

Unclassified

English - Or. English

19 June 2026

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

Working Party No. 3 on Co-operation and Enforcement

National Security Considerations in Competition Enforcement – Note by Portugal

23 June 2026

This document reproduces a written contribution from Portugal submitted for Item 2 of the 143rd meeting of Working Party 3 on 23 June 2026.

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JT03589698

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1. Introduction

1. National security considerations have become increasingly relevant in recent years. Consequently, their interaction with competition policy has attracted growing attention. Geopolitical fragmentation, rising trade tensions, supply chain disruptions, cyber-security risks and the return of large-scale interstate conflict have reshaped the policy environment in which competition authorities operate. In parallel, governments have adopted more interventionist industrial and economic security policies, particularly in sectors considered strategic for defence readiness and economic resilience.

2. Against this background, concepts such as “economic security”, “strategic autonomy” and “resilience” have moved to the centre of policy debates. While these concepts do not have a single legal or economic definition, they broadly reflect concerns relating to the capacity of States and regional blocs to preserve essential economic and technological capabilities, reduce excessive strategic dependencies and maintain operational readiness in times of crisis.

3. These developments increasingly intersect with competition enforcement. Competition authorities are now more frequently confronted with mergers and cooperation agreements involving sectors considered strategically sensitive. Competition authorities must therefore ensure that competition law continues to apply effectively in defence and other strategic sectors, while recognising the operational and industrial features of these sectors, including legitimate objectives related to resilience, security, and strategic autonomy.

4. In fact, the defence sector displays a range of distinctive economic and institutional features, including concentrated markets, critical technologies, lengthy development and investment cycles, and a strong reliance on specialised suppliers. These characteristics are compounded by significant barriers to entry, intensive R&D and development requirements, long-term contractual relationships and high switching costs. More broadly, defence and strategic industries are frequently shaped by technological complexity, concentrated industrial ecosystems and rapidly evolving innovation dynamics.

5. This note explores how national security considerations intersect with competition policy and enforcement, and examines the tools available to competition authorities in this context.

2. Defence Industrial Policy and Competitive Markets

2.1. Background

6. For several decades following the end of the Cold War, defence spending in many European countries declined significantly. Defence markets became characterised by budgetary constraints, fragmented procurement structures and, in some cases, growing dependence on external suppliers.

7. Recent geopolitical developments have contributed to a reversal of this trend. European States have announced substantial increases in defence expenditure, new joint

procurement initiatives and programmes aimed at strengthening the European defence technological and industrial base.¹

8. In parallel, industrial policy has re-emerged as a central instrument of economic governance. Public authorities increasingly seek to support domestic production capabilities, strengthen supply chain resilience and promote technological leadership in defence and strategically important sectors. Governments are intensifying their efforts shaping market outcomes through subsidies, procurement policies, investment incentives, coordinated industrial initiatives and regulatory intervention.

9. The report on European competitiveness by Mario Draghi highlighted that growing external dependencies may increasingly translate into strategic vulnerabilities, particularly in sectors involving critical raw materials and advanced technologies such as semiconductors. These concerns have become more acute considering geopolitical fragmentation. Against this background, European policymakers have increasingly viewed resilience and strategic autonomy not solely as industrial objectives, but also as components of broader economic and security policy.²

10. The Draghi report further notes that reducing excessive strategic dependencies may entail economic costs in the short term, akin to an “insurance cost”.³ However, these costs may be justified by the need to preserve continuity of supply, operational readiness and technological capabilities under conditions of geopolitical stress or crisis.

11. According to Draghi, while several segments of the European defence industry remain globally competitive, including in areas such as battle tanks, submarines, naval technologies and transport aircraft, the sector continues to face important structural constraints.⁴ Aggregate defence expenditure in the European Union remains significantly below that of the United States, and important differences also exist in R&D investment.

