they have the markups to innovate (see Chart 1). Gutiérrez and Philippon (2017)[14] consider that increasing concentration in the United States over a 30-year period has been partly responsible for the low rate of investment, since firms face little threat of new entrants on the market.

Nevertheless, the relationship between competition and innovation is non-linear. Aghion *et al*. (2005)[15] show that it follows an "inverted U-shaped" curve. The initially strong positive effect on innovation when competition is weak reverses when competition becomes too strong, in which case there is relatively little incentive for firms to innovate, since doing so will not generate innovation rents, even temporarily. Empirically, low markups – indicators of high levels of competition – are therefore correlated with lower investment rates due to (i) a lack of firm-level investment capacity, and (ii) relatively weak incentives to innovate (see Chart 1).

Chart 1: Investment rate vs markup



Source: F. J. Diez et al. (2018), "Global Market Power and its Macroeconomic Implications", IMF Working Paper.

How to read this Chart: Markup (horizontal axis) is an indicator of competition on a market. The higher the markup, the lower the competition. The investment rate (vertical axis) measures, imperfectly, a firm's innovation: the more a firm invests, the more it is assumed to be innovative. The solid line corresponds to the estimated relationship between investment rate and markup. The dashed lines indicate a 90% confidence interval.

Therefore, when seeking to stimulate breakthrough innovation, the theoretically optimal model would be similar to that presented in the Draghi Report,[16] which would guarantee rents for the innovative firm while maintaining a contestable market (i.e. a market on which new entrants can compete with incumbent firms) to unlock future innovations.

(7) T. Libert (2017), "Misallocation Before, During and After the Great Recession", Banque de France *Working Paper.*
(8) T. Reed *et al.* (2022), "Cartels, Antitrust Enforcement, and Industry Performance Evidence from Mexico", *World Bank*.
(9) L. Foster *et al.* (2006), "Market Selection, Reallocation, and Restructuring in the U.S. Retail Trade Sector in the 1990s", *Review of Economics and Statistics*.
(10) A. Collard-Wexler and J. Jan De Loecker (2015), "Reallocation and Technology: Evidence from the US Steel Industry", *American Economic Review*.
(11) T. Babina *et al.* (2023), "Antitrust enforcement increases economic activity", *NBER, Working Paper* 31597.
(12) There are two antitrust bodies in the United States: the Federal Trade Commission (FTC) and the Department of Justice (DOJ).
(13) J. Tirole (1988), «The Theory of Industrial Organization», *MIT Press*.
(14) G. Gutiérrez and T. Philippon (2017), "Investmentless growth: An empirical investigation", *Brookings Papers on Economic Activity.*
(15) P. Aghion, P. Howitt *et al.* (2005), "Competition and Innovation: An Inverted-U Relationship", *The Quarterly Journal of Economics.*
(16) M. Draghi (2024), "The future of European Competitiveness".

In more detail, the literature provides a framework to study the impact of a concentration on businesses' incentives to innovate by type of innovation considered. Aside from the question of breakthrough innovations (see above), the incentive effect of concentration on incremental innovations[17] is ambiguous.[18] For example, a merger reduces incentives to innovate when the innovation in question only reduces production costs. Quantities produced on an overly consolidated market are lower than in a competitive situation (assuming that the monopoly maintains production of the two goods initially produced).[19] For example, if a monopoly produces less than two separate firms, there is less incentive for the monopoly to innovate to reduce costs than for two separate firms, since these firms secure cost reductions on a greater total output than the monopoly. Conversely, a merger can have a positive effect on incentives to innovate if the innovation in question increases market size (e.g. discovery of new therapeutic applications for an existing drug). In this case, the increase in quantities sold has a greater impact for a merged firm than for two competing firms, since the per unit return is higher for the merged firm. Hence, mergers can raise incentives to innovate.

There are a number of historical cases where breaking up large monopolies has stimulated competition and fostered the emergence of new innovative players while enabling incumbent firms to concentrate on breakthrough technological advances. For example, the 1950s breakup of German chemical industry leader, IG Farben, for political reasons, stimulated innovation in the sector even though the company had initially been highly innovative.[20] Similarly, the 1984 breakup of the Bell System (telecommunications group) in the United States for unfair trading practices increased the scale and diversity of innovations in the sector. Telecommunications patents filed by American inventors in market segments where Bell had historically operated rose by 19% per year until 1990.[21] This growth in patents was driven mainly by the arrival of new entrants, while Bell's successor companies concentrated, on high-impact patents.

