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Commentary

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European Union: Europe's response to a shifting world order and the implications for EU competition policy

In brief

In an era of tense geostrategic rivalries, Europe finds itself in the midst of a full-blown competitiveness crisis. Against the backdrop of a much broader industrial policy debate on what is urgently required to improve the EU's flagging productivity to protect its social market model and its economic security, this article weighs up the pending proposals to ensure that the competition rules keep pace and are fit for purpose. On both fronts, there is no shortage of initiatives under consideration but so far little sign of any real institutional willingness to learn from the past and to do things differently. The EU institutions alone cannot legislate or regulate the continent out of the current situation. A new approach is required.

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I. The geopolitical context

Europe faces many challenges, not least an open war on its doorstep, random acts of sabotage by hostile states, what is being coined as the second China shock,[1] the unpredictability of the US Trump administration and its hostility to the EU project, and the erosion of international law and institutions. Even if the EU manages to avoid harsh US tariffs with mercantilist purchases of more liquefied natural gas (LNG), military and agricultural products, the change of guard in Washington risks (among other challenges) opening a floodgate of imports from China and other markets on the receiving end of more aggressive US tariffs on a scale that may hasten Europe's deindustrialisation.[2] In response, the EU is signalling that it is prepared for any eventuality —hoping for a constructive relationship with its trading partners, ready to reciprocate against overt protectionism.

Closer to home, Europe has been experiencing sluggish economic growth exacerbated by a widening skills gap, an ageing population, increasing popular discontent and populism, and a lack of political leadership in too many national capitals. Recent statistics are cause for alarm. The EU's share of annual global foreign direct investment (FDI) flows has shrunk from 36% in 2019 to a paltry 4% in 2023.[3] 41% of companies consider the increased regulatory burden of doing business in Europe to be the main factor driving this drastic decline,[4] and two-thirds of companies report being hindered from investing in Europe by excessive regulation.[5]

So now is indeed the time for the EU to step up and confirm the old adage that nothing unites it better than an existential crisis.

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[1] By some estimates, China is running a USD 1 trillion trade deficit in manufactured goods, increasingly in sectors that Europe (especially Germany) have excelled in. Domestic overcapacity and sluggish domestic demand squeeze out imports and stimulate export markets, often with state support. *See* S. Tordoir and B. Setser, How German industry can survive the second China shock, published by the Centre for European Reform in January 2025, for a sobering analysis of the issues the new German government (and the EU) will urgently need to tackle in this respect.

[2] The potential effects would be further exacerbated if the Trump administration managed both to apply tariffs in a way that strengthens US production and to weaken the dollar to improve US exports.

[3] Communication from the Commission, The 2025 Annual Single Market Competitiveness Report, COM(2025) 26 final, 29 January 2025, source cited at footnote 52.

[4] EY Europe Attractiveness Survey 2024.

[5] *Investment barriers in the European Union 2023: A report by the European Investment Bank Group*, EIB, Luxembourg, 2024.

II. Improving Europe's global competitiveness

Commission President von der Leyen's first term was initially focused on driving the green and digital transitions and setting regulatory standards to ensure a better, fairer world in the EU's image, pivoting more recently to bolster its economic security.

Although in 2021 the Commission was already committed to a "new" EU industrial policy strategy that promised better coordination among Member States, more investment, more innovation, and bolder use of internal market and trade policy instruments to improve Europe's economic security,[6] the looming geopolitical storm clouds may have led President von der Leyen to task Mario Draghi, the respected economist and former president of the European Central Bank and Italian prime minister, to prepare a report presenting his vision on the future of European competitiveness.

The Draghi report (the "Report"), published in September 2024, provides a sobering diagnostic of Europe's ills. Among its conclusions: Europe lacks focus, wastes its common resources through dilution across multiple different national and EU instruments, and fails to coordinate where it matters.[7] The Report warns that if Europe cannot become more competitive, it will not manage to become a leader in new technologies, a beacon of climate responsibility, and an independent player on the world stage. It will not be able to finance its social model. In short, the EU project requires radical change.