12. At the same time, fragmentation within European defence markets continues to constrain scale, interoperability and industrial coordination. Collaborative procurement represented only 18% of defence equipment expenditure in 2022, significantly below the 35% benchmark established by the European Defence Agency (EDA) frameworks. These dynamics may reinforce strategic dependencies while limiting the scale and integration of the European defence technological and industrial base. The war in Ukraine further exposed interoperability limitations associated with fragmented procurement and divergent technological standards, reinforcing the importance of coordination, scale and industrial integration for European defence readiness.

13. In this context, industrial policy objectives increasingly intersect with competition policy. Public authorities may allow greater scale, consolidation or coordination to strengthen defence production capacity or ensure security of supply. At the same time,

¹ For example, the European Commission launched “ReArm Europe Plan / Readiness 2030” to help unlock Member State defence budgets, including SAFE. The European Investment Bank committed to increasing defence-related spending. The EU increased funding for defence and dual-use via STEP, Digital Europe (DEP) and Connecting Europe Facility (CEF)

² Draghi, M. (2024), The Future of European Competitiveness, Part B: In-depth analysis and recommendations, Report for the European Commission, September 2024.

³ Ibid.

⁴ Ibid.

competition authorities remain responsible for preserving effective competition, market contestability and innovation incentives.

14. These objectives may at times generate tensions. Industrial policy interventions designed to strengthen resilience or strategic autonomy may also reinforce concentration, increase barriers to entry or reduce competitive pressure. Similarly, policies favouring national or regional champions may create risks associated with reduced innovation, dependence on incumbent suppliers or diminished procurement competition over the longer term.

15. However, industrial policy and competition policy should not be perceived as contradictory. In several contexts, competitive and innovative markets may themselves contribute to resilience, adaptability and technological leadership. Dynamic competition may support diversification, reduce dependency risks and strengthen incentives for innovation in defence and strategically important sectors.

16. Likewise, appropriately designed industrial policy measures may address genuine market failures while preserving competitive market structures. The interaction between industrial policy and competition policy should not be understood as a binary choice between market efficiency and security considerations. Rather, the central challenge is ensuring that resilience and strategic objectives are pursued in a manner compatible with long-term innovation, market dynamism and effective competition.

2.2. Pro-competitive industrial policy

17. In the defence sector, procurement structures play a central role in shaping market dynamics. Defence markets are frequently characterised by a limited number of purchasers, long-term procurement cycles, interoperability requirements and high barriers to entry. Public procurement decisions may therefore significantly influence industrial structures and competitive conditions.

18. At European level, concerns relating to defence readiness and strategic autonomy have contributed to a growing number of industrial initiatives aimed at strengthening the European defence technological and industrial base, increasing joint procurement and supporting strategic technologies. Similar dynamics are visible in areas such as semiconductors, cloud infrastructure and cyber-security, where governments increasingly seek to reduce excessive dependencies and reinforce resilience.

19. At the same time, industrial policy interventions may affect competition and market structures in significant ways. Subsidies, selective support measures, coordinated industrial initiatives or procurement policies favouring specific firms may reinforce concentration, distort competitive neutrality or create barriers to entry and expansion.

20. These risks are particularly relevant in strategic sectors where concentration levels are already high and where procurement relationships tend to favour established incumbents. Industrial policy measures that excessively reinforce existing market structures may reduce competitive pressure, weaken incentives for innovation and increase dependence on a limited number of suppliers over the longer term.

21. However, industrial policy may support resilience, technological development and defence readiness while remaining compatible with competitive and innovative market structures. Several principles may contribute to ensuring that industrial policy remains compatible with effective competition, particularly:

- Interventions should be targeted and proportionate to clearly identified market failures or resilience concerns, fostering pro-competitive incentives. Broad or open-

ended measures risk distorting market structures without generating corresponding security or innovation benefits.

