



# Problem markets: The EU experience<sup>1</sup>

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# Outline of presentation

- I. Definition of problem markets (example rail transport)
- II. Policy tools to deal with problem markets
- III. Overview of tools used by the European Commission
  - 1. Market monitoring/sector screening
  - 2. Market studies (example food supply chain)
  - 3. Sector inquiries (example energy sector)
- IV. Concluding remarks



## I. Definition of problem markets

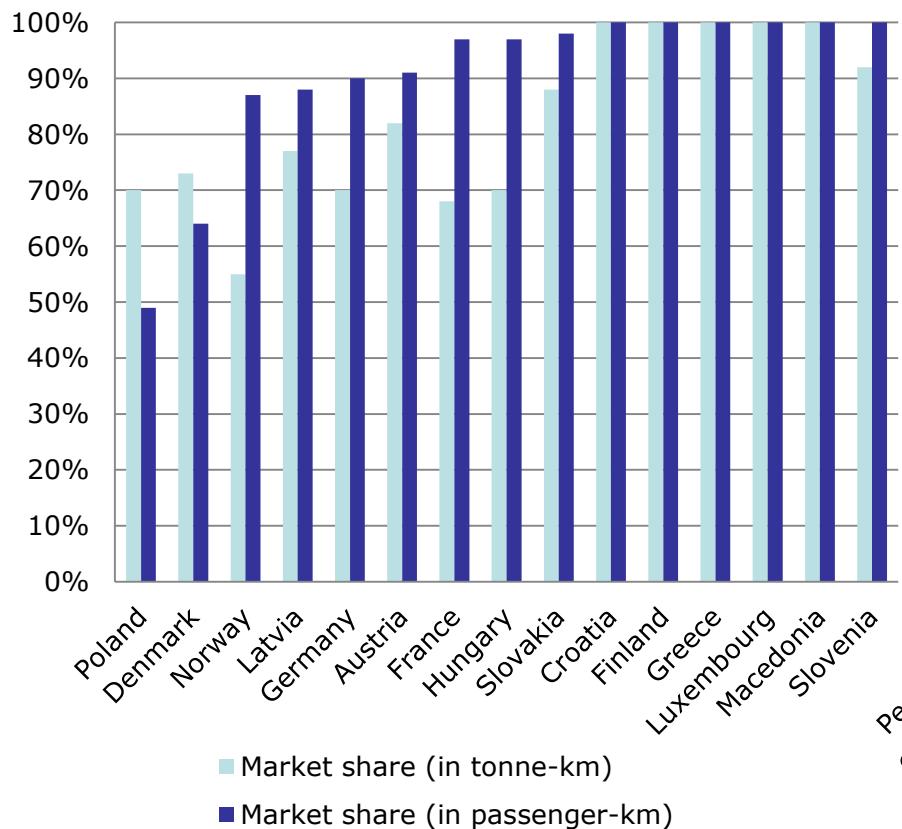
"A problem market might be defined as one in which there are **no issues clearly breaching antitrust law**. But, there may nevertheless be considerable **concern amongst politicians and the public** with contested territory as to whether there is actually a problem, and even if there is, **whether anything can be done about it.**"

(quote from conference programme)