2. Scale effects show that calibrating certain competition policy tools is key to maximising economic activity

2.1 The digital economy is highly concentrated, due mainly to network externalities

Although, in general, the relationship between competitive intensity and innovation is an inverted U-shaped curve, the exact shape of this relation – and thereby the overall tuning of the associated policies – depends on the characteristics of each market.

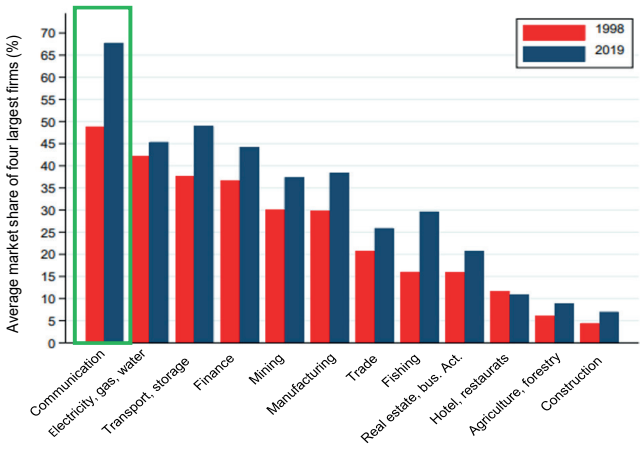
In particular, today's economy is characterised by the increased use of digital technology[22] with high fixed costs and high network effects.[23] Network effects (i.e. where a product's value increases with the number of users) prompt users to concentrate on just a few platforms, which naturally drives up market concentration by means of "organic" growth.[24] Concentration in the European digital sector, as measured by the market shares of the sector's four leading companies, rose 18 percentage points from 1998 to 2019 (see Chart 2). Hence, given the growing weight of tech in the economy, the economy's overall level of concentration has grown. This new business model is accompanied by new competition practices: competition on a market no longer depends so much

(17) An incremental innovation is designed to improve an existing product or service, whereas a breakthrough innovation offers an entirely new product or service.
(18) M. Bourreau, B. Jullien and Y. Lefouili (2024), "Horizontal Mergers and Incremental Innovation", Toulouse School of Economics, *Working Papers*, No. 907.
(19) In the model developed by the authors, two firms produce two imperfectly substitutable goods for which the innovation costs are not substitutable. Following concentration, the merged entity maintains the production of these two goods, but has greater market power enabling it to reduce the quantities of the two goods produced in order to raise prices.
(20) F. Pöge (2022), "Competition and Innovation: The Breakup of IG Farben", *Boston University School of Law.*
(21) M. Watzinger and M. Schnitzer (2022), "The Breakup of the Bell System and its Impact on US Innovation".
(22) INSEE estimated the value-added of French tech companies at €143bn in 2022 (in French only).
(23) J. Tirole (2024), "Competition and Industrial Policy in the 21st century", *Oxford Open Economics*, Vol. 3.
(24) M. Bourreau and A. Perrot (2020), "Digital Platforms: Regulate Before it's Too Late", French Council of Economic Analysis (CAE) notes.

on the number of players in the marketplace as on the possibility for other players to enter that market ("market contestability").

In addition to concentration of digital goods and services production, uptake of these digital technologies also has an effect on concentration in the economy as a whole. Lashkari *et al.* (2017)[25] draw on French data to show the existence of a correlation between the size of a firm and its use of IT tools (which reduce in-firm coordination costs, thereby increasing potential firm size). They estimate that half of the growth in market concentration is due to the fall in the relative price of IT tools in post-1990 France. Similarly, Autor *et al.* (2017) show that globalisation (see below) and the digitalisation of production processes benefit mainly large corporations capable of taking advantage of the scale effects,[26] which then drives an increase in concentration in the economy as a whole.[27]

Chart 2: Average concentration in different sectors from 1998 to 2019 (France, Germany, Italy, Spain and United Kingdom)



Source: European Commission (2021), "Industry concentration and competition policy".

Notes: The average market share of the four largest firms grew across all sectors (excluding hotels and restaurants) from 1998 to 2019. The most marked increase in concentration over this period concerns the communications sector, which includes IT services and Internet activities (+18 percentage points).