- Industrial policy should seek to preserve contestability and avoid unnecessarily foreclosing entry or expansion opportunities. In rapidly evolving technological sectors, smaller firms and new entrants may play an important role in driving innovation and technological development.
- Competitive neutrality remains important. Public intervention should, where possible, avoid permanently favouring specific firms or technologies in ways that reduce competitive pressure or entrench incumbent advantages.
- Interoperability and open standards may simultaneously contribute to resilience and competition. Excessive dependence on closed ecosystems may create strategic vulnerabilities while reducing opportunities for entry and innovation. Interoperable systems may therefore contribute both to operational resilience and to more competitive market outcomes.
- Periodic review mechanisms and sunset clauses may help ensure that exceptional support measures remain proportionate over time and do not become permanent distortions of competitive dynamics.⁵

22. Competition policy therefore remains an important component of broader industrial and resilience strategies since competitive and innovative markets may themselves contribute to economic security by encouraging technological development, reducing dependency risks and preserving adaptive capacity in strategically important sectors.

3. Enforcement of Competition Rules in Defence Markets

3.1. Merger Control

23. Mergers in the defence sector may give rise to concerns of a different nature. It is for the competition authorities to assess whether the transaction is likely to significantly impede effective competition, that is to say, whether it affects the competitive structure of the markets, in particular through the elimination of current or potential competitors, the strengthening of market positions, the foreclosure of access to critical inputs, or the reduction of incentives for innovation.

24. The structural characteristics of the defence sector, such as high concentration levels, significant barriers to entry, substantial research and development requirements and long investment cycles, may increase the relevance of merger control in preserving effective competition, innovation incentives and long-term resilience.

25. In recent years, debates surrounding defence consolidation have intensified in light of growing geopolitical tensions, increased defence expenditure and broader efforts to strengthen defence readiness and strategic autonomy.

⁵ OECD (2024), “Pro-competitive Industrial Policy”; OECD (2021), “The Promotion of Competitive Neutrality by Competition Authorities”; OECD (2009), “Competition Policy, Industrial Policy and National Champion”

26. The Draghi Report contributed to this debate by identifying fragmentation as one of the principal structural weaknesses of the European defence sector.⁶ The report notes that fragmented procurement systems, limited cross-border integration and insufficient collaborative procurement constrain scale and reduce interoperability in a sector characterised by high capital intensity and long investment cycles.

27. In this context, while greater industrial integration may be necessary to ensure production capacity, preserve technological capabilities, strengthen interoperability and reduce fragmentation within the European defence technological and industrial base, it can also reduce competition, innovation, resilience and options for public procurement.

28. Consolidation in defence and strategic sectors may generate competition concerns. Increased concentration may reduce rivalry in procurement markets, weaken incentives for innovation and reinforce dependence on incumbent suppliers. These risks may be particularly significant in markets already characterised by limited numbers of suppliers and restricted entry opportunities.

29. Reduced competitive pressure may also weaken incentives for technological development and disruptive innovation. Smaller firms and new entrants may play an important role in innovation ecosystems, particularly in emerging dual-use technologies, and their presence in the market should be safeguarded.

30. Consolidation may also create resilience trade-offs. While larger integrated firms may benefit from greater production capacity and investment capabilities, excessive dependence on a limited number of suppliers may create vulnerabilities over the longer term. Diversified and competitive ecosystems may prove more adaptive and resilient than highly concentrated industrial structures.

31. These debates increasingly intersect with broader discussions regarding the assessment of efficiencies in merger control.

32. Competition authorities face the challenge of distinguishing between efficiencies that are substantiated, verifiable and transaction-specific, and broader policy arguments that may not necessarily justify reductions in competition. Assertions relating to strategic autonomy or global competitiveness may not automatically outweigh concerns associated with reduced rivalry, diminished innovation or increased supplier dependence.

33. The ongoing review of the EU merger guidelines⁷ may clarify how certain public policy objectives, such as scale, innovation, industrial capacity, resilience and security of supply, are taken into account in the context of merger control insofar as they are relevant to effective competition in the internal market.

