

# ceplnput special

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## Internal Market and Competition

### Candidates, Portfolios and EU Initiatives for the EU Commission 2024-2029

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Between the 4<sup>th</sup> and 12<sup>th</sup> of November, the candidates for the upcoming European Commission 2024-2029 will be closely scrutinised by the members of the European Parliament. During these confirmation hearings, the Commissioners-designate will have to answer questions on EU initiatives outlined by the Commission President Ursula von der Leyen in her Political Guidelines and Mission Letters to the new Commissioners. In the run-up to the hearings, this ceplnput takes a closer look at the candidates, portfolios and important EU initiatives that will shape future EU policies on Internal Market and competition.

- ▶ **Completing the single market:** The Commission wants to remove barriers to the single market. This would enable companies to grow in the single market and help to reduce the size disadvantages of EU companies.
- ▶ **Reducing bureaucracy:** The Commission wants to reduce bureaucracy, especially reporting requirements. The current reporting requirements place an excessive burden on all companies, regardless of their size or risk. Instead of placing companies under general suspicion of disregarding regulations, controls should be targeted where risks exist, or misconduct is suspected.
- ▶ **Modernization of competition policy:** The Commission wants to modernize EU competition law. However, it is not possible to pursue several independent objectives – in this case maintaining competition, creating European champions and decarbonizing the economy – with one instrument, in this case, competition policy.

## 1 Run-up to the Next European Commission 2024-2029

Following the elections of the European Parliament in June and the re-election of Ursula von der Leyen for her second term as President of the European Commission 2024-2029 in July, the remaining 26 members of the College of Commissioners have to be appointed in the coming weeks. Based on proposals by the EU Member States, Ursula von der Leyen presented her list of candidates<sup>1</sup> in September along with a revised organisational structure of the next European Commission regarding the functions and the policy portfolios of the commissioners. Before the College of Commissioners will be collectively approved by the European Parliament and appointed by the European Council, each candidate will be closely scrutinised by the members of the European Parliament. During these public confirmation hearings, which will take place between the 4<sup>th</sup> and 12<sup>th</sup> of November<sup>2</sup>, the Commissioners-designate will have to answer questions, especially on those prospective EU initiatives and legislative projects which have been outlined by the Commission President in her Political Guidelines<sup>3</sup> and also on their respective tasks as assigned in the Mission Letters<sup>4</sup> addressed to each of them. In the run-up of the hearings, this ceplnput takes a closer look at the Commissioners-designate as well as at their portfolios, tasks and important EU initiatives which will shape the future specifically of the EU policies on Internal Market and competition.

## 2 Relevant Commissioners-designate, Functions and Portfolios

The revised structure of the next European Commission regarding the organisational functions and the policy portfolios of the Commissioners aims to reflect that EU initiatives and legislative projects often involve different subject matters and pursue various objectives simultaneously – e.g., environmental protection, cost-effectiveness, international competitiveness, and social aspects. While Ursula von der Leyen emphasises<sup>5</sup> that according to the EU treaties<sup>6</sup>, all members of the College of Commissioners are equal, her organisational revision introduces a functional distinction between “Executive Vice-Presidents” and “regular” Commissioners. All members of the College of Commissioners will be assigned a policy portfolio with specific tasks for implementing the existing EU acquis and for developing new EU initiatives in the respective policy fields. To fulfil these tasks, each College member will be supported by one or more Directorates-General (DGs) assigned specifically to them. In addition, however, the six Executive Vice-Presidents will play a leading role in a thematic priority area, working together with one or more regular Commissioners by giving “guidance” to them. Consequently, two or more members of the College of Commissioners will cooperate on a specific EU initiative or legislative project, albeit with different functions – ranging, e.g., from “leading” to “overseeing” or “supporting” to “contributing”. With regard to the EU policies on Internal Market and competition, the following Commissioners-designate, organisational functions and policy portfolios are relevant:

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<sup>1</sup> European Commission (2024), [List of Commissioners-designate \(2024-2029\)](#).