2.2 Trade globalisation, driven by scale effects for industrial firms, generally goes hand in hand with increased business concentration due to competition from foreign firms

Globalisation has fundamentally transformed the competitive structure of economies by fast-tracking market integration and the movement of capital, technologies and goods. Consequently, growth in international trade has helped the most productive firms to enter the export market while forcing the least productive firms to exit it.[28] The stepping up of foreign competition has, for example, increased concentration among American companies in the United States by reallocating sales from smaller to larger US firms and causing some smaller firms to exit the market.[29]

Businesses in France and Europe contend with strong international competition associated with greater domestic concentration (see Chart 3), which varies by sector. In capital-intensive industries (automotive, agrochemicals/biotechnology, etc.), only companies capable of withstanding high fixed costs and making economies of scale are sustainable in the long term. This international competition dynamic effectively reduces the number of domestic players and increases their average size, as shown by transnational mergers and acquisitions (e.g. Bayer's buyout of Monsanto in 2018 and the merger of Fiat and PSA in 2021).

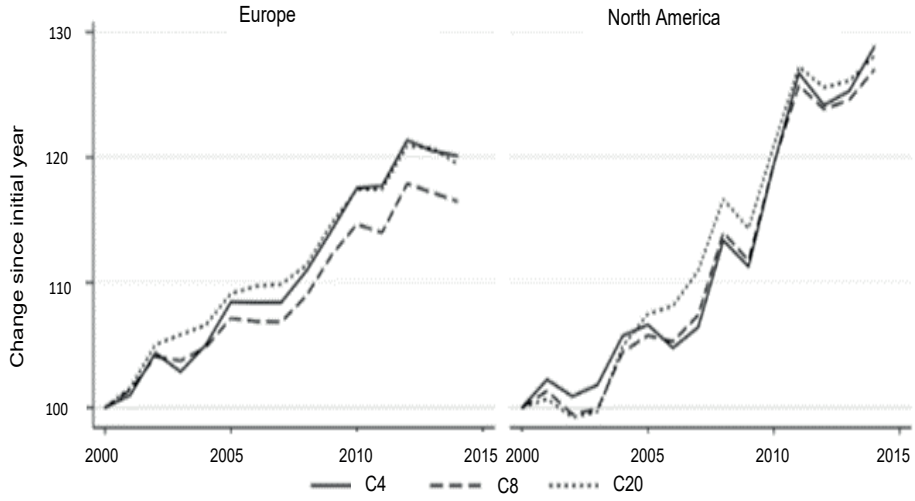
Free trade and the lowering of barriers to entry on the international markets have enabled some firms to implement unprecedented expansion strategies.[30] Economies of scale – vital in sectors such as tech, automotive and mass retail – have driven the emergence of multinational corporations meeting demand at global level. These players capture ever-increasing market shares from smaller competitors by investing massively in research and development (R&D), marketing and logistics. In addition, business

(25) D. Lashkari *et al.* (2019), "Information Technology and Returns to Scale", Banque de France, *Working Paper.*
(26) Scale effects correspond to the decrease in the unit cost of a good or service produced by a firm due to an increase in the quantity produced.
(27) D. Autor, D. Dorn, L. Katz, C. Patterson and J. Van Reenen (2017), "The Fall of the Labor Share and the Rise of Superstar Firms", NBER, *Working Paper* 23396.
(28) M. Melitz (2003), "The Impact of Trade on Intra-Industry Reallocations and Aggregate Industry Productivity", *Econometrica*.
(29) M. Amiti and S. Heise (2021), "U.S. Market Concentration and Import Competition", *Review of Economic Studies.* This study posits that, once adjusted for sales by foreign exporters, US market concentration in manufacturing remained stable from 1992 to 2012.
(30) D. Barteleme *et al.* (2019), "The Textbook Case for Industrial Policy Theory Meets Data", NBER, *Working Paper* 26193.

mergers designed to win new markets or strengthen their position reduce the diversity of players (e.g. acquisitions in the pharmaceutical, agri-food and telecommunications industries). In this environment, competition policy can help businesses to reach a critical size to compete on global markets. However, inclusion of these scale effects should not compromise domestic competitive dynamics, which generally bolster domestic firms' competitiveness at global level where competition is even more intense.

