



Competition and Sustainable Innovation Panel

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WIPO – Sustainability of Innovation and
Competition

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A Story of Innovation

Net Zero is Not No Growth

It requires technological breakthroughs

A Market driven Green transition requires the State AND

An Active Competition Policy

- Mainstreaming competition principles in Public Policy
- Innovation-centric enforcement



Green Tech



Creating New Green
Tech



Deploying and Scaling
Green Tech



What drives Innovation?

Competition

Monopoly



A Green Public-Private Partnership



Industrial Policy
- State capital
and Regulation



Private capital
VC and Private markets



Market Driven **Green** Transition



Competition Enforcement – Where do we stand?

- The Toolbox: Mergers, Anti-competitive Agreements, Abuse of Dominance
- Does competition enforcement pose a risk for green initiatives?
 - Dutch Second Draft Guidelines
 - Greek Staff Discussion Paper
 - Dutch / Greek Technical Report
 - German Working Paper
 - UK Guidance and Advice to BEIS
 - European Commission's draft Horizontal Co-operation Guidelines
 - Austrian Cartel Act amended to include an exemption for sustainability agreements, with draft guidelines



No conflict: anti-sustainability and also anti-competitive

Examples of agreements that may infringe competition law:

- Sustainability agreements to fix prices, share markets, rig bids or limit output, typically to maintain or increase prices (hard core cartels)
- Direct exchange of competitively sensitive information with current or potential competitors, especially on future pricing and output plans
- Agreements to limit competition on quality, for instance delaying introduction in the market of clean technology, eg. AdBlue Case
- Agreements not to advertise environmental performance of a greener product



Conflict: Grey Areas

Examples of sustainability agreements that may or may not, depending on the circumstances, infringe competition law:

- Horizontal co-operation to phase out a less sustainable type of product, leading to elimination of a cheaper alternative
- Horizontal co-operation to bind participants to stricter standard than the legal one
- Joint voluntary schemes and sharing of infrastructures for collection, disposal and recycling of waste





Competition Enforcement for Green Tech

- Consumer welfare harm is not limited to short-term but also to long-term:
 - Not just short-term price effects but also effects on quality (process and product) and innovation
 - Price effects are measurable and a good proxy in most markets for long term effects
- Not the case for for green tech!
 - Unlike digital green tech will require long lead times for capacity roll-outs
 - Environmental impacts take long to develop
 - Need to move from static price effects to dynamic effects of quality and innovation



Enforcing competition law for the green transition

- Car emissions cartel case (2021)
 - 875 Million Euros fine for five carmakers
 - Slowing down deployment of green tech
- Mergers
 - Theories of harm on Innovation
 - Remedies
 - for customers to benefit from less polluting services



Thank you



RELEVANT OECD WORK AND MATERIALS

- Open Day 2022 Green Innovation
- Environmental Considerations and Competition (Dec. 2021)
- Open Day 2021 Sustainability and Competition
- Sustainability and Competition (2020)
- Horizontal Agreements in the Environmental Context (2010)
- More materials:
<https://www.oecd.org/competition/roundtables.htm>