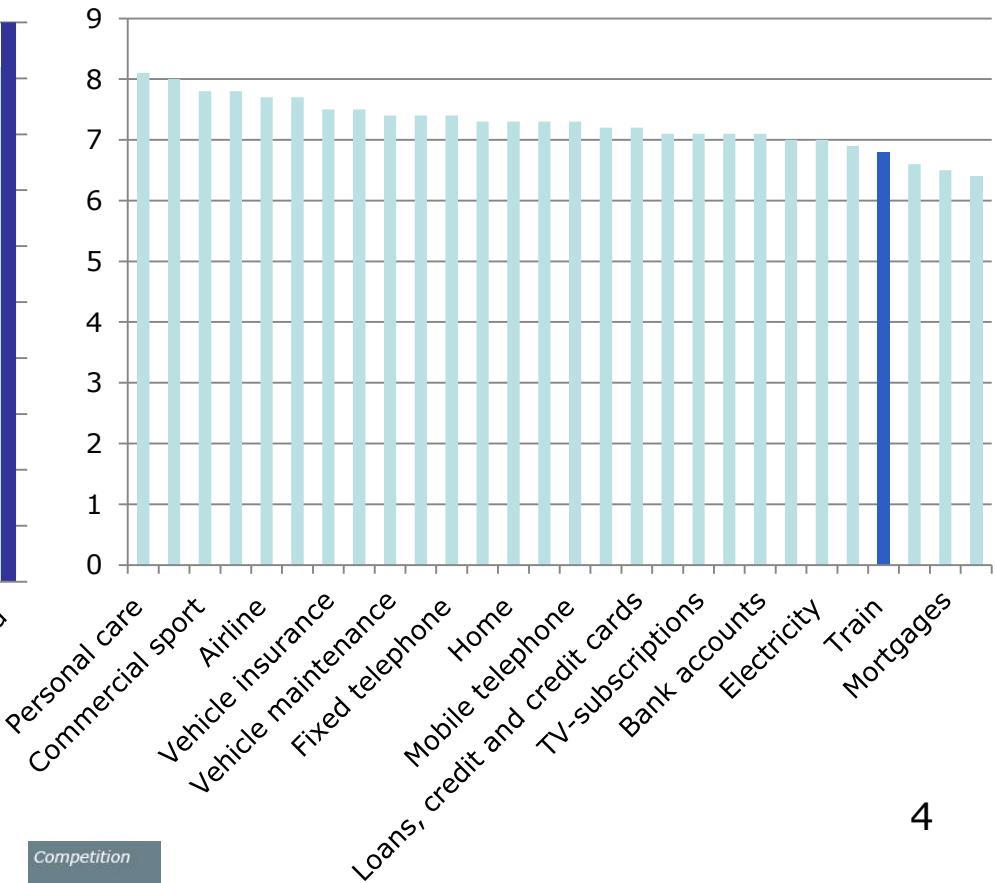


# I. Example: Rail Transport

*Market share of incumbents (2012)*



*Consumer satisfaction (2012)*





# I. Example: Rail Transport

*Commission competition policy decisions over past decade*

	Rail Transport	Energy	Telecommunications
Antitrust	1	20	9
Mergers	19	219	126
State Aid	56	203	128



## II. Policy tools to deal with problem markets

Objectives	Tools	Used
Identification of problem markets	Market monitoring and sector screening	Cartel detection (e.g. Competition Index in the Netherlands)
Analysis of the nature and source of problems identified	Market studies	Determine whether there is scope for policy intervention (e.g. UK)
Definition of appropriate policy measures	In-depth investigations	Nourish possible policy interventions (e.g. sector inquiries in the EU help identify possible antitrust cases)



### III. Tools used by European Commission

DG	Tools			Follow-up
	Market monitoring/ Sector screening	Market Studies	Sector Inquiries	
ECFIN	Product market monitoring	Food supply chain	-	High Level Forum (ENTR), Food Task Force (COMP)
MARKT	Retail sector monitoring	Unfair trading practices in retail supply chain	-	Retail market action plan
SANCO	Consumer Markets Scoreboard	Internet services, e-commerce, energy, retailing, meat, electrical and electronic goods	-	Consumer policy initiatives
COMP	Priority setting in antitrust	Professional services	Energy, telecom, financial services, media, pharma,	Antitrust cases