<sup>2</sup> European Parliament (2024), [Confirmation hearings for the European Commission](#).

<sup>3</sup> European Commission (2024), [Political Guidelines for the next European Commission 2024-2029](#); see De Petris, A. et al. (2024), The Political Guidelines 2024-2029 of the European Commission “von der Leyen II” – Recommendations for Concrete EU Measures to Implement Them, [ceplnput 12/2024](#).

<sup>4</sup> European Commission (2024), [List of Commissioners-designate \(2024-2029\)](#).

<sup>5</sup> European Commission (2024), [Press statement of 17 September 2024 by President von der Leyen on the next College of Commissioners](#).

<sup>6</sup> Treaty on European Union (TEU), Art. 17; Treaty on the Functioning of the European Union (TFEU), Art. 244 et seq.

## Teresa Ribera Rodríguez

## Clean, Just and Competitive Transition



**Country:** Spain

**European Parliamentary Group:**

Progressive Alliance of Socialists and Democrats (S&D)

**Function and Portfolio:** Executive Vice-President for Clean, Just and Competitive Transition

**Assigned DG:** Competition

**Lead:** Works under the guidance of the President of the European Commission

## Stéphane Séjourné

## Prosperity and Industrial Strategy



**Country:** France

**European Parliamentary Group:**

Renew Europe

**Function and Portfolio:** Executive Vice-President for Prosperity and Industrial Strategy

**Assigned DG:** Internal Market, Industry, Entrepreneurship and SMEs (Grow)

**Lead:** Works under the guidance of the President of the European Commission

## Valdis Dombrovskis

## Economy and Productivity, Implementation and Simplification



**Country:** Latvia

**European Parliamentary Group:** European Peoples Party (EPP)

**Function and Portfolio:** Commissioner for Economy and Productivity; Implementation and Simplification

**Assigned DG:** Economic and Financial Affairs (ECFIN) and Eurostat




**Lead:** Works under the guidance of Stéphane Séjourné, Executive Vice-President for Prosperity and Industrial Strategy

### 3 Important Tasks: EU Initiatives and Legislative Projects

Ursula von der Leyen has outlined in her [Political Guidelines](#) for the next European Commission 2024-2029 and in Mission Letters addressed to each of the Commissioners-designated specific tasks assigned to them. With regard to the over 50 prospective EU initiatives and legislative projects dealing with the EU policies on Internal Market and competition, the following are of special importance:


#### 3.1 Competition Policy

##### 3.1.1 New approach to competition policy




 <b>Task</b>
Europe needs a new approach to competition policy – one that is more supportive of companies scaling up in global markets, allows European businesses and consumers to reap all the benefits of effective competition and is better geared to our common goals, including decarbonization and a just transition. Modernise the EU’s competition policy to ensure it supports European companies in innovating, competing, and leading world-wide and contributes to our wider objectives on competitiveness and sustainability, social fairness and security.
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Executive Vice-President for Clean, Just and Competitive Transition
 <b>Background</b>
<p>The demand to develop a new approach to competition policy also features prominently in the <a href="#">Draghi Report</a>. Draghi hardly excludes any area of competition law from this demand. He calls for changes to merger control, to the regulations on cooperation between competitors, to state aid law, and to IPCEIs: Furthermore, he calls for the introduction of a new competition instrument to investigate markets with structural competition problems.</p> <p>The current economic problems – in particular the low level of investment and innovation activity – in many EU member states, especially in Germany, are not caused by competition policy. Rather, excessive regulation, accompanied by extensive enrichment obligations, has dampened entrepreneurial commitment in the EU. The investment and innovation problems can therefore not be solved by competition law. The potential contribution of competition law should therefore not be overestimated. However, Draghi is right that, in particular, digital and high-tech markets are often winner-takes-most markets in which only very few large companies can compete. However, the call for a fundamental change to competition law to enable the creation of European champions entails several risks. Firstly, it is not possible to pursue several independent objectives – in this case maintaining competition, creating European champions, decarbonizing the economy and ensuring a just transition – with one instrument – in this case, competition policy. The competition problems caused by multinational digital service providers clearly show the trade-off between effective competition and having only a few big companies in the market. Secondly, disruptive technologies are usually developed by small innovative start-ups, not by existing large companies. Thirdly, Hayek’s principle of "presumption of knowledge" gives rise to concerns. This principle states that central authorities may lack the information required to make optimal decisions about future market dynamics, particularly in rapidly evolving sectors such as digital markets. DG Comp faces a major challenge if it is to achieve all the objectives set by von der Leyen and Draghi while protecting competition. It is one thing to write these often-contradictory demands into a report or a mission letter, it is quite another to implement them in reality.</p>



