



SDG 13, climate action: The European Green Deal and Competition Law Sustainability Cooperation versus Market Competition in the EU

Background and Context

The European Green Deal aims to transform the European Union into a climate-neutral economy by 2050. Achieving this goal requires profound structural changes in production, consumption, and market organisation. One of the key challenges emerging from this transformation is the interaction between environmental sustainability initiatives and EU competition law, which traditionally seeks to prevent collusion, protect consumer welfare, and ensure fair market conditions.

This case study focuses on a sustainability cooperation agreement between competing firms in the EU and examines whether such cooperation, although environmentally beneficial, can conflict with competition rules. The case highlights the broader tension between SDG 13 (Climate Action) and SDG 12 (Responsible Consumption and Production) on the one hand, and competition law principles on the other.

The European Green Deal: Objectives and Legal Framework

Adopted in 2019, the European Green Deal sets out a roadmap for reducing greenhouse gas emissions by at least 55% by 2030 (compared to 1990 levels) and achieving climate neutrality by 2050. It integrates environmental protection into economic governance, reflecting the EU's commitment to sustainable development and the SDGs.

Key instruments supporting the Green Deal include:

- The European Climate Law;
- The Fit for 55 Package;
- The EU Emissions Trading System (ETS);
- Sustainable finance regulations (e.g. EU Taxonomy Regulation);
- Industrial and innovation strategies promoting green technologies.

However, implementing these measures often requires state intervention, cooperation between firms, and market restructuring, all of which fall under the scrutiny of EU competition law.

The interaction between the Green Deal and competition policy directly supports several SDGs:



- **SDG 13 (Climate Action):** Competition flexibility enables faster decarbonisation.
- **SDG 12 (Responsible Consumption and Production):** Sustainability standards promote greener markets.
- **SDG 9 (Industry, Innovation, and Infrastructure):** State aid fosters green innovation and infrastructure development.
- **SDG 16 (Institutions):** Transparent and balanced enforcement strengthens trust in EU governance.

Competition Policy and Sustainability: Core Tensions

EU competition law, particularly Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) is designed to prevent anti-competitive agreements, abuse of dominant positions, and unfair state aid. Traditionally, competition policy has focused on short-term price effects and consumer welfare. The Green Deal challenges this approach in several ways:

- Green cooperation agreements between companies (e.g. joint sustainability standards, shared infrastructure) may restrict competition.
- State aid for green industries risks distorting markets by favouring certain firms or sectors.
- Market exit of polluting firms can reduce competition while benefiting the environment.

This creates a legal dilemma: should competition rules be applied strictly, or adapted to account for long-term environmental benefits? A key example of this tension is the treatment of sustainability agreements – agreements between competitors aimed at achieving environmental goals, such as reducing emissions or improving product sustainability. Under traditional competition rules, such agreements may be considered anti-competitive if they limit output, increase prices, or exclude competitors. However, in the context of the Green Deal, these agreements may produce collective environmental benefits that are not immediately reflected in market prices.

In response, the European Commission has begun reinterpreting competition policy:

- Revised Horizontal Cooperation Guidelines now recognise sustainability agreements.
- Environmental benefits may be considered efficiencies if they benefit consumers.
- Long-term collective benefits can be weighed against short-term competitive harm.



This evolution reflects a shift from a purely economic understanding of competition toward a broader sustainability-oriented framework, aligning EU competition policy with SDG principles.

Case Study: A Sustainability Agreement in the Consumer Goods Sector

Several large EU-based manufacturers of household consumer goods (such as detergents and cleaning products) agreed to cooperate to reduce the environmental impact of their products.

The agreement included:

- Phasing out non-recyclable plastic packaging;
- Introducing uniform sustainability standards for packaging materials;
- Jointly investing in recyclable packaging infrastructure;
- Gradually removing cheaper but environmentally harmful packaging options from the market.

The companies argued that individual action would be ineffective and costly, and that collective coordination was necessary to achieve meaningful environmental impact in line with the European Green Deal.

However, the agreement also resulted in **higher production costs**, which were partially passed on to consumers through increased prices. Smaller competitors claimed that the agreement restricted competition and created barriers to entry, raising concerns under Article 101 TFEU, which prohibits anti-competitive agreements.

Legal Issue: Competition Law versus Sustainability Goals

Under traditional EU competition law analysis, agreements between competitors that limit product choice or lead to price increases are generally considered restrictive. The key legal question in this case was whether environmental benefits could justify restrictions on competition.

