

## A sword and a shield

# Using competition law to tackle climate change and unsustainable practices

### Introduction

The International Chamber of Commerce (ICC) is the official focal point for business and industry in the UNFCCC process. As such we work to ensure that climate policy frameworks are implemented in a way that works for and with business. To mobilise action, ICC presented several papers on climate change, sustainability and competition policy at past United Nations Climate Change Conferences of the Parties (COP) in 2022 and 2023.

### **COP27: The fear of breaking competition laws**

At COP27 in November 2022, ICC published a white paper calling upon governments, legislators and competition authorities to maximise efforts in aligning competition policies with global sustainability goals. Competition policies often prevent companies from working together to facilitate the transition to a green economy and sustainable future.<sup>1</sup>

The white paper builds on the experience of ICC members with competition authorities. In several cases, authorities expressed doubts about competitors' need to cooperate to neutralise the potential disadvantages of being a pioneer of change ("first mover disadvantages") to reach sustainability goals sooner and more efficiently. Some authorities seemed hesitant to embrace sustainability considerations fearing that competitors were in fact looking for an excuse to collude, with greenwashing being their real intention.

In the paper, ICC presented 12 real-life examples of competing companies looking to work together. They eventually abandoned these initiatives for fear of breaking competition laws. This illustrates the pressing need for competition policy and enforcement to be updated to facilitate climate action and pursue sustainability. In particular, it showed that modern competition policy needs to integrate sustainability economics, taking account of market failures and collective action problems.

ICC called on competition authorities to introduce guidelines and provide concrete assistance in particular cases to support and encourage the sort of cooperation we need to see if the private sector is to play its full part in the transition to a sustainable economy.

### **COP28: A snapshot of developments in the antitrust competition space**

Prior to COP27 some great work had been done in a number of jurisdictions including the Netherlands, Austria and Greece. This accelerated after COP27 with the European Commission producing guidelines on sustainability cooperation agreements in its Horizontal Guidelines of June 2023 and the UK's Competition and Markets Authority (CMA) producing its Green Guidance in October 2023.

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<sup>1</sup> ["When Chilling Contributes to Warming. How competition policy acts as a barrier to climate action"](#).

In November 2023, ICC produced a progress report presenting a snapshot of key developments in these, and other, jurisdictions.<sup>2</sup> It summarised the guidelines and other soft law documents which had been published to help businesses assess sustainability agreements. It also called upon other nations, particularly the US and China, to engage with this issue given the global nature of climate change and the fact that many of the most important initiatives involve cooperation amongst companies operating on a transnational basis. Overall, the paper highlighted the importance of a transparent set of policies and regulations to encourage companies to pursue sustainability goals jointly.

## What remains to be done?

While much has been done to help competition policy serve the transition to a sustainable economy, with a focus on sustainability cooperation agreements, ICC recognises that much more can and needs to be done.

First, the guidelines on sustainability agreements are work in progress. They can—and should—be updated in the light of practical experience. This requires companies to make greater use of the open door policies of authorities. To do that, businesses need to come forward with more real-life examples of projects they would like to carry out in areas where existing guidelines do not yet provide sufficient general guidance.

Second, the focus so far has (understandably) been on climate change, and much less on other existential threats to humanity, nature and biodiversity loss, and large-scale pollution. Future guidelines should place a higher emphasis on this crucial area.

Third, the greatest progress has been made in Europe but, as mentioned above, many of the agreements which would have the greatest impact on the transition to a sustainable economy have implications around the world. Unfortunately, less progress has been made elsewhere in the world. While some countries like Australia, Japan, Singapore are catching up with Europe, progress in China and the US remains a top priority.<sup>3</sup>

So far the focus has (again, understandably) been on ensuring that competition policy does not unduly inhibit private sector agreements to transition industries onto a more sustainable basis. However, more thought needs to be given to other areas of the law, such as anti-subsidy/state aid law, merger control and laws relating to control of monopoly power/abuse of dominance. The latter of these areas is the subject of this ICC paper presented at COP29 in November 2024.<sup>4</sup>