34. In fact, decision-making practice in the field of merger control within the defence sector shows the specific characteristics of these markets that are relevant to competition law analysis. In particular, they are often narrow, technologically complex markets with a small number of suppliers, a high degree of dependence on public procurement, long development cycles, and vertical or consortium relationships that are difficult to replace. Consequently, harm theories tend to cover risks of foreclosure regarding access to critical inputs, access to sensitive commercial or technological information, loss of innovation,

⁶ Draghi, M. (2024), The Future of European Competitiveness, Report for the European Commission, September 2024.

⁷ See draft Communication from the Commission (2026), Guidelines on the assessment of mergers under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings.

deterioration of public procurement conditions, and a reduction in the ability of competing operators to participate in tenders or military programmes.

35. Some of the AdC's decisional trends indicate that market definition tends to be granular, often distinguishing between civil and military applications. In its assessment, the AdC considers the specific characteristics of public demand, including the role of the Ministry of Defence as a monopsonist.

36. Furthermore, in terms of geographic market definition, procurement systems have historically been organised at national level, reflecting security considerations, national procurement policies and regulatory fragmentation. In certain cases, these factors have supported narrower national market definitions, notably where a domestic supplier is present or where considerations such as sovereignty, military independence or specific public procurement requirements are at stake.

37. The interaction between merger control and public interest considerations is also particularly relevant in strategic sectors. Several jurisdictions provide mechanisms allowing governments to intervene in transactions involving national security concerns, critical infrastructure or strategic technologies. Such mechanisms may operate alongside traditional competition assessment frameworks.

38. In this regard, it is important to distinguish between competition assessment and national security intervention. Competition authorities assess the effects of transactions on effective competition, including impacts on rivalry, innovation and market structure. Governments, by contrast, may consider broader strategic or security-related concerns that fall outside the scope of competition analysis.

39. Effective coordination between competition authorities and public authorities responsible for national security may become increasingly important in transactions involving strategically sensitive sectors.

40. A clear example lies in the EC Merger Regulation⁸, which establishes the European Commission's exclusive competence to assess the competitive effects of transactions with a European dimension. However, Article 21(4) of the Regulation allows Member States to adopt measures designed to protect certain legitimate interests, including public security, provided that such measures are compatible with the general principles and other provisions of EU law.

41. Furthermore, Article 346 of the Treaty on the Functioning of the European Union allows Member States, in exceptional circumstances, to adopt measures they deem necessary to protect their essential security interests and which relate to the production of or trade in arms, munitions and war material. As an exception, this provision must be interpreted restrictively. It also expressly provides that such measures must not adversely affect the conditions of competition in the internal market for products not intended for specifically military purposes.

42. This gives rise to a logic of coexistence between instruments. The European Commission retains the power to assess the competitive effects of the transaction under the Merger Regulation, whilst Member States may, in specific situations and within the limits of European Union law, invoke national security or public security interests through their own instruments.

⁸ Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings, OJ L 24, 29.1.2004, pp. 1–22.

3.2. Antitrust Enforcement in Defence Markets

3.2.1. Cartels and Bid Rigging

43. Antitrust enforcement remains particularly important in the defence sector, where procurement structures, market concentration and long-term contractual relationships may create heightened risks of collusive behaviour. Public procurement frequently represents the principal mechanism through which defence goods and services are acquired, making procurement processes especially vulnerable to anticompetitive coordination between suppliers.

44. Bid rigging constitutes one of the most serious forms of collusion affecting procurement markets. Such practices undermine competition in tender procedures, distort public expenditure and may reduce incentives for innovation, efficiency and quality improvements. In defence and strategic sectors, these risks may be amplified by the high value of contracts, limited number of suppliers, technical complexity and recurrent interactions between market participants.

45. Several forms of bid rigging may arise in procurement procedures, such as bid rotation cover bidding or other forms of market allocation arrangements, including dividing procurement opportunities according to geographic areas, customers or categories of products and services.