## III.1. Market monitoring/sector screening

*DG ECFIN's two step approach:*

### 1. Economic importance

*Indicators:*

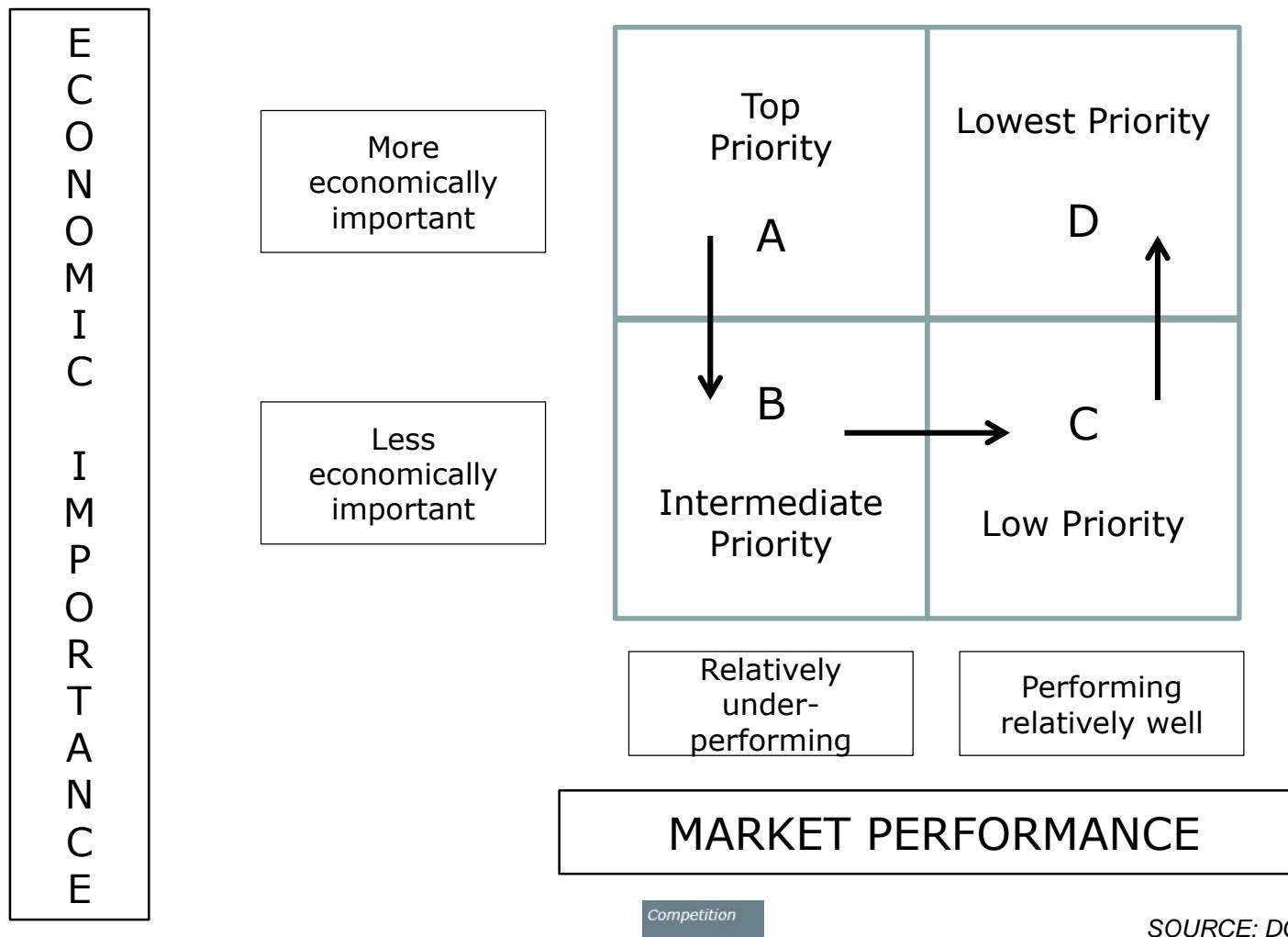
- Value added share
- Consumption share
- Investment share.

### 2. Market performance

*Indicators:*

- Competition (*mark-up, concentration rates and number of firms*)
- Integration (*M&As, price dispersion and trade openness*)
- Innovation (*ICT investment, labour quality and labour productivity growth*)

## III.1. Market monitoring/sector screening





## III.1. Market monitoring/sector screening

*Overview of manufacturing sectors in quadrant A*

Indicator	Food & beverage	Fabricated metal products	Machinery	Motor vehicles	Furniture; recycling
Integration	*	*			*
Competition			*	*	
Innovation	***	*	**	*	*

*Overview of services sectors in quadrant A*

Indicator	Retail trade	Other business activities	Construction	Hotels & Restaurant
Integration	**	**	*	**
Competition	*		*	*
Innovation	**	***	***	***