The Report lays out a new industrial strategy for Europe, identifying three main priority areas for action:

- **Closing the innovation gap with the US and China**, especially in advanced technologies: European innovation fails to translate into commercialisation, innovative companies that want to scale up in Europe are "*hindered at every stage by inconsistent and restrictive regulations*."[8]
- **A joint plan for decarbonisation and competitiveness** spanning industries that produce energy, and those that enable decarbonisation, to compensate for cheap US energy prices and to protect against China's state-sponsored aggressive competition that is especially acute in clean tech and electric vehicles; a failure to coordinate risks decarbonisation undermining competitiveness and growth.
- **Increasing security and reducing dependencies** requires a genuine EU foreign economic policy, coordinating preferential trade agreements and direct investment with resource-rich nations, building up stockpiles in selected critical areas, and creating industrial partnerships to secure the supply chain of key technologies, including defence.

The Report sets out four building blocks on which the success of the EU's industrial strategy will depend:

- **Full implementation of the single market** (as proposed by the Letta report);
- **Industrial, competition and trade policies that are closely aligned** and part of an overall strategy abiding by a set of best practice principles;[9]
- **Unprecedented levels of funding** to finance the investments needed to digitalise and decarbonise the economy and increase the EU's defence capacity through integrated capital markets, the smart joint public/private funding of investments in key European goods such as breakthrough innovation, and common funding instruments in defence and cross-border energy grids;

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[6] That strategy had already spawned the Critical Raw Materials Act and the European Chips Act to reduce dependencies, the Net-Zero Industry Act to help scale up EU manufacturing of clean technologies, and a new Regulation to establish Strategic Technologies for Europe Platform (STEP) to support the development, manufacturing or strengthening of respective value claims in the Union of deep and digital technologies, clean technologies, and biotechnologies. See communication from the Commission, Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery, COM(2021) 350 final, 5 May 2021.

[7] There is no shortage of initiatives diagnosing Europe's ills and proposing solutions. The March 2023 communication on long-term competitiveness of the EU: looking beyond 2030 (COM(2023) 168 final) was a clarion call ("*The time is now to work differently, at a make or break moment for the EU's long[-]term competitiveness"). The April 2024 Letta report called for a new framework to strengthen the single market based on a level playing field while supporting a dynamic and effective European industrial policy, identifying the challenge of simplifying the regulatory framework as a principal hurdle to a better future. The June 2023 joint communication on "European Economic Security Strategy" (JOIN(2023) 20 final) recognised the importance of making the Union's economy and supply chains more resilient and bolstering innovation and industrial capacity, deepening the single market, upskilling Europe's workforce, and diversifying sources of supply areas such as advanced semiconductors, quantum computing, biotechnology, net-zero industries, clean energy and critical raw materials*.

[8] M. Draghi, The future of European competitiveness, Part A – A competitiveness strategy for Europe, September 2024, at 6.

[9] For example: public authorities should avoid duplicating what the private sector would already do; policy should focus on sectors, not companies, and avoid picking winners or defending incumbents; for identified priority sectors, the EU should aim to be competitively neutral, and regulation should be designed to facilitate market entry.

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- **The reform of EU governance**, increasing the depth of coordination and reducing the regulatory burden by focusing on the most pressing issues, and allowing Member States that want to move faster to do so together.

The work is underway: on 29 January 2025, the Commission published a 'Competitiveness Compass' to guide its five-year work plan.[10] The plan endorses Draghi's three strategic imperatives and identifies five horizontal enablers to reinforce competitiveness across all sectors, namely (i) simplifying the regulatory environment; (ii) removing barriers in the single market; (iii) financing through a Savings and Investment Union and a refocused EU budget; (iv) promoting skills and quality jobs; and (v) better coordinating policies at EU and national level.

The Competitiveness Compass is busy, bold and ambitious. Like many similar announcements before it, it promises a host of new initiatives to close the innovation gap and achieve the broader goals of decarbonising, reducing economic dependence and increasing security and productivity. It is telling that increased EU funding and governance reform are not expressly on the table. Improving skills and quality jobs are no doubt important objectives but suggest a blurring of the lines between what the EU and Member States should each be prioritising.

So, what does all of this mean for EU competition law and policy?

III. Competition policy implications

It is uncontroversial that ordinarily, competition stimulates productivity, investment and innovation. But the Draghi Report warns that EU competition policy must adapt to changes in the economy so that it does not become an obstacle to Europe's goals, including the need for scale and economic resilience.