### 3.1.2 Merger Control

 <b>Task</b>
<p>Review the Horizontal Merger Control Guidelines and give adequate weight to the European economy's needs in respect of</p> <ul style="list-style-type: none"> <li>– resilience, efficiency and innovation,</li> <li>– the time horizons and investment intensity of competition in certain strategic sectors, and</li> <li>– the changed defence and security environment.</li> </ul>
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Executive Vice-President for Clean, Just and Competitive Transition
 <b>Background</b>
<p>Both Mario Draghi and Enrico Letta call for a revision of European merger control in their reports. In the telecommunications sector, in particular, they criticize a competition policy that relies too heavily on market entry. As a result, many small providers are active on the market and there are few incentives to innovate. Draghi is therefore explicitly calling for the resulting innovation potential to be assessed in the case of planned mergers. In particular, he suggests that merging parties can prove that their merger increases the ability and incentive to innovate, a so-called 'innovation defence'. In the area of defence, Letta points out that European mergers can create stronger and more innovative medium-sized companies.</p> <p>The revision of the Horizontal Merger Guidelines should ensure that mergers maintain competitive market structures. However, in certain sectors such as telecommunications, a certain degree of concentration may be necessary to promote investment and resilience. Resilience in this context refers not only to the market's ability to function in times of crisis but also to its ability to compete globally. For instance, the current global market dynamics, particularly in the defence sector, require European companies to reach a sufficient size to compete with companies from the US and China. The effects of mergers on innovation activity must be examined very carefully, as mergers can lead to companies having more capital available for research and development in individual cases, but empirical evidence shows that mergers often reduce innovation efforts. This applies to both the merged companies and their competitors. Furthermore, breakthrough innovations are generally not made by established companies, but by young dynamic ones. This requires a differentiated approach to merger control that recognizes these aspects while ensuring that adequate competition is maintained to ensure consumer welfare.</p>

### 3.1.3 Killer Acquisitions

 <b>Task</b>
<p>Focus on 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.</p>
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Executive Vice-President for Clean, Just and Competitive Transition
 <b>Background</b>
<p>The term killer acquisition describes the acquisition of a smaller, innovative start-up by a large, established company, to subsequently discontinue the acquired company's business. The reason for the acquisition is to prevent competition between the new company and the incumbent. Often,</p>

the start-up in question has little or no turnover, which can result in it falling below the relevant notification thresholds. Nevertheless, the price paid for the acquisition may be substantial. Since 2021 the commission has used Art. 22 of the EU Merger Regulation to scrutinise acquisitions that fall below the national and EU-wide notification thresholds. The European Court of Justice prohibited this approach in a ruling on 3 September 2024. The Commission now faces the challenge of developing an alternative mechanism for capturing such acquisitions. Still valid is the obligation for the so-called gatekeepers laid down in the Digital Markets Act (Regulation (EU) 2022/1925) to inform the Commission of all proposed mergers prior to their completion.

