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# DOES POLITICAL ADVICE PLAY A ROLE IN SPECIFIC COMPETITION POLICY ISSUES

EU Competition laws prohibit all state subsidies (unless permitted by the European Commission), they forbid cartels and other abuses of market power. They also regulate the new market powers companies have when merging so that consumers are not exploited as a result of the merger. And few will disagree these days that where competition works, everyone ultimately benefits.

Note though that these powers allow the European Commission a decisive voice just about in all areas of the economy. For example in the energy sector rapid increases in the price of gas and electricity, and the limited supplier choices that users have, have led the European Commission to use competition policy tools in effect to conduct a new energy policy against the wishes of several EU Member States.

In effect one can think of competition policy in any economy as the modern successor to what was once called industrial policy and planning. It also replaced trade policy where tariffs and customs duties determined how much you could sell outside your borders. The European Commission and the various national competition authorities throughout Europe are the new policemen of our markets.

Though the European Commission's analysis and decisions always strive to be independent and technocratic, politics nearly always plays a role. Did you know that you can complain about any merger, state aid or cartel and do so under the protection of confidentiality?

Thus Air Malta could have informally complained about the hostile plans of Ryan Air to take over Aer Lingus in Ireland. Both Ireland and Malta are islands with no practical alternatives to getting of them other than by air. On both Islands ordinary people wanted competition

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**ONE OF THE EUROPEAN COMMISSION'S GREATEST POWERS IS COMPETITION POLICY ENFORCEMENT. AND WHERE THERE IS POWER, THERE IS POLITICS. GIVEN THAT THE EUROPEAN COMMISSION'S POWERS IN THIS IMPORTANT POLICY AREA ARE ON THE INCREASE, THE NEED FOR GOOD POLITICAL ADVICE WHEN LOOKING AT A COMPETITIVE PROBLEM HAS NEVER BEEN GREATER.**

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between at least two airlines... and Air Malta feared that after Aer Lingus they would be next and their market exploited. Both governments, as part owners, would have been keenly involved. Competition enforcers in Brussels blocked the deal as those opposed to it took good political advice.

Companies involved in "competition cases", are these days as likely to call their lawyers and economists as their specialist public affairs advisers for help. Not to use a public affairs can be a grave omission where a case is complex or has political ramifications - which increasingly all but the most routine competition policy matters do. To think of the political dimension too late can be disastrous for the bottom line.

This is not only true of companies that have state subsidy issues which of course are inherently political; making good public affairs advice is indispensable. But in mergers and antitrust too there are underlying political aims to take into account: the very purpose of competition policy as stated in the European treaties - and in the new Lisbon Treaty are to further the single market in Europe which is after all a political aim. Similarly the protection of the consumer is also a political aim.

It therefore follows that there are many stakeholders, views and opinions that need to be managed, encouraged or strategically planned for and the best way of doing this is to take good political advice into account at the same time as reviewing the legal options based on economic or commercial analysis. This multidisciplinary approach can save a great deal of money and if done well will allow every Slovak company to punch above its weight in Brussels.

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