The increase in concentration also raises the question of supply chain[31] resilience and the role of competition policy in enabling businesses to benefit from economies of scale. Healthy competition enables businesses to diversify their supply sources and better resist shocks by limiting the risks associated with excessive concentration at one link in the value chain.[32] Nevertheless, increased concentration can, in certain cases,[33] strengthen resilience by enabling firms to better control their resources, capitalise on scale effects and have enough financial latitude to absorb an exogenous shock affecting the value chain. In these cases, competition policy is designed primarily to support trade and industrial policies,[34] which play a more direct role in managing crises affecting the global supply chains.

Chart 3: Concentration metrics in Europe and North America (Canada and United States), 2000 = Base 100



Source: "Industry Concentration in Europe and North America", OECD.

How to read this Chart: This Chart analyses cumulated changes (%) in levels of sales concentration in the manufacturing and non-financial market service industries. The concentration indicators measure the share of the top 4, 8 and 20 firms in each industry (CR4, CR8 and CR20 respectively) In 2014, sales concentration for the top 4 and 20 firms in European industry (CR4 and CR20) was 20% higher than in 2000 and over 15% higher for the top 8 firms (CR8).

(31) X. Jaravel and I. Méjean. (2021), "A Data-Driven Resilience Strategy in a Globalized World", French Council of Economic Analysis (CAE). "Globalized value chains increase the concentration of production for certain critical inputs, which reduces production costs but increases the risk of supply disruptions".
(32) A. Coscelli and G. Thompson (2022), "Resilience and Competition Policy", CMA, Competition & Market Authority, *Economics Working Paper*.
(33) Provided the firms in question do not put in place input lock-in strategies.
(34) A. Coscelli and G. Thompson (2022), *op. cit.*

3. Consideration of these new realities calls for changes to competition policy in terms of both scope and implementation

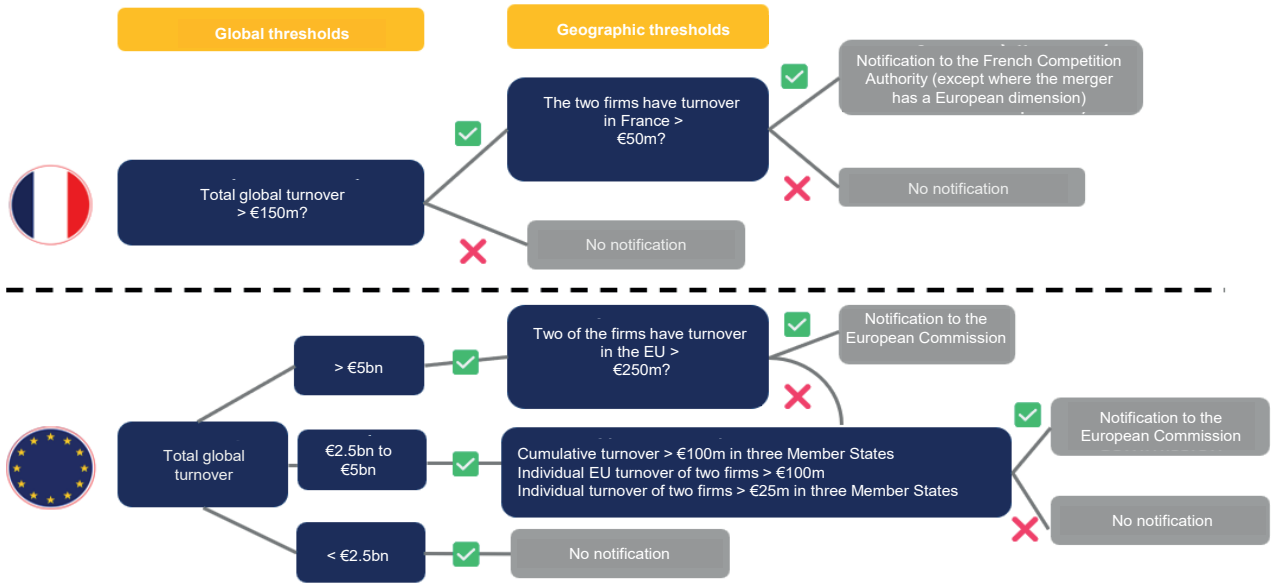
3.1 Competition authorities leverage traditional competition law to address these new challenges

Competition authorities have two main tools at their disposal that pursue two different goals: merger controls and antitrust controls.