There are broadly two ways in which laws controlling monopoly power and the abuse of dominant positions relate to climate change and the transition to a more sustainable economy:

- The potential use of anti-monopoly/abuse of dominance provisions to tackle unsustainable practices by firms as abuses (the so-called “sword”); and
- Taking proper account of sustainability considerations when investigating whether or not a firm has committed an abuse of dominance or otherwise infringed anti-monopoly laws (the so-called “shield”).<sup>5</sup>

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2 [“Taking the chill out of climate action. A progress report on aligning competition policy with global sustainability goals”](#)

3 For a perspective on the impasse in the US see the Maurits Dolmans blog “The need to integrate externalities, market failures, and collective action problems in antitrust analysis-thoughts on the US House Judiciary Committee Report on ESG Investigation and Rebuttal Report”. [https://wp.nyu.edu/compliance\\_enforcement/tag/maurits-dolmans/](https://wp.nyu.edu/compliance_enforcement/tag/maurits-dolmans/)

4 This paper has been prepared by the ICC’s Competition and Sustainability Taskforce under its chair, Simon Holmes.

5 For fuller discussion of the sword and shield and the relationship between sustainability and abuse of dominance provisions see: “Climate Change, sustainability, and competition law”, Simon Holmes [JAE (2020) 8(2) 354]; “A sustainable future: how can control of monopoly power play a part?”, Simon Holmes and Michelle Meagher [2023 44 ECLR Issue 2 at page 61]; and Iacovides and Vrettos “Radical for whom? Unsustainable Businesses Practices as abuses of dominance” in Simon Holmes, Dirk Middelschulte and Martijn Snoep (eds) “Competition Law, Climate Change and Environmental Sustainability” (Concurrences, 2021).



## The sword: using abuse of dominance/anti-monopoly powers to fight climate change and other unsustainable practices

Much of this paper focuses on EU law and, specifically, on Article 102 of the Treaty on the Functioning of the European Union (TFEU) which prohibits any “abuse” of a “dominant position”. This may seem like a narrow perspective but the national competition laws of many countries (not only in Europe but around the world) are modelled on EU law—with many containing identical wording. Furthermore, laws which use different wording (such as Section 2 of the US Sherman Act or Australian law with its “misuse of market power” provision) generally tackle the same fundamental problem—the control of market power and its negative effects on the economy, consumers, society (and, in this context, the planet). We therefore use the terms control of monopoly power and abuse of dominance fairly interchangeably in this paper.

Particularly as we need to look at this across multiple jurisdictions, it is worth standing back and making a few general comments about market power and sustainability:

- (i) Whatever view is taken about the extent to which dominant companies are responsible for climate change and unsustainable business practices, it should be accepted that, other things being equal, big companies are likely to have a bigger impact on the planet/markets than smaller ones and to have a dominant position—or at least market power. If we have tools that can mitigate any negative impact of such companies on climate change (or other unsustainable practices) then we have not only a moral duty to use them, but it makes sense from a basic efficiency of time and resources perspective to focus on these companies<sup>6</sup>—especially given the urgency of the task.
- (ii) In the light of the growing evidence of increased concentration and the impact that this has had on business dynamism,<sup>7</sup> we should not be too afraid to take a more robust approach to the concept of abuse—while, of course, staying within the limits of the law.
- (iii) ICC recognises that those with the greatest power have the greatest responsibility to use it properly. Reflecting this, EU courts have made it clear that dominant firms have a “special responsibility not to allow their conduct to impair genuine undistorted competition”. The message is clear: in the face of extreme market power we should not feel the need to take a restrictive approach to challenging any abuse of that power.
- (iv) It is clear that the concept of an abuse is not a static one and needs to be considered in the light of current economic, social and environmental priorities. The fight against climate change is a number one global priority. This reality cannot be ignored when considering the use of the legal tools available.
- (v) Consistent with this, the EU courts have recognised that fundamental to the concept of an abuse is “recourse to methods different from those which condition normal competition” or which deviates from “competition on the merits”.<sup>8</sup> What is “normal” may change overtime and should reflect societies’ values at any given time. Competition based on unsustainable practices is not “normal” or “on the merits”. Full consideration should be given to using powers which can tackle this.