There is some overlap between the Draghi proposals on competition policy summarised in Figure 1 and President von der Leyen's September 2024 mission letter setting out the mandate of Teresa Ribera, the new executive vice-president of the Commission charged with ensuring a "Clean, Just and Competitive Transition" and modernising the EU competition policy along the way. The mandate calls for a "*new approach to competition policy*" with an industrial policy flavour.

Perhaps in part a response to these developments, in November 2024, European Central Bank (ECB) President Christine Lagarde warned the EU against false trade-offs in sacrificing the benefits of competition in pursuing new industrial policy goals: the latter should not mean protecting incumbents at the expense of the emergence of innovative start-ups and the integrity of the single market.

Europe's competition authorities certainly have a role to play in ensuring that industrial policy initiatives are geared to stimulating productivity, jobs, investment and innovation without veering too far from the basic precepts of an open market economy. They should avoid efforts to protect national champions or the picking of winners while allowing companies to enjoy broad freedom to operate without undue regulatory costs and interference.

[10] COM(2025) 30 final, 29 January 2025.

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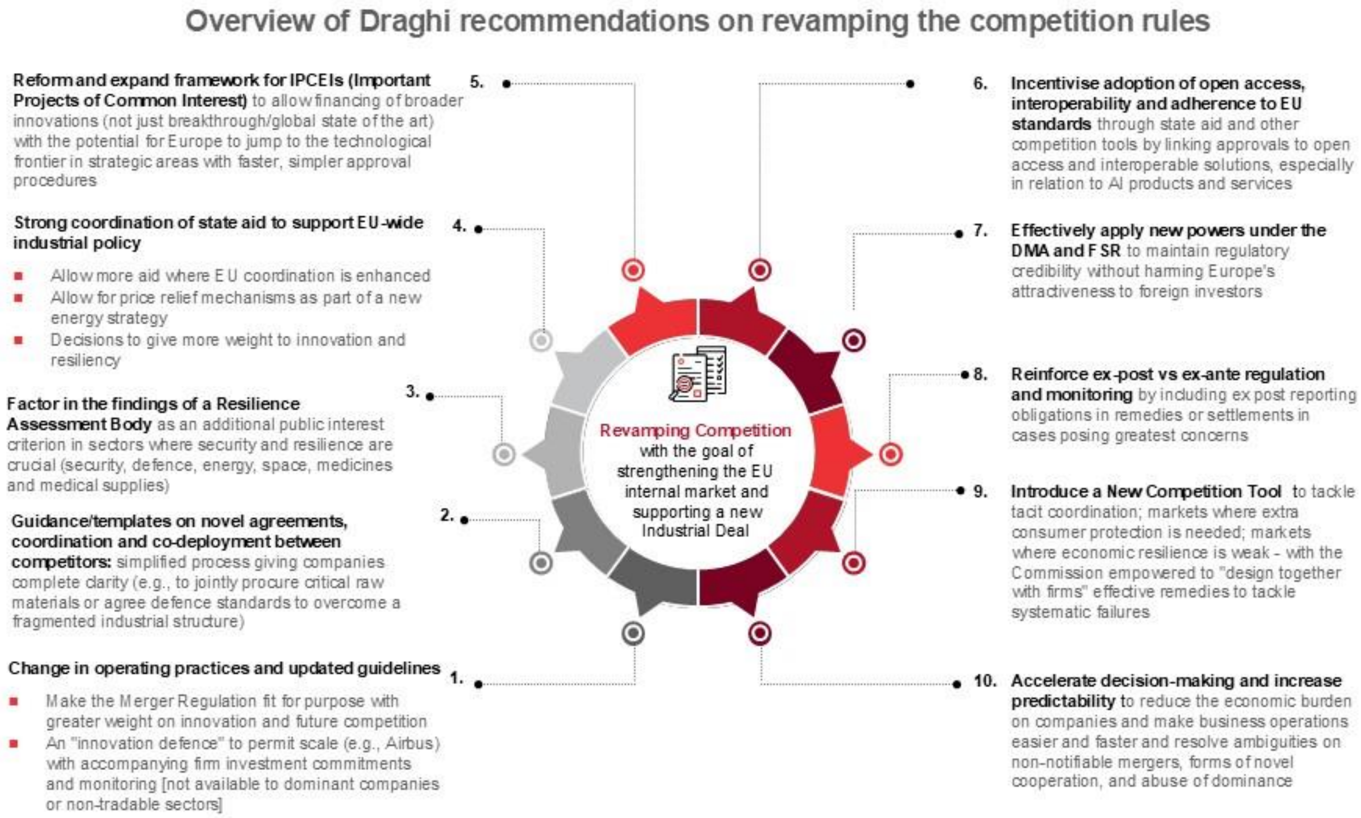
Figure 1.