First, merger controls consist of approving or rejecting a merger between undertakings. This essentially ex-ante control (i.e. prior to the transaction) checks that there is a sufficient number of companies to guarantee effective competition on each segment of the value chain – a condition called "market atomicity".[35] For example, the European Commission prohibited Wieland's planned acquisition of Aurubis Rolled Products[36] (both producers of rolled copper products) in 2019 on the grounds that the operation would have caused an increase in prices for manufacturers in cutting-edge sectors such as electric cars, trains and electronic devices.[37] This control hence limits the formation of excessive market power by a company on a given market.

Ex-ante merger controls only apply to mergers above the notification thresholds, which by definition exclude below-threshold acquisitions that may nonetheless have anti-competitive effects. These thresholds are based on the idea that the most harmful mergers for competition generally involve businesses with high turnover (see Figure 2). However, some below-threshold acquisitions can significantly affect competition when they reduce market contestability (see above) and hinder, if not neutralise, innovation in the case of "killer" acquisitions.[38] Today, such acquisitions can be assessed ex-post by controls of abuse of a dominant position (CJEC, 1973, Continental Can case and CJEU, 2023, Towercast case). These ex-post controls can call into question a merger years after completion of the operation.[39]

Figure 2: Notification thresholds for merger controls in the European Union (EU) and in France in the general case



Source: DG Trésor, based on Article L.430-2 of the French Commercial Code and Council Regulation (EC) No 139/2004.

How to read this Figure: Specific thresholds apply in France for the retail sector and firms operating in overseas France. At European level, specific rules on the allocation of jurisdiction between the European Commission and national competition authorities can also apply along with additional thresholds pursuant to the European Foreign Subsidies Regulation, for example.

(35) Atomicity refers to a market in which there are a large number of small buyers and sellers relative to market size such that the price will not be changed when a player enters or exits the market.
(36) This planned acquisition also included Aurubis's holdings in Schwermetall, a company in which Aurubis and Wieland held equal shares.
(37) European Commission Press Release.
(38) A killer acquisition refers to a dominant firm's takeover of another firm, often an innovative start-up, to eliminate or shelve its product, thereby removing a potential competitor.
(39) A. Ronzano (2025), "Acquisition prédatrice: Doctolib MonDocteur", *Concurrences* No. 11-2025 (in French only).

These thresholds are supplemented by Regulation (EU) 2022/2560 of 14 December 2022 on foreign subsidies that distort the internal market (FSR)[40]. This regulation further controls acquisitions by firms that are subsidised by third countries and operate in the Single Market. The inclusion of these thresholds aims to ensure a level competitive playing field with foreign firms.[41]

Second, ex-post antitrust controls are designed to penalise abuse of dominant positions. In the digital sector, these controls are used to prevent self-preferencing, such as when Google gave favourable positioning to its Google Shopping marketplace in its search engine results.[42] They also serve to regulate tying,[43] when consumers buy another product where a firm has a dominant position, such as the automatic installation of Internet Explorer on Microsoft Windows operating systems.[44]

The effectiveness of ex-post antitrust controls and their associated fines is sometimes called into question. For example, many ex-post convictions have not induced a change in the behaviour of big tech companies.[45] Nevertheless, structural remedies can be envisaged in this case, as shown by the European Commission's decision against Google in the online advertising market[46] which, in addition to a fine of €2.95bn for abuse of a dominant position, considered the divestiture of parts of Google's activities if the remedies proposed by the company were not sufficient.

3.2 Competition law therefore needs regular updating to adjust to the changing business environment, in line with discussions underway at European level

Competition policy is often criticised for preventing the emergence of "national champions", especially compared with US competition policy portrayed as more flexible. However, European competition policy seems in theory no stricter than in the United States (see Box 1). Moreover, the authorities' decision-making practices – about which the comparative analysis is less clear-cut – play a major role in market organisation. Discussions are currently underway at European level in this area.

