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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Executive Summary of the Roundtable on Competition policy in the time of Covid-19**

**Annex to the Summary Record of the 133rd Meeting of the Competition Committee held on 10-16 June 2020**

15 June 2020

This Executive Summary by the OECD Secretariat contains the key findings from the discussion of the roundtable on Competition policy in the time of Covid-19 held during the 133rd meeting of the Competition Committee on 10-16 June 2020.  
More information related to this discussion can be found at  
<https://www.oecd.org/daf/competition/competition-policy-responses-to-covid-19.htm>

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## *Executive Summary of the Roundtable on Competition policy in the time of Covid-19*

By the Secretariat\*

### **1. Competitive markets are necessary to ensure a swift and sustainable economic recovery.**

Governments across the world have been working to cushion the negative impact of the Covid-19 pandemic. In order to limit business insolvencies and unemployment, many governments have adopted a wealth of regulatory measures spanning from subsidies to loans guarantees and tax relief. The size of rescue and support packages has been around USD 16 trillion in more than 160 jurisdictions and many economies are still adopting or implementing important measures in 2021. While such measures are necessary, it is important that their design and implementation is informed by competition principles to pave the way for a swift and sustainable economic recovery. There is considerable evidence from past economic crises that shows that a softening of competition law enforcement does not help, but rather slows down economic recovery. It is also considered that monetary and fiscal measures may be less effective when adopted in concentrated markets and that lower benefits will derive to markets characterised by firms with higher profit margins from stimulus measures. Crises must not be used as an excuse to weaken competition policy.

### **2. Many competition authorities collaborated with governments and other governmental agencies to highlight the importance of competition law during the crisis and to limit its possible anti-competitive impacts.**

Well-functioning competitive markets are essential components of a comprehensive COVID-19 policy for sustainable economic recovery. Competition authorities can be part of the whole of the government approach, helping governments identify and choose the least competition-distortive market interventions. Bailouts of failing firms and sectors and exemptions from competition law are particularly likely to spring up during the COVID-19 crisis. Competition authorities can act as a counterweight to these pressures by offering robust advice to governments on whether and when the benefits of these interventions outweigh the costs of distorting competition. In their co-operation with governments and with governmental agencies, competition authorities have focused on raising awareness about the relevance and impact of competition law in the response to the crisis, as well as on how to avoid that possible competition distortions may derive from the state interventions.

### **3. A rigorous, yet contextual approach to competition enforcement is fundamental to support economies and societies exit the COVID-19 crisis.**

Competition authorities may have to take into account the economic context of the crisis in their competitive assessment, whilst maintaining a rigorous approach to competition enforcement. For instance, some forms of co-operation between competitors may be necessary to maintain and increase supply, to stabilise supply chains, to meet increased demand and to limit issues of stock-piling and hoarding characterising this crisis. Other collaborations between competitors may enable them to pool their resources and join efforts in order to provide an innovative response to a temporary issue. In response to these needs, many competition authorities across the world have provided guidance to businesses on

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\* This Executive Summary does not necessarily represent the consensus view of the Competition Committee. It does, however, encapsulate key points from the discussion, the delegates' written submissions, and the panellists' presentations.

allowed conducts throughout the crisis, taking into account the changed circumstances in which they operated. These forms of co-operation may yield significant efficiencies, yet they must be limited in time and scope and must not amount to hard core restrictions of competition.

**4. Competition authorities can focus their resources and efforts on key markets that they consider more vulnerable to infringements or more pivotal to the economic recovery.**

Competition authorities may use their discretion to prioritise and direct their resources and efforts towards markets that may be particularly prone to competition infringement or particularly crucial in boosting the recovery. The choice will vary depending on jurisdictions, state of the economy and decisional practice of the authority. Examples of sectors that may benefit from prioritisation include the following. First, sectors that are particularly important in the response to the crisis, especially if they have a history of being prone to collusion or concentration. These may include hospitals; pharmaceuticals; health insurance; medical devices and equipment manufacturing; and agriculture. Second, sectors where co-operation agreements to address the issues originated by the crisis were allowed, authorised or were subject to deprioritisation. These sectors should be closely monitored to ensure that, once the situation has normalised, companies will not continue to unduly benefit from immunity for behaviours that are no longer justified. Third, digital markets. Digital players have been among the few that benefited from the crisis, in a context where the creation and consolidation of market power during the crisis compounds some already problematic situations concerning tech giants. Fourth, sectors where competition can generate important and positive social benefits. These may include markets where consumers are more vulnerable, such as consumer financial services and private pensions sectors, or markets the well-functioning of which can have significant positive spillovers on society, such as labour markets; sectors related to sustainability and green transition, innovation and technological advancement. A fifth and final category could include infrastructure markets, such as telecommunications, energy and transportation. These are sectors with economy-wide knock-on effects that can therefore also be, in certain jurisdictions, drivers of the economic recovery.

**5. Even if regulating prices in the context of a crisis might seem tempting for governments, competition authorities should generally discourage them from doing so as it could have serious anti-competitive effects.**

As a consequence of this crisis, there have been huge supply-demand changes. For example, the prices of masks and tests have spiked up during the first months of the pandemic due to surges in demand and low supply levels. From a consumers' point of view, rationing may seem a good solution, but competition authorities should in principle advocate against fixing maximum prices, which may negatively affect competition in the long term, discouraging the production, distribution and commercialisation of goods, disincentivising market entry and jeopardising innovation. Maximum prices should be applied only in exceptional cases and state aid measures should be preferred as a solution, whenever possible. There are historical experiences confirming this approach as preferable. For example, during the Great Depression, the US government's response initially favoured stability through industrial codes that set prices for certain goods, but this resulted in less output and higher prices for American consumers.

On the consumer side, competition authorities should also raise awareness on the fact that their role is not to control prices but to create a competitive environment in which prices can reach an unimpeded equilibrium. Therefore, communication to the public has also been a key issue during the crisis.

**6. Competition authorities can make use of their advocacy powers and expertise to assist governments in adopting measures to counteract the crisis and speed up the recovery.**

The crisis can be an opportunity to promote changes that will make the economy more resilient and to accelerate economic recovery through pro-competitive policies and structural reform. Competition authorities can support economies in overcoming the crisis, by ensuring that the design and implementation of state measures, and exit thereof, are in keeping with competition principles. Competition authorities' knowledge of markets and stakeholders' positions means that they are well positioned to advise governments on the pro-competitive effects of the undertaken reforms. Their expertise is not only valuable in the design phase, where they could support governments in their cost-benefit analysis of the reform concerned but also in the implementation phase of the reform, to avoid anticompetitive distortions that may arise from the operation or phasing out phases of the measure.