What do the various proposals currently on the table mean in practice for the main instruments of EU competition law and policy: State aid, merger control, and antitrust enforcement?

1. State Aid

In recent years, the Commission has been nimble in adjusting the State aid rules in the face of unexpected crises and in support of the green and digital transitions; the marriage of competition and industrial policy in action. The Treaty on the Functioning of the European Union (TFEU) allows the Commission to declare industrial development aid as compatible with the internal market where "*such aid does not adversely affect trading conditions to an extent contrary to the common interest.*"[11] This has provided broad leeway for Member States to use subsidies to pursue industrial policy goals.

The Draghi Report called for:

- **Closer assessment of the coherence of State aid with EU-wide industrial policy**, more funding where EU coordination is enhanced, and greater emphasis on the potential impact of State aid on both innovation and resiliency;
- **Reinforcement of and faster, simpler deployment of the IPCEI instrument**[12] beyond breakthrough technologies, lowering the "global state of the art" criterion to include industrial projects of common interest (e.g. infrastructure) and all forms of innovation with the potential to push Europe to the frontier in strategically important sectors and expand the single market;

[11] Art. 107(3)(c) TFEU.

[12] IPCEI (important projects of common European interest) is a State aid instrument enabling Member States to pool resources in strategic sectors where the market alone does not deliver.

- **Linking State aid approval to the enhancement of open access and interoperable solutions** and to the development of Europe-wide standards beyond digital to sectors such as energy, connectivity, defence and transportation.

Commissioner Ribera is mandated to preserve the level playing field while simplifying the State aid rules, developing a new State aid framework to support industrial decarbonisation, ensuring sufficient manufacturing capacity of clean tech, working with Member States to provide swifter support for IPCEIs, and revising the State aid rules to enable housing support measures, especially geared to energy efficiency and social housing.

Lots of ideas and a very busy agenda.

But as Draghi points out, uncoordinated national industrial policy incentives often lead to duplication, incompatible standards, and failure to consider externalities, including the "*adverse impact on the Single Market when the largest countries with the most fiscal space can provide much more generous support than others.*"[13]

An International Monetary Fund (IMF) Working Paper of December 2024[14] confirms that national industrial policy, even when it increases domestic productivity, can generate welfare losses in the domestic economy as well as negative productivity effects in other countries. While the EU State aid rules provide guardrails against policy misuse and minimise adverse spillover effects, the Working Paper calls for a more strategic, competitive, and effective EU-level industrial policy.

In response, the Competitiveness Compass proposes to set up a new "Competitiveness Coordination Tool" to align industrial and research policies and investments at the EU and national level. The EU should act together with Member States on common priorities of strategic importance, and will initially propose pilots in areas such as electricity grids and storage, sustainable fuels and charging, digital infrastructure and AI vertical use cases, biotechnology, and critical medicines manufacturing capacities. Coupled with a proposed new "Competitiveness Fund" to strengthen the funding of strategic technologies and manufacturing and to help leverage and de-risk private investments, this could make a meaningful difference if Member States were disciplined and aligned. But the proposal bears all the hallmarks of a classic EU compromise, leaving plenty of room for continued duplication and fragmentation, explained no doubt in large part by Member State unwillingness to expand EU-level public investment. Adequate funding will be the ultimate litmus test of Europe's ability to weather the storm.

2. Merger Control

The Draghi Report observes that the Commission has come under attack for not allowing mergers that would create companies of sufficient scale to invest in order to compete with Chinese and American superstar companies, most notably in tech but also in retail, wholesale, finance and other sectors. The Report does not expressly propose any loosening of the rules to create European champions, but it does call for merger evaluations to be more forward- looking and agile, assessing future innovation potential despite the inherent uncertainty of such an exercise, through a "*change in operating practices and updated guidelines to make the current Merger Regulation fit for purpose*."[15]