In 2024, the European Commission revised its notice on the definition of "relevant markets",[47] explicitly including competition at global level.[48] In addition, the European Commission now explicitly takes into account the sustainability of the products concerned and the technology used in the definition of the relevant market. This approach facilitates certain mergers and acquisitions where the European Commission judges they are operating on two ultimately different relevant markets (see Hydro's acquisition of Alumetal in 2023).[49]

(40) The additional thresholds are (i) EU turnover of at least one of the merging undertakings amounts to €500m, and (ii) a foreign subsidy of €50m received by at least one of the abovementioned merging undertakings in the three years preceding the planned merger.
(41) May 2025 Nasse Seminar – What balance between competition policy, industrial policy, and trade policy in response to foreign subsidies?
(42) European Commission Decision, CASE AT.39740, Google Search (Shopping), 27 June 2017.
(43) Tying is the commercial practice of conditioning the sale of one product on the purchase of another product without offering the two products separately.
(44) European Commission Decision, CASE AT.39530, Microsoft, 6 March 2013.
(45) M. Gal and N. Petit (2021), "Radical Restorative Remedies for Digital Markets", *Berkeley Technology Law Journal*.
(46) European Commission, CASE AT.40670, Google-Adtech, 5 September 2025.
(47) The relevant market refers to the boundaries within which mergers, acquisitions or a dominant position will be assessed by a competition authority.
(48) This angle was absent from the previous methodology (1997), which restricted analyses to European or national markets, although it was able to be included in practice. For example, in the Siemens/Alstom case (2019), the European Commission took into account the international nature of the market, but deemed the international competition insufficient to approve the merger on that basis.
(49) European Commission (2023), "Mergers: Commission clears Hydro's acquisition of Alumetal". Alumetal and Hydro are two major European producers of aluminium foundry alloys used mainly by the automotive industry. Alumetal makes these alloys from recycled material, while Norsk Hydro uses non-recycled material and renewable energy for their production. The European Commission assessed whether low-carbon alloys constituted a separate market. It approved the merger unconditionally.

Box 1: Comparison of merger control rules in Europe and the United States

Merger controls in Europe appear to be relatively similar to those in the United States. Although merger controls are historically more flexible in the United States, the US federal authorities (FTC/DOJ)[a] have been applying stricter rules in theory since a 2023 reform. The American notification thresholds are such that more merger controls are conducted than under the European thresholds: the European Commission examined 356 transactions in 2023 compared with 1,805 transactions for the US federal authorities.

In practice, the European Commission's decisions do not appear to be stricter than those of the US authorities. Merger controls in Europe result in unconditional approval in 95% of cases. From 2004 to 2024, only 0.2% of all reviewed mergers were prohibited (15 out of 7,103 operations)[b]. The European Commission has approved numerous large mergers and acquisitions, including those in the digital sector such as Facebook's acquisition of WhatsApp in 2014, Microsoft's acquisition of Activision Blizzard in 2023 (rejected by the FTC)[c] and Nvidia's acquisition of Run:AI in 2024. However, the European Commission is more stringent than other authorities, especially American ones,[d] when it comes to conditional approval. It tends to prefer "structural" remedies (e.g. sales of assets) – seen as stricter due to their direct and irreversible impact on market structure – rather than "behavioural" remedies (e.g. limits on commercial offerings). This approach can discourage certain planned mergers such as the TF1 and M6[e] television channels merger and lead to self-censorship phenomena, which is difficult to quantify.

a. The FTC (Federal Trade Commission) and the DOJ (Department of Justice) share jurisdiction in this area.
b. In addition, 2.5% of examined mergers were dropped. These numbers are approximate, since the data rules out any detailed differentiation between notified operations and those reviewed by the European Commission's Directorate-General for Competition (DG COMP).
c. The FTC considered that Microsoft's proposed commitments to the FTC were not credible.
d. Nasse Seminar (2023) – Contemporary Issues in Merger Control.
e. See French Competition Authority (2022), "The planned TF1-M6 merger is withdrawn following remedies envisaged by the French Competition Authority during the examination phase".

The European Commission has also launched a review of its merger guidelines, since the current versions are widely considered to be outdated.[50] The main aim of the review is to clarify the European Commission's decision-making criteria, in particular the indicators used to assess mergers, so as to provide businesses with greater predictability.