46. The relevance of antitrust enforcement in defence procurement is illustrated by the European Commission's investigation into a cartel in the market for military hand grenades. In 2023, the Commission imposed fines on Diehl, Rheinmetall and RUAG for participating in a cartel involving the sale of military hand grenades.⁹ According to the Commission, the companies coordinated prices and exchanged commercially sensitive information in relation to defence procurement tenders over a prolonged period. The case demonstrates that defence markets are not insulated from traditional cartel risks and that concentrated procurement environments involving specialised suppliers may remain vulnerable to collusive behaviour.

47. Certain structural characteristics of defence procurement may increase collusion risks. Defence markets are often characterised by high barriers to entry, limited supplier pool, repeated procurement interactions and significant information asymmetries. Long-term contractual relationships and specialised technological requirements may further reinforce market concentration and facilitate coordination between suppliers.

48. Moreover, defence procurement frequently involves repeated interactions between the same market participants across multiple tenders and programmes. Such repeated interaction may facilitate information exchange, monitoring mechanisms and collusive stability, particularly in concentrated markets characterised by relatively predictable demand patterns.

49. Against this background, procurement design can be a powerful tool to reduce the likelihood of collusive behaviour. As highlighted in the AdC and OECD guidance, excessively restrictive tender requirements, limited participation opportunities or procurement procedures that reduce uncertainty between bidders may facilitate coordination and weaken competitive pressure. Conversely, procurement frameworks that

⁹ Commission Decision of 21 September 2023 in Case AT.40760 - Hand Grenades: eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202301481

promote transparency, broader participation and effective rivalry may contribute to reducing collusion risks and strengthening competition.¹⁰

50. Effective antitrust enforcement in defence markets may therefore require close attention to procurement design, market structure and patterns of interaction between suppliers. Competition authorities may also benefit from cooperation with procurement authorities and sector-specific expertise to identify vulnerabilities and detect potentially collusive conduct.

51. Ultimately, preserving effective competition in defence procurement is important not only from a public budget perspective, but also for innovation, industrial resilience and long-term defence readiness.

3.2.2. Abuse of Dominance

52. Abuse of dominance issues may assume relevance in the defence sector due to the structural characteristics of these markets. As abovementioned, defence industries are frequently characterised by high barriers to entry, concentrated supplier structures, long-term contractual relationships and significant switching costs. In several segments, suppliers may hold substantial market power over specific products and services, technologies, maintenance systems or proprietary technical standards.

53. These characteristics may create risks associated with exclusionary conduct, particularly in aftermarkets related to repair and maintenance activities. In defence markets, lifecycle costs associated with maintenance, repair, software updates and spare parts can exceed the initial acquisition costs of equipment or systems. Access to aftermarket services may therefore become a strategically important dimension of competition.

54. Dominant firms may in certain circumstances seek to restrict competition through limitations affecting access to spare parts, maintenance services, technical information or interoperability requirements, particularly in defence ecosystems characterised by long operational lifecycles and specialised technologies where equipment manufacturers may possess exclusive control over technical documentation, software systems, interfaces or certification processes necessary for maintenance and repair activities.

55. Such practices may increase dependence on incumbent suppliers and create lock-in effects by reducing the ability of customers or competing service providers to maintain, repair or upgrade defence equipment or systems over extended periods.

56. A recent investigation by the German competition authority (Bundeskartellamt) illustrates the potential relevance of abuse of dominance concerns in defence-related aftermarkets. In 2023, the Bundeskartellamt examined practices relating to the maintenance of the “Boxer” wheeled armoured vehicle produced by Rheinmetall.¹¹ The investigation focused on Rheinmetall’s control over maintenance software and technical information necessary for servicing Boxer vehicles.

57. According to the Bundeskartellamt, independent service providers relied on access to Rheinmetall’s proprietary maintenance systems to compete in downstream maintenance

¹⁰ Autoridade da Concorrência, Guia de Boas Práticas no Combate ao Conluio na Contratação Pública; OECD (2025), “Guidelines for Fighting Bid Rigging in Public Procurement”; OECD (2023), Recommendation on Fighting Bid Rigging in Public Procurement.