Killer acquisitions are problematic as they restrict competition and reduce innovation. This applies to both the companies involved in the acquisition and their competitors. However, not every acquisition of a start-up by an established company is a killer acquisition. In many cases, established companies want to continue the start-up's business and can use their capital to accelerate the innovation process or even make it possible in the first place. In the particularly dynamic and innovation-driven digital sector, for instance, the innovations made by the target company are often not discontinued but integrated into the acquirer's company and in some cases developed further. It is therefore difficult to identify killer acquisitions as such in advance. Another difficulty will be to find a criterion, other than turnover, that allows the EU Commission or national competition authorities to examine a possible killer acquisition. The problem is compounded by the fact that companies can also make a killer acquisition by buying the IP rights of a start-up and poaching its employees. Despite these difficulties, it is right to address the problem of killer acquisitions.

### 3.1.4 New State Aid framework

#### Task

Develop a new State aid framework as part of the Clean Industrial Deal, in order to accelerate the roll-out of renewable energy, deploy industrial decarbonization and ensure sufficient manufacturing capacity of clean tech. This should build on the experience of the Temporary Crisis and Transition Framework and preserve cohesion objectives. Strong State aid control continues to play a role in addressing market failures while avoiding inefficiencies in public spending.

#### Executive Vice-Presidents and Commissioners Involved

Executive Vice-President for Clean, Just and Competitive Transition

#### Background

A new EU State aid framework must accelerate the transition to a green and digital economy while safeguarding competition within the Single Market. In recent years, the EU has adopted a more active industrial policy approach through flexible State aid rules, such as Important Projects of Common European Interest (IPCEIs) and adjustments to the General Block Exemption Regulation (GBER). Temporary frameworks, like the Temporary Crisis and Transition Framework, were introduced to respond to crises such as the COVID-19 pandemic and the energy crisis, while also supporting industrial transformation.




As many of these exemptions are set to expire by 2025, the EU now faces the challenge of developing a permanent and consistent State aid framework that prevents market distortions and enables Member States to support the transformation of European industry. The key challenge lies in reconciling this more active industrial policy with the competitive principles of the Single Market. In recent years, there has been growing criticism that the relaxed State aid rules have disproportionately benefited large and financially strong Member States, particularly Germany, leading to

fragmentation within the Single Market. A future, coherent State aid framework must ensure that national subsidies strengthen, rather than fragment, the Single Market while advancing Europe’s joint industrial transformation.

To ensure an effective transformation, strict rules for operating aid should apply. Such subsidies should only be granted in rare cases, such as to match third-country subsidies. In addition, strict ex-ante and/or ex-post conditionalities must ensure that the aid granted contributes to the transformation and competitiveness of European industry in an efficient and targeted manner. The new state aid framework must also be flexible enough to meet different needs – for example through strict efficiency controls in more mature technologies or iterative approaches to disruptive innovation. This will ensure an effective industrial strategy that both protects the Single Market and promotes Europe's transition.