## III.1. Market monitoring/sector screening

*DG COMP's approach to antitrust case selection*

1. Complaints and leniency requests
2. Ex-officio cases

Resource limits impose application of a system for setting operational priorities taking into account the European Commission's overall policy strategy as well as other, objective criteria



## III.2. Market studies on food supply chain

### *Context*

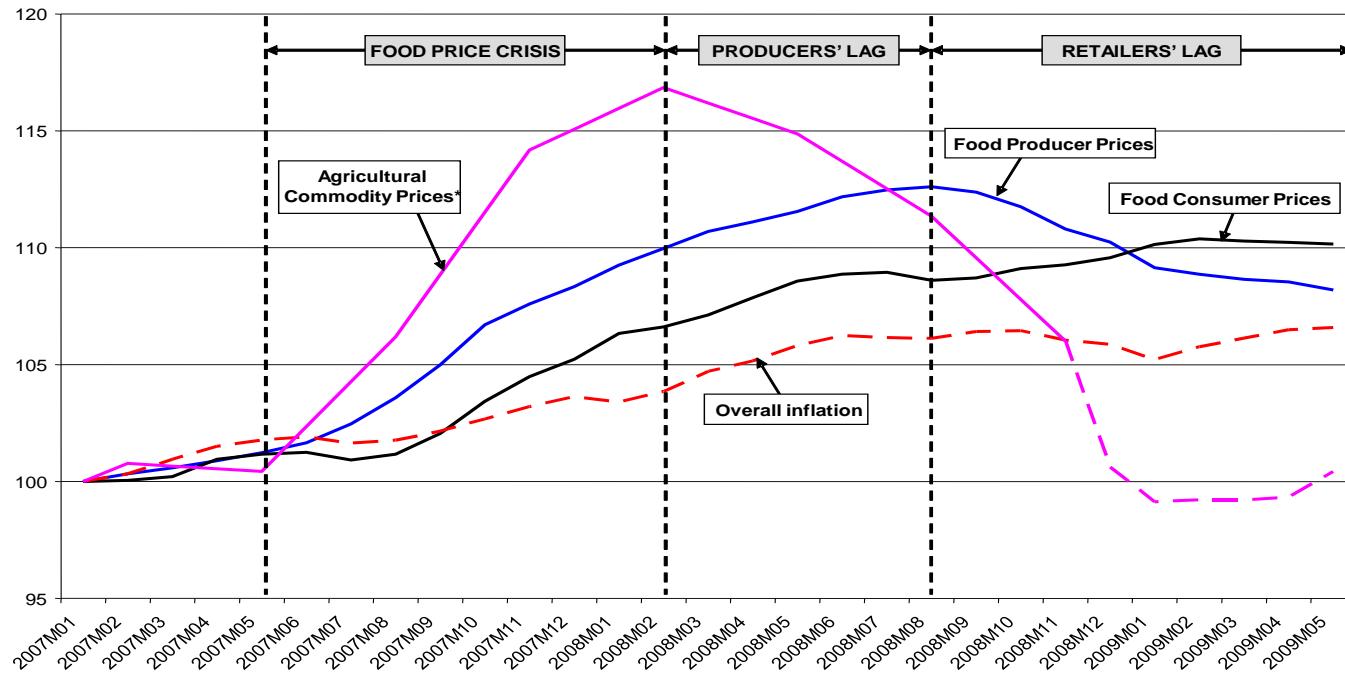
In the second half of 2007 price increases of many agricultural commodities accelerated rapidly. These increases have been mainly driven by a temporary imbalance between demand and supply and it generated a rapid increase in consumer food prices.

### *Definition of food supply chain*

The food supply chain connects the agricultural sector with the food processing industry and the wholesale and retail distribution sectors.