¹¹ Bundeskartellamt Press Release on the Boxer Maintenance Investigation: https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/13_03_2023_Panzer.html

markets.¹² The case raised concerns that restrictions affecting access to technical information and software could limit competition in aftermarket services and reinforce dependence on the original equipment manufacturer. The investigation was ultimately concluded following commitments by Rheinmetall to facilitate access to the relevant maintenance software under specified conditions.

58. In this context, preserving interoperability, contestability and access to maintenance ecosystems may contribute not only to competition, but also to resilience. Accordingly, abuse of dominance enforcement may play an important role in ensuring that defence ecosystems remain sufficiently open, competitive and adaptable over the longer term.

3.2.3. Tailored Enforcement and Lawful Cooperation

59. Defence and strategic sectors may present operational, technological and security-related characteristics that require forms of cooperation less frequently observed in other markets. Joint production arrangements, interoperability initiatives and collaborative research and development projects may in certain circumstances contribute to resilience, defence readiness and technological development.

60. At the same time, cooperation between competitors may create risks for competition by reducing rivalry, facilitating information exchange or increasing concentration and coordination in strategically important markets. Competition authorities therefore face the challenge of distinguishing between legitimate cooperation necessary to achieve operational or security-related objectives, and arrangements that unnecessarily restrict competition.

61. Within the European Union legal framework, Article 346 TFEU recognises that Member States may adopt measures necessary for the protection of essential security interests. However, the application of Article 346 TFEU remains subject to strict interpretation and may not justify broad or automatic exemptions from EU law. The principles of objective necessity and proportionality therefore remain particularly relevant in the assessment of cooperation arrangements in defence and strategic sectors.

62. These principles are also reflected in broader EU competition law case law. The analytical framework developed in cases such as *Wouters* and *Meca-Medina*¹³ recognises that certain restrictions may fall outside the prohibition established by Article 101(1) TFEU where they are inherent and proportionate to the pursuit of legitimate objectives. While these cases arose outside the defence context, the underlying logic may provide a relevant analytical framework for assessing cooperation arrangements linked to interoperability, operational readiness or security objectives.

63. Moreover, existing horizontal cooperation rules already provide analytical tools capable of assessing such arrangements. The EU horizontal cooperation guidelines recognise that research and development agreements, standardisation initiatives and certain

¹² Ibid.

¹³ Court of Justice of the European Union, Case C-309/99, *Wouters and Others v Algemene Raad van de Nederlandse Orde van Advocaten* [2002] ECLI:EU:C:2002:98; Court of Justice of the European Union, Case C-519/04 P, *David Meca-Medina and Igor Majcen v Commission of the European Communities* [2006] ECLI:EU:C:2006:492.

production agreements may generate efficiencies capable of benefiting consumers and promoting innovation.¹⁴

64. In this regard, Article 101(3) TFEU provides an important framework for assessing whether restrictive agreements may nevertheless produce sufficient efficiencies to justify exemption from prohibition. Efficiencies associated with innovation, interoperability, resilience or technological development may therefore be relevant where they are substantiated, verifiable and sufficiently linked to the cooperation arrangement in question.

65. Moreover, the European Commission's recent practice concerning informal guidance and comfort letters may also provide useful insights for cooperation in defence and strategic sectors.

66. The COVID-19 pandemic demonstrated that competition authorities may use guidance mechanisms capable of addressing exceptional coordination needs in periods of crisis or disruption¹⁵ while preserving competition safeguards. The Commission also issued informal guidance letters concerning sustainability cooperation agreements.¹⁶

67. These letters provided companies with legal certainty regarding specific cooperation initiatives that pursued broader public policy objectives while remaining subject to competition law safeguards.

68. More broadly, the European Commission's 2022 revision of the Informal Guidance Notice¹⁷ expressly allows the Commission to provide informal guidance where clarification may generate added value for legal certainty. This development is particularly relevant for the defence sector, where cooperation arrangements may involve complex operational, technological and resilience considerations.

