



BRUSSELS À JOUR

Changes to DG COMP Line-up

With the move by Johannes Laitenberger to the European Court in Luxembourg in the summer of 2019, the position of Director-General of the Directorate General for Competition (“**DG COMP**”) of the European Commission (the “**Commission**”) became vacant. A month after the new Commission took office for five years under the leadership of the new President of the Commission Ursula von der Leyen on 1 December 2019, the position of Director-General was filled at the start of 2020. Frenchman Olivier Guersent has replaced German Johannes Laitenberger.

Hans-Jörg Niemeyer and Lukas Ritzenhoff report on the latest developments from the European capital of competition law.

This has not happened in the last 30 years: After this change, not a single German will hold a position any longer at the top three hierarchical levels of DG COMP – Director General and Chief Economist, three Deputy Directors-General as well as nine Directors. Four Directors have so-called horizontal tasks – Policy and Strategy, Cartels, State Aid and Management – while the remaining five are each responsible for different sectors.

In the cabinet of the Danish Competition Commissioner and Vice-President of the Commission Vestager, who politically supervises DG COMP, there is one German, responsible for digital matters, but not for competition issues. Antitrust law and EU merger control are overseen by an Irish national, a Greek and an Italian in the cabinet.

The positions of the very influential Deputy Director-General are currently held by two Spaniards (for Merger Control and State Aid) and one Belgian (Antitrust). The Chief Economist is also Belgian. If the rumors in Brussels are to be believed, the post of Deputy Director-General for Mergers will soon be replaced by Frenchman Guillaume Lorient (currently Director at DG COMP). This would mean that two French nationals – as Director-General and Deputy Director-General – would head the very important area of European merger control. In view of the current discussion about a “European industrial policy” and the “strengthening of European champions” (see also the [letter](#) from the German, French, Italian and Polish governments of 4 February 2020 to Commissioner Vestager), this personnel



configuration would be rather remarkable. Since the posts of Directors-General and Deputy Directors-General in the Commission are filled “on a political basis”, two French nationals would not be a coincidence, but the result of clearly strategic considerations by the French Government. Supporters of a rather liberal competition policy should be concerned about the fact that the Northern Europeans, i.e. Scandinavians, Dutch, Germans and Austrians, do not have a single Deputy Director-General, and were only able to fill the positions of two of the nine Directors (from Denmark and Austria).

DG COMP is one of the powerful DGs within the Commission. Its officials have many years of experience. Due to the industry knowledge required for competition cases, the rotation principle otherwise applicable in the Commission is partially suspended. It remains to be seen whether the Commissioner for Competition will again be able to successfully withstand the urging of two major Member States in future merger control cases if the two senior officials in this area are in French hands.

One could object that long-standing Commission officials in particular are not the extended arm of their Member States in Brussels, but feel committed to the Community interest. Experience shows, however, that the large Member States in particular are able to influence the hierarchy of DG COMP in highly politically sensitive cases. It is then very difficult for the civil servants to enforce Community law impartially without being influenced by the pressure of their respective national governments (keyword “too French to fail”). While it is right to define larger, partly global, geographic markets in the context of merger control in the face of increasing global competition and to include more potential competition from third countries in the competitive analysis, we should not delude ourselves: under the guise of creating “European Champions”, in particular the southern European Member States often only want to protect their non-competitive domestic companies and industries or prevent their takeover by private equity firms or non-European competitors.

Against this background, it is remarkable, in contrast to France, how little strategy Germany deploys with regard to pursuing personnel policy in DG COMP, and obviously does not try to fill at least the position of Deputy Director-General with a German. Experienced, suitable German officials would be available from DG COMP.

Companies know how valuable it can be to have a “Senior Official” as a contact person in the Commission with whom they can communicate in “their” mother tongue. With the departure of Commissioner Oettinger, who was always open to hearing about issues concerning the interests of the German economy, and without a single German in the hierarchy of DG COMP, it will not be easier for German companies, involved in EU competition matters, to make their concerns sufficiently heard in the future.



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