### 3.2 Internal Market




#### 3.2.1 Stress test the EU acquis

 <b>Task</b>
Stress-test the EU acquis with a view to eliminate overlaps and contradictions, while maintaining high standards. Make proposals to simplify, consolidate and codify legislation where it is needed.
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Commissioner for Economy and Productivity, Implementation and Simplification (lead), together with all relevant Members of the College
 <b>Background</b>
<p>Legal uncertainty and a complex legal framework tie up resources in companies and lead to costly legal advice and potential litigation, as well as a reluctance to innovate. This is particularly the case with the EU digital laws passed in recent years, as they partially overlap in often non-transparent ways and contain inconsistencies, duplications or very similar obligations. This complicates their application by companies as well as the delineation of regulatory responsibilities. Concrete examples of this are:</p> <ul style="list-style-type: none"> <li>• Risk management under the <a href="#">General Data Protection Regulation</a> (GDPR), the revised <a href="#">NIS-2-Directive</a>, and the <a href="#">Artificial Intelligence Act</a> (AI Act),</li> <li>• Information obligations under the GDPR and the AI Act,</li> <li>• Incident reporting obligations under the GDPR, the NIS-2 Directive, and the <a href="#">Cyber Resilience Act</a>, and</li> <li>• Data portability obligations under the GDPR and the <a href="#">Data Act</a>.</li> </ul> <p>The Commission should, inter alia, take the following measures:</p> <p>(1) Consolidate and simplify all (digital) EU legal acts; identify and address overlaps; eliminate legal ambiguities, inconsistencies and contradictions and possible duplicate burdens.</p> <p>(2) Better align the EU digital acquis, including the Data Act and the AI Act, with the GDPR and provide more legal certainty. In particular, the Commission should put forward specific proposals to</p> <ul style="list-style-type: none"> <li>• resolve the conflict between the GDPR’s principle of data minimisation and the practical need to lawfully use large data sets, which is key for the emergence of data-driven business models and the adequate training of high-quality AI;</li> </ul>

- clarify, as soon as possible, when data can be considered anonymised and is therefore no longer subject to the GDPR; this could be done by (supporting the) development of uniform and practicable standards, compliance with which would presume a sufficient level of anonymisation, and clarifying liability issues in case of a potential subsequent re-identification;
- actively support companies in using privacy-friendly technologies such as the use of synthetic data – for example, for AI training;
- actively support a legally secure and innovation-friendly handling of the GDPR (both regarding its interpretation and application) and Artificial Intelligence, without disproportionately restricting fundamental rights such as the right to data protection. Such an approach must not only take into account the risks of digitalization to individual privacy but also the potential negative economic consequences of stricter protection levels in the EU.

In relation to the entire Sustainable Finance legislation, particularly the Sustainable Finance Disclosure Regulation (SFDR), a major overhaul appears to be urgently needed. In practice, numerous shortcomings, pitfalls, redundancies and inconsistencies have emerged, which should be addressed as a top priority in the upcoming EU legislative period. The Commission should review the various sustainable finance legislative acts – particularly the SFDR, the Green Taxonomy Regulation, the Markets in Financial Instruments Directive (MiFID), the Insurance Distribution Directive (IDD), and the Regulation on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) – to create a coherent and internally consistent legal framework for sustainable finance in the medium term, which meets its stated objectives.




### 3.2.2 Administrative and reporting burden

 <b>Task</b>
Reduce administrative and reporting burden.
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Commissioner for Economy and Productivity, Implementation and Simplification (lead), together with all relevant Members of the College
 <b>Background</b>
In mid-2023, EU Commission President Ursula von der Leyen had already set the target of reducing reporting obligations for companies by 25 percent. However, instead of reducing the bureaucratic burden on companies, it has increased noticeably in recent years and will continue to increase, for example through the regulation on deforestation-free supply chains, the carbon border adjustment mechanism CBAM and the supply chain due diligence directive CSDDD. The latter obliges companies to document that they comply with human rights and environmental standards along the entire supply chain. In practice, this means that companies must collect data, prepare reports and provide evidence. While the aim of the CSDDD is understandable, it leads to a considerable bureaucratic burden for companies, which often has no benefit for their direct business activities.
In some cases, companies must prove that they comply with applicable law. Such proof is not only associated with considerable effort. Such a climate of mistrust is also inefficient and costly. Imagine a driver having to prove that he has complied with traffic regulations. The effort involved would be enormous and the return questionable. It is therefore assumed that drivers are following the rules unless there is a specific reason for complaint. It should be similar with companies: Instead of placing them under general suspicion of disregarding the rules, controls should be targeted and efficient





where risks exist, or misconduct is suspected. The current reporting obligations, on the contrary, lead to an excessive burden for all companies, regardless of their size or risk. The sheer volume of obligations prevents companies from doing their actual job: meeting customer needs in the best possible way. Instead of focusing on innovation, product development and customer service, companies have to invest time and resources in meeting administrative requirements. This leads to an inefficient use of resources and ultimately reduces the competitiveness of European companies in the global market. Overall, the EU Commission should focus on finding a balance between transparency and efficiency. Obligations should be applied in a targeted and risk-based manner to address the actual problem areas instead of burdening all companies equally.