The companies involved argued that:

- The agreement produced long-term environmental benefits for society as a whole;
- Consumers indirectly benefited from reduced pollution and waste;
- The agreement supported EU climate objectives and SDGs;
- The restrictions were necessary and proportionate to achieve sustainability goals.



Competition authorities, however, had to assess whether these benefits could be considered efficiency gains under competition law and whether consumers received a ‘fair share’ of those benefits.

Regulatory Response and Policy Shift

In response to cases like this, the European Commission revised its approach under the Horizontal Cooperation Guidelines. For the first time, sustainability agreements were explicitly addressed.

The Commission acknowledged that:

- Environmental benefits may extend beyond immediate price effects;
- Long-term collective benefits can be relevant for competition assessment;
- Sustainability agreements may be acceptable if they are transparent, necessary, and do not eliminate competition entirely.

In this case, the agreement was allowed under strict conditions, including:

- Open access for other market participants;
- Regular review of pricing effects;
- Clear proof of environmental impact;
- Consumer information and transparency obligations.

This decision marked a significant evolution in EU competition policy, aligning it more closely with the objectives of the European Green Deal.

Implications for the Sustainable Development Goals

This case study directly illustrates the practical implementation of the SDGs within EU law:

- **SDG 13 (Climate Action):** Collective action accelerated the reduction of plastic waste and emissions.
- **SDG 12 (Responsible Consumption and Production):** Uniform sustainability standards reshaped market behaviour.
- **SDG 9 (Industry and Innovation):** Joint investment enabled innovation in green packaging technologies.
- **SDG 16 (Institutions):** Adaptive competition enforcement strengthened institutional legitimacy.



At the same time, the case demonstrates the risks of excluding smaller firms and increasing consumer prices, showing that sustainability-driven cooperation must be carefully regulated.

Conclusion

This case study demonstrates that the European Green Deal challenges traditional competition law by introducing environmental sustainability as a legitimate policy objective. While competition law remains essential for preventing market abuse, rigid enforcement without regard to sustainability could undermine climate goals.

The evolving EU approach shows that competition law can function as an enabling tool for sustainable development, provided that the environmental benefits are real, measurable, and balanced against the competitive harm. This case study illustrates how legal frameworks must adapt to address complex global challenges while preserving market fairness.

Questions

1. Article 101 TFEU Assessment: Applying Article 101(1) TFEU, identify which elements of the sustainability agreement between competing consumer-goods manufacturers constitute a restriction of competition by object or by effect. Would your assessment change if the agreement was limited in time or scope?
2. Efficiency Justifications under Article 101(3) TFEU: To what extent can the environmental benefits generated by the agreement qualify as 'efficiency gains' under Article 101(3) TFEU? Critically assess whether collective environmental benefits to society can satisfy the requirement that consumers receive a 'fair share' of the benefits.
3. Consumer Welfare versus Collective Environmental Benefits: Should EU competition authorities prioritise short-term price increases for consumers over long-term environmental gains? Discuss whether the traditional consumer welfare standard is adequate in the context of the European Green Deal and SDG 13.
4. Necessity and Proportionality Test: Evaluate whether the restrictions imposed by the sustainability agreement are necessary and proportionate to achieving the stated environmental objectives. Could less restrictive alternatives (e.g. unilateral commitments or industry standards) have achieved similar outcomes?
5. Impact on Market Structure and Smaller Competitors: Analyse how sustainability-driven cooperation among large firms may affect market entry and competition from



small and medium-sized enterprises (SMEs). Should competition law incorporate specific safeguards to prevent ‘green collusion’?

6. Role of the European Commission’s Horizontal Cooperation Guidelines: How do the revised Horizontal Cooperation Guidelines modify the legal certainty for firms engaging in sustainability agreements? Do these guidelines represent a reinterpretation of competition law or a policy-driven exception motivated by the European Green Deal?
7. Interaction between Competition Law and the Sustainable Development Goals: Assess how this case reflects potential conflicts between SDG 13 (Climate Action), SDG 12 (Responsible Consumption and Production), and SDG 8 (Decent Work and Economic Growth). Can competition law serve as a tool to balance these goals, or does it inevitably prioritise some SDGs over others?
8. Legal Certainty and Enforcement Risks: Discuss the legal risks firms face when entering sustainability agreements in the absence of clear enforcement precedents. How might uncertainty affect innovation and investment in green technologies?
9. Future of EU Competition Policy: Based on this case study, argue whether EU competition law should undergo formal legislative reform to explicitly integrate sustainability objectives, or whether soft-law instruments and case-by-case enforcement are sufficient.

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