The Report also calls for the resolution of existing ambiguities as to which non-notifiable mergers can be reviewed and by whom, recommending the introduction of deal-value thresholds. So far, the Commission has not expressed any particular interest in such thresholds, seemingly content to let national legislatures provide for broad call-in powers that effectively create even more legal uncertainty than that criticised by the Court in rejecting the Article 22 policy U-turn in *Illumina/ Grail* on the grounds that "it is for the EU legislature alone to review [the] thresholds or to provide for a safeguard mechanism [for] the Commission to scrutinise" below-the-threshold transactions without prejudice to Member States' ability to revise downwards their own thresholds.[16]

Specifically, Draghi proposes to introduce an "innovation defence" to allow companies in certain sectors to pool resources to cover large, fixed costs and achieve the scale needed to compete globally in return for concrete investment commitments.[17] The Report

[13] Draghi, *supra* note 8, at 16. The 2025 Annual Single Market Competitiveness Report has since confirmed that State aid has become more unevenly allocated across Member States over the past ten years. Source: Single Market Scoreboard referenced at footnote 106.

[14] A. Hodge, R. Piazza, F. Hasanov, X. Li, M. Vaziri, A. Weller and Y. C. Wong, Industrial Policy in Europe: a Single Market Perspective, *IMF Working Papers No. 2024/249, 2024.*

[15] M. Draghi, The future of European competitiveness, Part B – In-depth analysis and recommendations, September 2024, at 299.

[16] CJEU, 3 September 2024, case C-611/22 P, EU:C:2024:677, para. 216.

[17] The Report cites Airbus as a case study to support the introduction of an "*innovation defence*" to permit European companies to reach global scale. However, one of the drawbacks of Draghi's proposal is the unavailability of the innovation defence to dominant companies. Given the low level of 40% market share at which dominance is presumed, this limitation would likely exclude many potential candidates from the sort of industrial

calls for the Commission to explain what evidence merging parties can present to prove that their merger increases their ability and incentive to innovate. To prevent improper use of the defence, the Report proposes that the merging parties should commit to levels of investment that can be monitored *ex post* with adequate disincentives to deviate from the investment plan.

It is not clear whether Draghi is suggesting a more rigorous economics-based approach to the merger assessment itself or a more political approach based on industrial policy priorities. The latter interpretation would seem to explain the recent decision of the UK's Competition and Markets Authority (CMA) in approving the four-to-three merger of *Vodafone/Three* subject to behavioural investment commitments as opposed to more traditional structural remedies.[18]

The Commission may contemplate a similar approach in its upcoming review of the horizontal merger guidelines since Commissioner Ribera's mandate calls upon her to give adequate weight to the acute need to ensure resilience, efficiency and innovation, the time horizons and investment intensity of competition in certain strategic sectors, and the changed defence and security environment. The Competitiveness Compass also reiterates calls for a fresh approach that is better geared to common goals and allows companies to scale up in global markets, while always ensuring a level playing field in the single market. This language is presumably intentionally ambiguous.

Merger control is sufficiently fungible to address changing societal demands including the need, where appropriate, to reflect efficient scale for investment-intensive activities or the geographic scope of rivals' operations. As a result, we are likely to see some adjustment to the horizontal merger guidelines rather than a wholesale reform. Large-scale mergers to create European champions on the Airbus scale will still come under close scrutiny which does not preclude some fudging around the edges in specific cases as the result of political pressure being brought to bear on the Commission to give certain large deals an easier ride.

Commissioner Ribera's mandate also includes the need to focus on "*the particular challenges facing SMEs and small midcaps, notably to address risks of killer acquisitions from foreign companies seeking to eliminate them as a possible source of future competition*."[19] This is a troubling and disingenuous statement. It ignores the glaring challenges facing SMEs and small midcaps in Europe which include the absence of deep capital markets and a costly regulatory environment that does not encourage risk taking. The *raison d'être* of many of Europe's most innovative start-ups is predicated on an early buy-out exit strategy. Although much ink has been spilt on the phenomenon of killer acquisitions, a recent report on the *ex post* evaluation of pharmaceutical transactions leading to the discontinuation of overlapping drug R&D projects was rather inconclusive.[20] In a typical cautionary ('fear of missing out') approach, the report recommends the introduction of a registry or notification system of relevant deals and planned discontinuations, including in relation to exclusive licences. The additional protectionist overlay in Ribera's mandate sends an ambiguous signal in terms of Europe's openness to inward investment and its stance on compliance with international law.

