

Competition assessments after the Defence Readiness Omnibus: a more permissive era for defense-sector deals and cooperations?

On 17 June 2025, the European Commission (the Commission) published the “Defence Readiness Omnibus” package, which includes a series of simplification proposals in defense-specific legislation and programs, as well as in non-defense-specific laws, aimed at removing regulatory barriers and facilitating EU defense readiness. The Commission also considers the role of competition law in this context, signaling that improved defense and security readiness could become a factor not only in state aid cases, but also in the analysis of mergers and collaboration arrangements.

Strengthening defense capabilities and security has been at the forefront of the EU’s recent political agenda. In response to the 2024 Draghi report, which already highlighted the need for an expanded European industrial defense capacity as well as improving standardization and interoperability of European defense equipment, the Commission leadership announced plans for “a new era for European defence and security,” including the strengthening of the European defense industry through regulatory simplification and harmonization. More recently, the European Council also called on the Commission to accelerate work on simplifying legal and administrative frameworks to help improve European defense readiness, i.e., the capacity of the EU Member States and defense industry to acquire and maintain the resources, capabilities and infrastructure required to respond effectively to crises and to deter threats through credible preparedness.

It is in this broader context – and directly responding to the European Council’s call – that the Commission published its detailed simplification proposals comprised in the Defence Readiness Omnibus package.

How defense readiness could impact EU merger control, antitrust, and state aid

Specifically with regard to EU merger control, antitrust, and state aid laws, the Commission proposes:

- Taking defense readiness into consideration in its merger control, antitrust enforcement and state aid control.
- Giving adequate weight to the changed security and defense environment in its ongoing review of the EU Merger Guidelines, and in particular assessing the overall benefits from enhanced defense and security within the EU leading to efficiencies.
- Being prepared to provide guidance on the application of EU antitrust rules to cooperation projects in the defense sector, particularly where such collaboration is necessary to scale up production or where individual companies would otherwise be unable to develop or manufacture a product on their own (e.g., in the case of joint procurement of raw materials by defense companies).

- Considering the efficiencies generated – e.g., the positive effects of the cooperation in terms of defense readiness, and resilience of defense supply chains and of the internal market – when assessing cooperation projects.
- Deeming state aid measures that support investment in defense production capacity to fall within Article 346 TFEU, eliminating the need for prior approval by the Commission.
- For state aid measures that do not fall with Article 346 TFEU, taking defense readiness, protection of security interests, security of supply of defense products/inputs, reduction of dependencies on third countries, closing of critical defense capability gaps, and other related considerations into account in their assessment.
- Prioritizing treatment of state aid cases with the objective of defense readiness, and providing guidance on the assessment of public support for the defense sector.

What will be the practical impact of the Commission’s proposals?

The Defence Readiness Omnibus, as well as the broader political context in which it was issued, could signal a move towards increased permissiveness in respect of defense-sector mergers, collaborative arrangements and state aid. The political pressure on the Commission to adapt its approach to EU competition law enforcement in the defense and security sectors resembles developments a few years ago, when the green deal and sustainability topped the Commission’s political agenda, creating a need to demonstrate that competition law would not stand in the way of collaborative efforts to transition to a more sustainable economy.

Some of the previous, sustainability-related experience could also become relevant for the defense sector and inform expectations and compliance strategies, especially in the area of antitrust enforcement.

- First, after an intense debate in the competition community, the Commission adopted the sustainability chapter in the EU Horizontal Cooperation Agreements Guidelines, indicating

that many sustainability-related collaborative arrangements would be unlikely to raise competition law concerns and creating a soft safe harbor for standard setting. But the guidelines also adopted a rather conservative approach to the consideration of sustainability gains in an Article 101(3) efficiency analysis. The complexity of the proposed efficiency analysis limited its practical relevance, and parties typically decided to rely on standard compliance safeguards applicable to all collaborative arrangements to manage competition law risks, rather than a complex and highly uncertain 101(3) sustainability efficiency defense.

- Second, although the Commission welcomed pro-competitive sustainability agreements and promoted an open door policy for parties seeking guidance from the Commission, the enforcement record demonstrates that the Commission drew a hard line and has been at least equally interested in uncovering green cartels, i.e., agreements that purported to pursue sustainability goals but in practice were, or over time became, collusive agreements.

Greater leniency for defense deals?

It remains to be seen how the Commission proposals will ultimately play out in practice. The overall defense readiness plan envisages substantially increased defense spending, and experience in previous instances where the EU and Member States committed to robust financing of major policy initiatives suggests that relaxed state aid rules could become a major accelerator.

It is less certain what, if any, impact there will be on the more traditional priorities underpinning EU competition laws, such as protecting consumer welfare and ensuring the proper functioning of the Internal Market. Indeed, the highly fragmented nature of the European defense industry suggests (despite political sensitivities) a push for consolidation. Defense industry projects invariably involve complex collaborative arrangements, among European players as well as those across the Atlantic, in Japan, and elsewhere. The review standards in EU merger control and antitrust law could therefore be of great importance for the feasibility of planned projects and it will be interesting to see if the Commission will approve transactions, and accept collaborative arrangements, in the defense industry that would normally be considered anticompetitive (and may generate customer opposition) on the grounds that their strategic importance outweighs any anticompetitive impact on the market.

Key contacts



Andreas Reindl, Partner

areindl@vbb.com
+32 (0)473 28 32 90



Porter Elliott, Partner

pelliot@vbb.com
+32 (0)473 28 32 90



Niharika Parshurampuriah, Associate

npashurampuriah@vbb.com
+32 (0)473 28 32 90