



THE BUSINESS CASE FOR GREEN CO-OPERATION & THE ROLE OF COMPETITION POLICY

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THE ROLE OF COLLECTIVE INDUSTRY EFFORTS (1)

- Strong incentives for companies to engage in sustainable business
- Primacy of individual efforts – but risk of prohibitive costs:
 - First mover disadvantages
 - Behavioural aspects: Stated vs. revealed consumer preferences
 - Negative externalities
- “Residual market failure” where individual efforts *and* regulation prove insufficient
- Co-operation *to achieve* legislative requirements (ex. plastics taxes)





THE ROLE OF COLLECTIVE INDUSTRY EFFORTS (2)

- Making the most effective co-operations happen is key:
 - There *is* already an wide range of collective initiatives
 - But many of them are light-touch and lack deep impact
- **Likely main driver of co-operation: Corporate pledges & commitments**
 - Companies in the process of realising the magnitude of the challenge
 - Reputational & litigation risks if net-zero targets not met

What role should competition policy – or legislation? – play in this?

- Reactive response to industry demands for more flexibility? – *or* –
- Proactive encouragement of impactful joint action against climate crisis?





EXAMPLES OF IMPACTFUL CO-OPERATION SCENARIOS

1. Airline agreements to accelerate migration to more eco-efficient airplanes
2. Ocean liner co-operation agreements to rapidly replace fossil by green fuels
3. Construction companies to phase-out conventional steel until fixed deadline
4. Agreements between car makers not to produce SUVs above a certain weight
5. Joint development of carbon capture storage facilities with long term supply obligations
6. Agricultural companies agree to bovine feed additives to reduce methane emissions
7. An agreement between fruit growers to phase out the most harmful pesticides





COMPETITION LAW AS A BARRIER – DRAFT EU GUIDELINES

“Philosophically” a step towards a “net zero competition policy”

But important clarifications are still missing:

- Treatment of *mandatory* standards
- Compensation requirements for “*collective benefits*”

Key criticisms:

- “Willingness to pay” is unhelpful measure
- Full compensation vs. “fair share”
- Disregard of collective benefits outside (EU) consumer market
- “Polluter-must-benefit” principle = *compensation for costs of not harming others*
- *Future* consumers not considered





COMPETITION LAW AS A BARRIER – NON-PROBLEMATIC CO-OPERATIONS

1. Joint awareness campaigns
2. Agreements loosely committing competitors
3. Agreements leaving discretion as to means to achieve sustainability goal
4. Voluntary standardization
5. No appreciable effects-cases
6. Agreements creating new markets
7. R&D co-operation within existing EU framework





COMPETITION LAW AS A BARRIER – PROBLAMTIC SCENARIOS

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It remains unclear – and questionable – if such co-operations would be admissible under current EU competition policy & draft EU guidelines