3. Antitrust policy and enforcement

The Draghi Report recommends simplification and revision of the competition rules to make business operations easier and to lighten the burden on companies, including faster proceedings, clearer guidelines, reduced ambiguity and the possibility for competitors contemplating novel collaboration agreements to get timely legal certainty as to the compliance of their working together when that would benefit consumers.

Commissioner Ribera's mandate to strengthen and speed up enforcement, including providing timely clarity for economic operators that cooperate in strategic sectors, is broadly aligned on these points, as is the Competitiveness Compass. The Compass cites enforcement under the Digital Markets Act and an upcoming review of the technology transfer block exemption Regulation as efforts to ensure that companies have clear, simple and up-to-date rules that facilitate technology dissemination, incentivise initial R&D, and promote innovation.

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scale-up envisaged in strategic sectors. The IMF paper cited at FN 14 refers to the creation of Airbus as an example of good practice of joint long-term public investments, noting that Airbus remained an intergovernmental consortium for thirty years, a full ten years after it became profitable.

[18] On 5 December 2024, in a clear departure from past practice, the CMA approved the merger after considering that it could lead to higher prices for customers and less advantageous terms for virtual network providers. Clearance was conditional on legally binding commitments to make significant network upgrades ("in the billions") over an eight-year period, the capping of selected mobile tariffs and data plans for three years to protect customers, and an offering of preset prices and contract terms for wholesale services for a similar three-year period.

[19] U. von der Leyen, Mission letter to Teresa Ribera Rodríguez, 17 September 2024.

[20] The Lear report was published by the Commission in November 2024 and concluded that of more than 6,000 transactions in the period 2014–2018, on the basis of publicly available data that 240 involved the acquisition of potentially substitutable projects, 89 were followed by discontinuation of one of the projects without there being any clearly identifiable technical or safety explanation.

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However well intentioned, these proposals are unlikely to move the needle without a radical shift in regulatory mindset. It is timely to step back and ask whether the antitrust rules really are fit for purpose.

Emerging industrial organisation literature documents a trend to inter-firm innovation alliances based on loose frameworks rather than rigid contractual agreements that fit neatly into a block exemption straight jacket. The EU block exemption safe harbours are increasingly sclerotic; each time they are renewed, they tend to be subject to further gold-plating without any serious reflection on the underlying orthodoxy. This contributes to them not always being a model of clarity and simplicity.

Query whether market share thresholds below a dominance threshold are needed? And what about arcane rules that dictate that after making significant, even multi-billion investments into a joint R&D agreement with no guarantees of success, if there is finally a marketable output, the parties are prohibited from setting the price unless they jointly appoint a third-party distributor or sell via a joint team or sales organisation (whatever that means as a practical matter in the real world)? Why do we have a safe harbour that allows a licensor to terminate an exclusive licence where the licensee challenges the validity of the intellectual property rights, but not where the licence is non-exclusive? These sorts of restraints are generally viewed as ancillary and unproblematic under a US rule of reason approach whereas more intrusive EU rules are liable to discourage rather than encourage more collaboration.

Outside the narrow constraints of block exemptions, EU competition law treats most forms of horizontal collaboration as collusion. The latest guidelines come from a place of deep suspicion. It is little surprise that companies are not beating a path to the regulators' doors to discuss what might be possible despite open invitations to do so. The few "comfort letter" type approaches have been relatively slow to deliver and cautiously caveated.[21]

The draft Article 102 guidelines released in August 2024 for public consultation are another case in point. They effectively seek to sidestep a body of case law on the importance of an effects-based analysis requiring the Commission to establish that conduct is likely to have anti-competitive foreclosure effects excluding or deterring as efficient competitors to the detriment of consumers. By reverting to more form-based presumptions of harm across a wide range of commercial conduct, the Commission is seeking maximum discretion and imposing asymmetric and unclear burdens of proof (light touch for it to find an abuse, almost impossible rebuttal standards on defendants). The Draghi Report criticised the draft guidelines for conferring excessive discretion on the Commission, and called out the need to avoid the fragmentation of the regulatory landscape resulting from the fact that the guidelines are without prejudice to the application of national competition rules. Unclear EU guidance has negative spillover effects at national level within the EU and in the many third countries that look to EU competition law for inspiration.

Europe needs clearer, coherent and practical antitrust guidelines that do not lead to overly cautious counselling that dampens the appetite for entrepreneurial risk-taking and investment.