### 3.2.3 Reality checks

 <b>Task</b>
Implement a new consultation approach, called Reality Checks, that will collect first-hand information from a selection of stakeholders in given areas to identify hurdles they face when implementing EU rules.
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Commissioner for Economy and Productivity, Implementation and Simplification
 <b>Background:</b>
The tool Reality Checks was developed by the German Federal Ministry for Economic Affairs and Climate Protection (BMWK). It has the objective to achieve a significant reduction in bureaucratic procedures. In Reality Checks, bureaucratic burdens in certain business processes, such as the installation of a photovoltaic system, are identified in terms of their practicality. The checks are carried out together with experts from the field. Identified obstacles are removed if possible. The major advantage of the Reality Check is that it does not start with a specific law, but identifies bureaucratic obstacles in an entrepreneurial process, such as an investment decision. This makes it possible to identify problems that arise from the interaction of different laws, administrative regulations or administrative actions. Reality checks can therefore be a good addition to existing instruments for reducing bureaucracy. When using this instrument at the European level, the Commission must work closely with the Member States, as bureaucratic obstacles arise not only as a result of European legislation but also as a result of Member State action, such as the transposition of a directive into national law or administrative action by the Member States.

### 3.2.4 Public Procurement

 <b>Task</b>
Revise the Public Procurement Directives to help ensure security of supply for certain vital technologies, products and services, while simplifying the rules and reducing administrative burden. It should enable preference for European products in public procurement for certain strategic sectors and technologies.
 <b>Executive Vice-Presidents and Commissioners Involved</b>
Executive Vice-President for Prosperity and Industrial Strategy
 <b>Background</b>

The European Court of Auditors recently found that competition for public contracts has decreased over the past ten years. In 2021, 42% of all public contracts were awarded in tenders where there was only one bidder. This results in higher costs for contracting authorities. The root causes of the drop in competition are the high administrative burden, overly restrictive criteria and customized specifications (i.e. tailored to specific companies) as well as market concentration. The duration of procurement procedures has also increased in recent years and the proportion of public contracts awarded to small and medium-sized enterprises remains low. Against this backdrop, there is an urgent need to simplify public procurement.

Giving preference to European products in public procurement in certain strategic sectors and technologies can lead to a further reduction in the number of potential bidders and therefore competition. The costs for contracting authorities would continue to rise. There is also a risk that numerous technologies, products and services will be declared "vital", as there is currently no generally recognized definition for this. In very limited cases, it may nevertheless make sense to give preference to European products. In such cases, care must be taken to ensure that the design is WTO-compliant. However, it is questionable whether contracting authorities will make use of such a possibility, as public procurement law already allows environmental aspects or social criteria to be taken into account when awarding contracts. However, the member states hardly ever make use of this option.

### 3.2.5 Single Market Strategy

#### Task

Develop a horizontal Single Market Strategy for a modernized and deeper Single Market that promotes the cross-border provision of services and cross-border movement of goods.

#### Executive Vice-Presidents and Commissioners Involved

Executive Vice-President for Prosperity and Industrial Strategy

#### Background

More than thirty years after its creation, the single market remains the EU's most important asset. However, the single market is still incomplete. There are for instance still obstacles to the provision of cross-border financial services and telecommunications services. Significant obstacles also remain to the provision of other cross-border services within the EU. These barriers restrict competition and prevent the forces of the internal market from unfolding. They also contribute to the fact that European companies are often smaller than their international competitors. Furthermore, a stronger internal market would help to ensure that European standards become a global reference, for example. This would make it easier for European companies to offer goods and services to the rest of the world.



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