69. All in all, existing competition law frameworks already provide significant flexibility for assessing legitimate cooperation in defence and strategic sectors. The central challenge is therefore not necessarily the absence of legal instruments but rather ensuring that such instruments are applied in a coherent, proportionate and evidence-based manner capable of balancing resilience objectives with the preservation of effective competition and innovation.

¹⁴ European Commission (2023), Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, OJ C 259/1.

¹⁵ European Commission. (2020), Antitrust: Commission provides guidance on allowing limited cooperation among businesses, especially for critical hospital medicines during the coronavirus outbreak; European Commission. (2020), Comfort letter: coordination in the pharmaceutical industry to increase production and to improve supply of urgently needed critical hospital medicines to treat COVID-19 patients; European Commission. (2020), Temporary Framework for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak.

¹⁶ Press Release: Guidance on the creation of a licensing negotiation group in the automotive sector for the licensing of standard essential patents: https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1768; Press Release: Guidance on sustainability agreement to reduce CO2 emissions in European ports - https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1769

¹⁷ European Commission (2022), *Commission Notice on informal guidance relating to novel or unresolved questions concerning Articles 101 and 102 TFEU that arise in individual cases.*

3.3. Competition Advocacy in Strategic Sectors

3.3.1. The Role of Sector Inquiries, market studies, issues papers and recommendations

70. Sector inquiries, market studies issues papers and recommendations may constitute important tools for understanding competitive dynamics in defence and strategic sectors, increase institutional capacities and expertise. In markets characterised by technological complexity, concentrated supply chains and rapid innovation cycles, competition authorities may face significant information asymmetries and limited visibility regarding market structures and operational dependencies. These tools may therefore contribute to a more comprehensive understanding of strategic ecosystems and potential vulnerabilities affecting competition and resilience.

71. In the defence sector, market dynamics frequently extend beyond traditional market structures. Production systems may involve highly interconnected supply chains, specialised subcontracting networks, technological dependencies and long-term procurement relationships. In such contexts, sector inquiries, market studies and issues papers may assist authorities in mapping industrial ecosystems and identifying the relationships between manufacturers, suppliers, subcontractors, technology providers and public procurement authorities.

72. Supply chain analysis may be particularly relevant to identify critical technologies or dual-use applications in connection to the defence sector. Sector inquiries, market studies and issues papers may also contribute to identifying bottlenecks and barriers to entry and expansion affecting competition.

73. Similarly, sector inquiries, market studies and issues papers may provide valuable insights regarding strategic dependencies and technological lock-in. Excessive dependence on a limited number of suppliers, proprietary technologies or closed technological ecosystems may reduce flexibility, increase switching costs and weaken long-term resilience. Such dependencies may arise not only in relation to final products, but also in connection with software systems, maintenance services, critical inputs or access to technical information.

74. In rapidly evolving technological sectors, these may also support a better understanding of innovation dynamics and emerging competitive risks. Emerging technologies such as artificial intelligence, cloud infrastructure, advanced robotics, quantum computing, cyber-security systems or advanced semiconductors may involve network effects, data dependencies or interoperability concerns capable of shaping future market structures and strategic capabilities.

75. Importantly, these instruments may allow competition authorities to contribute to resilience discussions. Rather than determining defence or industrial policy objectives, competition authorities may provide analytical tools capable of identifying structural vulnerabilities, competitive distortions or market features affecting long-term innovation and resilience.

76. In this regard, sector inquiries, market studies, issues papers and recommendations may help ensure that resilience-oriented policies are informed by a detailed understanding of market structures, incentives and competitive dynamics.

3.3.2. Competition Advocacy and Procurement Design

77. Competition advocacy may play an important role in promoting resilient and competitive procurement frameworks in defence and strategic sectors. Procurement

choices may significantly influence market concentration, entry opportunities, interoperability and innovation dynamics.