## III.2. Market studies on food supply chain

January 2007-May 2009; Monthly price indices (nominal); 2000M01=100



\* Agricultural commodity price index has been extrapolated from January 2009 on based on price levels of major commodities (Agriviews)

Source: EUROSTAT; AGRIVIEWS

The graph illustrates the slow reaction of food producers and retailers to the decrease in agricultural commodity prices



## III.2. Market studies on food supply chain

### *Market study for DG ECFIN*

- Consolidation in the food retail sector leads to increased bargaining power of large food retailers
- Asymmetry in bargaining power may lead to unfair trading practices (e.g. supply contracts; increased use of private labels)
- No clear evidence of a breach of antitrust rules, but there is a possibility of competitive harm (e.g. by way of contracts imposing resale price maintenance, joint purchasing or commercialisation, tying and bundling)
- **Conclusion:** The bargaining power of the different firms along the chain appears to have a significant effect on the transmission mechanism of changes in agricultural prices to changes in producer and consumer prices



## III.2. Market studies on food supply chain

### *Follow-up*

- **European Food Prices Monitoring Tool**
- **High Level Forum** for a Better Functioning Food Supply Chain (with a focus on unfair trading practices)
- **European Retail Action Plan** (aimed at the elimination of Single Market barriers)
- **Food Task Force** in DG COMP, responsible for:
  - Standard case work (antitrust enforcement)
  - Monitoring of the food supply chain
  - Involvement in related legislative initiatives:
    - » Reform of the CAP
    - » Proposals on unfair trading practices



## III.2. Market studies on food supply chain

### *Market study for DG COMP*

- Assess the impact of recent developments in the European food supply chain on consumers
- Examine whether changes in retailer and supplier concentration, changes in overall market imbalances, and the use of private label products have hampered choice and innovation in the European food sector
- Provide input for impact assessment for Commission proposals on unfair trading practices
- Investigate competition in the food supply chain

*Final report to be presented at conference in the autumn of 2014*



### III.3. Sector inquiries

*What?*

Sector inquiries are investigations that the European Commission carries out into sectors of the economy and into types of agreements across various sectors.

*When?*

When it believes that **a market is not working as well as it should**, and also believes that **breaches of the competition rules might be a contributory factor**.

*How?*

In the course of its inquiry, the Commission may request the companies concerned to supply certain information and may carry out inspections on site. The Commission uses the information obtained in an inquiry to understand a particular market better from the point of view of competition policy.



### III.3. Sector inquiries

#### *Organisation of DG COMP*

Sector knowledge from sector inquiries and case investigations is retained because of the matrix organisation of DG COMP, which allows combining policy instrument and sector knowledge

<b>Sectors</b>	<b>Mergers</b>	<b>Antitrust</b>	<b>State aids</b>
Energy and environment			
Information, communication and media			
Financial services			
Basic industries, manufacturing and agriculture			
Transport, post and other services			



### III.3. Sector inquiries

*List of sector inquiries conducted by DG COMP*

Sector	Period	Problem
Telecommunications, including international roaming	1999-2002	Make market entry more expensive
Media	2004-2005	Bundling, exclusivity
Financial services, including credit card services	2005-2007	Market foreclosure
Energy	2005-2007	Make market entry more difficult
Pharmaceuticals	2008-2009	Delay generic market entry



### III.3. Example: Energy sector inquiry

#### *Basic concerns*

- Lack of competition on wholesale gas and electricity markets
- High prices and limited choice of suppliers for end consumers

#### *Competition problems identified by inquiry*

- Market power of incumbents
- Vertical foreclosure
- Lack of market integration
- + Failure to detect any significant synergy effects linked to vertical integration in the energy sector



### III.3. Example: Energy sector inquiry

*Output: Regulatory reforms*

- Legislative proposals to further strengthen competition in electricity and gas markets

*Output: Case investigations leading to*

- Commitment by **ENI SpA** to divest its shares in three international transport pipelines to Italy
- Commitment by **GDF Suez** to significantly reduce its long-term reservations on French gas import infrastructure capacity
- Commitment by **E.ON** to release large capacity volumes at the entry points to its gas networks



## IV. Concluding remarks

*Do we need to deal with problem markets?*

- Yes, for **legitimacy** and **advocacy**  
(shared concerns with citizens)

*But need to set **priorities** (resource limitations)*

- ⇒ Important to develop tools
- To identify problem market
  - To explore the nature and source of problems
  - To define appropriate policy response

*Two elements for further work*

- Ex-ante assessment whether the policy tools available are suited to address the problems identified
- Ex-post evaluation whether policy interventions have worked