IV. Is there a need for new competition tools?

To strike a balance between the potential benefits of fixing structural competition problems and the limited resources of enforcement agencies, Draghi recommends a 'new competition tool' that would focus on four areas where current competition tools are "*known to be insufficient*", namely: (i) tacit collusion; (ii) markets where more consumer protection is needed (due to sensitive categories of consumers or consumer behavioural biases); (iii) markets where economic resilience is weak, leading to frequent shortages or other harmful outcomes; and (iv) where there are indications that commitments or remedies adopted in past enforcement actions are insufficient.[22]

The proposal would give the Commission power to "*design together with firms*"[23] effective remedies to tackle systematic failures of competition and ensure their enforcement. The Commission considered the need for such a tool in 2020 but, faced with strong industry opposition, ultimately decided to limit such regulatory intervention to the digital sphere, hence the Digital Markets Act. Presumably for this reason, there is no mention of such a tool in Commissioner Ribera's mandate, nor in the Competitiveness Compass.

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[21] *See* the Commission's letter to Medicines for Europe on information exchanges to avoid critical shortages at the height of the COVID crisis, and the CMA's letter on combination oncology products, for example. CMA re- moves barrier to availability of vital treatments on the NHS - GOV.UK; Microsoft Word - Medicines for Europe Comfort Letter (002)

[22] Draghi, *supra* note 16, at 303–304.

[23] Ibid. at 304.

There is nonetheless a worrying trend at Member State level to call for ever more regulatory intervention at a national and/or at an EU level to combat unilateral anti-competitive strategies by non- dominant firms.[24] The German and Dutch governments support empowering the Commission to impose structural remedies on top of initiatives to allow their own national authority to do so domestically. Query whether the prospect of more competition authorities in Europe empowered to open up markets beyond the digital sphere sends the right kind of signal to investors?

IV. Are we getting the balance right?

Legal certainty and a coherent, predictable and accessible regulatory framework are vital to foster investment and safeguard competitiveness.[25] That should be the guiding mantra of the Commission's current term, including but not limited to its Directorate-General for Competition. The latter has an important role to play in support of a competitive level playing field in the single market, but that also means that it needs to challenge the relevance of its own long-held assumptions and ensure that the regime is getting the balance right between guiding compliant conduct without stifling innovative collaboration and unilateral commercial conduct in an increasingly complex and challenging economy. A better dialogue with industry is required in shaping the competition rules to ensure that market dynamics are properly understood and accounted for in a legal system that provides certainty and predictability, a level playing field, and an attractive business environment.

On the broader policy front, although the Competitiveness Compass proposes a simplification of the rules and a reduction of reporting burdens over different instruments over time, it is hard to discern how the frenzy of activity envisaged will provide the necessary clarity and focus to drive meaningful results on top of the plethora of other initiatives that are already underway. The many new initiatives will not necessarily add up to a clear and coherent renewal strategy without a rigorous, focused discipline across the EU and Member States administrations. What is missing is a grand coalition of all political stakeholders to address the systemic challenges head-on.

The Commission must prioritise completing the Single Market, removing non-tariff barriers to trade and holding Member States to account. Member States must deliver better public infrastructure and set aside their short-term interests to allow the emergence of more competitive banking and infrastructure markets, and a true Capital Markets Union. The option foreseen in the Draghi Report of a willing coalition of Member States pushing through necessary reforms where a consensus of all 27 Member States is not achievable must be firmly on the table. The scale-back of regulation must be swift and serious; previous efforts at "better regulation" promising reduced reporting have lacked credibility.

The competition regulators have their role to play. State aid must be directed at scale to the most strategic EU industrial policy priorities and national priorities should be aligned and coordinated. Merger policy should be neutral, efficient and predictable. Competition rules should be clear and user friendly. Processes should be streamlined with enforcement focused on what matters most, reversing the trend to cast the net ever more widely, stretching regulatory capacity too thinly. The need for legal certainty and a business-friendly operating environment should prevail over a fear of missing out attitude.

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[24] A Hungarian legislative proposal was shelved in April 2024 that would have given the national competition authority the power to designate any company in any sector of the economy as being of "fundamental importance" with sweeping powers to prohibit conduct, mandate access or divestiture or changes to senior management and the shareholding structure.

[25] See the conclusions of the Competitiveness Council of 24 May 2024.

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