78. Competition authorities may contribute to procurement policy discussions by identifying procurement practices that unnecessarily restrict participation or reduce competitive pressure. Excessively restrictive technical specifications, disproportionate qualification requirements or procurement procedures favouring incumbent technologies may reduce contestability and reinforce concentration trends.

79. Similarly, as abovementioned, procurement frameworks that promote transparency, non-discrimination and broader participation may contribute both to competition and to resilience objectives. Competitive procurement procedures may strengthen incentives for innovation, facilitate supplier diversification and reduce dependency risks associated with excessive reliance on a limited number of suppliers.

80. The OECD and the AdC have been particularly active in this area through guidance and advocacy initiatives aimed at promoting competitive public procurement and reducing the risks of bid rigging and other anticompetitive practices.¹⁸ These initiatives emphasise that procurement design itself may constitute an important preventive competition tool. Measures such as appropriate lot division, broader participation criteria, transparent award procedures and the avoidance of unnecessarily predictable procurement patterns may contribute to stronger competitive outcomes and reduce the scope for anticompetitive practices.

81. Competition advocacy in public procurement may also involve direct engagement with procurement officials and contracting authorities. Since 2016, the AdC has developed advocacy initiatives specifically aimed at raising awareness among public procurement entities regarding the risks of bid rigging and the importance of competitive procurement design. In particular, the AdC's "Fighting Bid-Rigging in Public Procurement" campaign and the "Competition Plus" initiative involved direct outreach and training initiatives with contracting authorities, inclusive in the defence sector, across the country, including roadshow-style sessions designed to help procurement officials identify warning signs of collusion and adopt procurement practices that strengthen competition.

82. These initiatives illustrate how advocacy may function as a preventive enforcement tool by improving institutional awareness, reducing informational asymmetries and encouraging procurement practices that preserve contestability and reduce opportunities for collusive behaviour. More broadly, engagement between competition authorities and procurement officials may contribute to embedding pro-competitive principles in procurement procedures from the design stage onwards, thereby complementing traditional enforcement mechanisms.

4. Conclusion

83. Defence and strategic sectors increasingly occupy a central role in industrial policy discussions, while geopolitical fragmentation, technological competition and supply chain

¹⁸ Autoridade da Concorrência, Guia de Boas Práticas no Combate ao Conluio na Contratação Pública; OECD (2025), "Guidelines for Fighting Bid Rigging in Public Procurement"; OECD (2023), Recommendation on Fighting Bid Rigging in Public Procurement

vulnerabilities have heightened concerns regarding industrial capacity, security of supply and strategic dependencies. As a result, competition authorities will be increasingly confronted with transactions and forms of cooperation involving sectors considered strategically sensitive.

84. Competition and security objectives should not be viewed as conflicting or mutually exclusive. Competitive and innovative markets may themselves contribute to resilience and defence readiness by strengthening incentives for technological development, promoting diversification and reducing strategic dependencies.

85. Likewise, industrial policy and competition policy should not be viewed as contradictory. Appropriately designed industrial interventions may support strategic objectives while preserving market contestability and innovation incentives. The challenge is therefore not whether resilience objectives should be pursued, but rather how they may be pursued in ways that remain compatible with effective competition and long-term market dynamism.

86. Existing competition law frameworks already provide mechanisms to take account of legitimate operational and resilience-related considerations. Merger control and antitrust frameworks allow efficiencies linked to scale, investment or innovation to be assessed. Existing legal tools have been capable of addressing many of the challenges arising in the defence sector.

87. Beyond traditional enforcement tools, competition authorities may also contribute through preventive instruments such as sector inquiries and competition advocacy. Mapping strategic ecosystems, identifying procurement vulnerabilities and engaging with procurement authorities may contribute to resilience-oriented policymaking. In strategically sensitive sectors characterised by technological complexity and long-term dependencies, preventive tools may help identify vulnerabilities before they crystallise into enforcement concerns.