

## Newsletter



19 June 2026

### EU Merger Control

#### A New Framework for Innovation, Scale and Strategic Autonomy

On 30 April 2026, the European Commission launched a public consultation on draft revised **EU Merger Guidelines**, the most significant review of EU merger control in over two decades. The proposed framework reflects developments in digital markets, geopolitics, sustainability, resilience, innovation, and competitiveness, while seeking to balance effective competition with investment and growth. The consultation reflects the Commission's broader effort to modernise EU merger control in response to rapidly evolving market structures, technological developments, and increasing geopolitical and economic pressures.



#### 1. One Single Framework

The Draft Guidelines replace the traditional distinction between horizontal and non-horizontal mergers with a single effects-based framework. The Commission will assess transactions through a broader range of competitive effects, including impacts on competition, innovation, investment, market power, coordination, and labour markets. This reflects a move away from rigid market classifications towards a more holistic assessment of market dynamics.

#### 2. Innovation and the Theory of Benefit

A notable innovation is the introduction of a **“theory of benefit”** alongside the traditional **“theory of harm”**. Merging parties must demonstrate merger-specific efficiencies, including innovation, resilience and sustainability gains, and show how these benefit competition or consumers. Innovation is placed at the centre of the competitive assessment, both as a potential source of



harm and of benefit, reflecting the Commission's effort to balance concerns over **"killer acquisitions"** with the need to support growth and investment in emerging sectors.

### **3. A More Dynamic Competition Assessment**

While retaining the SIEC test, the Draft Guidelines place greater emphasis on market dynamics rather than market shares alone. Factors such as innovation, data, technology, labour markets, pricing dynamics and barriers to entry are expected to play a larger role, while innovative firms with limited market presence may still be recognised as significant competitive constraints.

### **4. Entrenchment of a Dominant Position**

For the first time, the Draft Guidelines recognise the entrenchment of a dominant position as a standalone theory of harm. A transaction may raise concerns where it strengthens control over key assets, such as data, technology, or distribution channels, in a way that reinforces barriers to entry and limits competition.

### **5. Article 21 EUMR**

The Draft Guidelines clarify the circumstances in which Member States may invoke Article 21(4) EUMR to protect legitimate public interests. While public security, media plurality and prudential supervision remain recognised grounds, other interests may also be considered subject to Commission approval and compliance with EU principles.

### **6. Geopolitical Considerations**

The Draft Guidelines recognise that scale-enhancing mergers may support innovation, resilience, and global competitiveness. However, competitiveness considerations cannot justify anticompetitive consolidation, and the Commission confirms that no "national champion" exception exists under the SIEC test. The Guidelines also recognise that AI and algorithmic tools may increase coordination risks in concentrated markets.

Overall, the Draft Guidelines signal a significant evolution in EU merger control, reflecting a broader shift towards the assessment of innovation, resilience, competitiveness, and long-term strategic considerations alongside traditional competition concerns.



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