Competitiveness versus competition? The Draghi Report and a new vision for competition policy in Europe

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Introduction

The Draghi Report marks an important moment in the debate concerning economic growth, industrial and external trade development of the European Union. In a changing geopolitical landscape, the Union is called upon, once again, to rethink its place in the world. It is also called upon to reflect on, once again, what its vision for economic growth is. In the words of Mario Draghi, the Union is facing an "existential challenge", due to a combination of factors ranging from low growth rates, limited capacity as regards Research and Innovation, exposure to high energy prices and a still fragmented internal market. Furthermore, the increasingly unstable international relations have highlighted once more how much the Union states are dependent on external sources for their energy supply. More generally, the overall structure of external trade relations is changing, moving away from multi-lateral approaches and toward a much more opportunistic and unilateral frame.

The Draghi Report does not paint a reassuring picture of where the EU is at now. Yet, it is very bold and wide-ranging in its "prescription" for change, which has an internal as well as an external-facing dimension. Internally, the Report calls for renewed efforts toward the completion of the internal market and closing the innovation gap, for the decarbonisation of the economy, for greater integration of capital markets and for a more streamlined and effective governance structure. Externally, the Report takes stock of the changing state of state relations worldwide and invites the EU to use trade policy "pragmatically", in line with industrial policy objectives. At the core of this vision is therefore the goal of boosting the competitiveness of the European economy. European companies are seen as too small, too tardy in bringing innovations to market and reliant on too little capital. The EU, directly and through its member states, must step in to support key industrial sectors, to promote transition to green energy and to adopt a "joined up vision" of its approach to public policy, where industrial, competition and trade policies all pursue the same plan.

Strong competition enforcement has been a consistent mainstay of the EU's approach to markets and the economy. Whether through the application of the EU antitrust rules or via the exercise of merger control powers, the Commission has developed a truly European approach to markets, where competition as process is effective and at the same time embedded in a thriving social market economy. State aid control has ensured that a level playing field would be maintained throughout the internal market. The recent legislation on foreign subsidies bolsters this attainment, by allowing the EU to act defensively against foreign competitors whose access to the single market is fostered through state intervention.

In the face of such importance, it was inevitable that competition policy would come under the Report's radar, but it seems, as almost a foe and not a friend. The current approaches to research and development agreements under Article 101 TFEU, for instance, seem to have got in the way of European companies expanding their technological innovation based and bringing new products to market. Merger control rules, especially in relation to the assessment of merger efficiencies, have contributed to European undertakings scaling up in size to compete on international markets. State aid is too fragmented and therefore means that public funding cannot be used as effectively as it could be, especially to support new technologies.

Is competition an enemy to competitiveness? This contribution will examine this question by considering the Draghi Report's assessment of the role of competition law vis-à-vis research and

development arrangements and placing it in the broader context of the Article 101 acquis in this area.

- Look at Draghi and what it says re R&D approaches…
- Brief analysis of R&D and agreements—what are drivers in this area from an economics and policy standpoint?
- Recap on art 101 and R&D in case law and guidance… focus on Article 101(3) and its "creative use"
- How does Draghi stack up? Is it an issue of competition law, or is it a case of so far not wholly effective public financing of research?
- If the latter, then limits are withing EU stability pact perhaps…