In view of the review's aims and the feasibility of the options being considered by the different parties consulted, this review could more directly apply the Draghi Report proposals to strengthen the European economy's competitiveness. This would enable EU competition policy to give more weight to innovation, efficiency and resilience with suitable time frames applied.[51]

For example, the European Commission could improve its consideration of efficiencies: such gains can already be factored in, provided they are quantified and of direct benefit to consumers in the relevant market. The European Commission had already acknowledged the existence of efficiencies in the merger of telecommunications operators Orange and MásMóvil,[52] but stated that these gains were not substantial enough to counteract the anti-competitive effects of the operation. Likewise, "green" efficiency gains that contribute to meeting environmental targets can be acceptable in theory, but rarely are in practice.[53]

The proposals made to more fully factor in efficiencies include (i) clarification of efficiencies quantification requirements for businesses, and (ii) a clearer

(50) Published respectively in 2004 for "horizontal" mergers (on the same market) and in 2009 for "non-horizontal" mergers (e.g. for acquisitions on upstream markets).
(51) European Commission (2025), "Commission seeks feedback on the review of EU merger guidelines", Press Release.
(52) See the Summary of Commission Decision of 20 February 2024. This transaction was ultimately approved subject to the remedies proposed by the European Commission.
(53) See Nasse Seminar (2025), "Quelle politique de la concurrence à l'heure de la transition écologique ?" (Competition policy in the era of ecological transition – in French only).

adaptation of the timeframe for taking account of these gains (which tend to materialise over the long term). More specifically, consideration of efficiencies on markets other than the strictly relevant market (out-of-market efficiencies) would facilitate clearance for certain operations more broadly.[54] Such efficiencies could, for example, be factored into the merger assessment phase (e.g. green efficiency gains if they are a direct outcome of the merger)[55] or the suitable remedies definition phase (e.g. by making a merger contingent on investments in innovative out-of-market sectors).

3.3 The missions and tools assigned to competition authorities to control the exercise of corporate market power, particularly in the digital sector

While certain parts of merger law are slated to be relaxed in Europe, some sectors are contending with market power consolidation dynamics that require increased controls.

In particular, the Digital Markets Act (DMA) has introduced ex-ante control of dominant digital sector players in the European Union.[56] This act defines "core platform services", which structure the digital economy (search engines, social media, etc.), and imposes specific obligations on "gatekeeper" companies. These requirements include controls on self-preferencing in ranking (Article 6(5) and tying (Article 5(7)). Gatekeepers are designated by the European Commission on the basis of quantitative (e.g. number of users) or qualitative criteria (determined by a market investigation). For instance, ByteDance has been designated as a gatekeeper for its online social networking service, TikTok[57], and Alphabet for its search engine, Google.[58] In November 2025, the European Commission launched two market investigations to determine whether Microsoft and Amazon should be considered as gatekeepers for their cloud computing services.[59] Should these designations be confirmed, the companies will be required to comply with the DMA's obligations for these services, such as reducing customer lock-in.

Work is also underway for national competition authorities in over a dozen Member States to consider gradually introducing merger control below the notification thresholds, since certain mergers that fall outside the turnover thresholds can hinder innovation (see above). First introduced at European level in 2021 through the referral mechanism, which allows national competition authorities to request that the European Commission return a decision, this below-threshold control was limited by the Court of Justice of the European Union (CJEU) judgment of 3 September 2024 (Illumina/Grail). The CJEU ruled that only referrals by national authorities with the power ? to examine a below-threshold merger were admissible. In response, several European competition authorities adopted a "call-in power" to enable them to conduct below-threshold merger controls. For example, the Irish competition authority adopted a broad-based call-in power, but has not yet used it, unlike the Italian competition authority, which referred the examination of Nvidia's acquisition of Run:AI to the European Commission (2024). In France, the Competition Authority launched a consultation in 2025 to identify and assess the different below-threshold control possibilities. The legislature will decide whether to introduce such a call-in power.

(54) E. Chantrel and A. Walckiers (2025), "Can we afford to keep ignoring out-of-market efficiencies in the merger control guidelines after the Draghi Report?", *Concurrences* No. 11-2025.
(55) For example, an environmental improvement tends to benefit consumers on the market in question and "non-consumers" (i.e. consumers on other markets than the relevant market in question).
(56) B. Cœuré (2024), "Challenges of competition law in the 21st century in the European Union".
(57) Case DMA.100040 ByteDance – Online social networking services.
(58) Case DMA.100004 Alphabet – Online search engines.
(59) European Commission (2025), "Commission launches market investigations on cloud computing services under the Digital Markets Act".

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