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MEMBER STATES AND COMMISSION MUST MAKE ANTITRUST REFORM WORK AND AVOID HARM TO INTERNAL MARKET

On 26 November the Competitiveness Council agreed a revolutionary and in some respects risky antitrust reform to decentralise implementation of Community competition rules to national authorities and courts and replace the current one-stop-shop system of administrative authorisation centralised at Commission level.

Competition is crucial for business; it provides the best incentive for efficiency, encourages innovation and guarantees consumers the best choice. European competition law should provide an efficient control mechanism that avoids costly duplication of compliance checks, ensures sufficient certainty about the validity of agreements, and maintains the integrity of the internal market by assuring a level playing-field where competition law issues are treated similarly.

Joint enforcement of European competition rules by the Commission, national courts and national competition authorities increases the risk of inconsistencies within the system which harm the internal market and reduce legal certainty. *“National competition authorities and courts must cooperate closely together with the Commission and other authorities to avoid divergent decision-making. In addition, the Commission will need to provide sufficient guidance and legal certainty for businesses”* says Philippe de Buck, Secretary General of UNICE.

Joint enforcement might also lead to a repetition of compliance checks on the same activity by different authorities and/or judges in different Member States, and forum-shopping prompted by differences in national procedural rules and sanctions. Multiple proceedings are costly and wasteful and should be avoided. UNICE therefore calls on national authorities and courts to suspend or terminate their proceedings, and on the Commission to intervene, if this would prevent harmful duplication. National authorities and the Commission should also provide clear and binding rules on allocation of cases to resolve the risk of repetition and forum-shopping.

Note to the editor:

UNICE is the official voice of more than 16 million small, medium and large companies active in Europe, employing over 106 million people. Active in European affairs since 1958, UNICE's members are 34 central industrial and employers federations from 27 countries, working together to achieve growth and competitiveness in Europe.