We recognise that this area of the law is still underdeveloped. However, given the factors mentioned above and that the categories of abuse under EU law are not fixed<sup>9</sup>—with recent decisional practice showing the legal tools in this area to be very flexible—there is no reason why conduct inconsistent with climate change or otherwise unsustainable, cannot be challenged when committed by dominant firms. For example, there is no reason why unsustainable practices such as burning toxic waste, dumping pollutants in rivers or cutting down the Amazon jungle should not be recognised for what they are—abusive practices (and if perpetrated by dominant companies analysed as a potential abuse of dominance).

These can be exclusionary if the effect is to exclude “clean” rival firms from the market who internalise the externalities and as a result may bear higher costs (for instance, by reducing emissions of greenhouse gases and paying a science-based carbon emissions price where reduction is not viable).

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6 It has been estimated that just 100 companies have been responsible for over 70% of global emissions since 1988 [Paul Griffin, “The Carbon Major Database-CDP Carbon Majors Report 2017”, CDP, July,2017].

7 “Rising Corporate Market Power: emerging policy issues”, IMF Staff Discussion Notes, SDN/21/01, March, 2021.

8 See cases like Hoffman La Roche [1979, 3 CMLR,211 at 91]

9 See cases like Astra Zeneca [2010 5 CMLR 28].

They can be exploitative to the extent that the “true price” paid by the consumer consists of the market price plus the costs and risks associated with the exploitation and exhaustion of the global commons (for instance, by emitting greenhouse gases without attempting to mitigate emissions and paying a carbon price). Consumers may also be exploited indirectly in their capacity as taxpayers (e.g. paying clean-up costs) or as citizens (e.g. suffering from higher emission levels, breathing toxic air or walking on polluted land).<sup>10</sup>

In other words, we can use the abuse of dominance provisions as a “sword” to attack unsustainable practices to facilitate the transition to a sustainable economy consistent with other laws and regulations designed to transition our economies onto a sustainable basis (such as the “green deal” in the EU). This is particularly the case where the practices in question are inconsistent with legally binding commitments in relation to climate change (e.g. those made at COP in 2015) or with internationally recognised norms and reports (such as those of the International Energy Authority or the Intergovernmental Panel on Climate Change) setting out what needs to be done to transition to a sustainable economy.

One example might be the distortion of competition that would arise if a dominant company were to avoid the cost of disposing of waste products responsibly, e.g. by dumping them on land or in rivers while its small rivals properly incur those costs—thus suffering a competitive disadvantage. In the language of EU law, as explained above, this could be both an “exclusionary” and/or an “exploitative” abuse of the former’s dominant position.

Using the competition “sword” would complement environmental (and potentially social sustainability) regulations—either because regulation is absent or because it is not being properly enforced (or not enforced at all). In any case, it is clear that under EU law the fact that another law may also be infringed is no defence to an infringement of competition law.<sup>11</sup>

That said, there is no suggestion that competition policy is an adequate substitute for strengthened environmental laws and the related enforcement bodies.

In August 2024, the European Commission published draft guidelines on the application of Article 102 TFEU to abusive exclusionary conduct by dominant companies. ICC commented on these guidelines and included within those comments its views on the draft guidelines from a sustainability/climate change perspective. ICC’s comments on this aspect are set out in Annex A.

ICC called upon the European Commission to show leadership and take the opportunity to consolidate and clarify the law and practice in this area by including in the guidelines a specific section focused on sustainability and climate change (as the Commission, quite rightly, did when it included a chapter on sustainability cooperation agreements in its 2023 horizontal guidelines). Among other things, this could bring together the emerging thinking in this area both at the European Commission and national competition authority levels identifying potentially relevant theories of harm/categories of abuse and potentially relevant factors in the assessment.<sup>12</sup>

There are few cases in this area but ICC’s comments on the draft Commission guidelines referred to above set out a few examples from several European jurisdictions.<sup>13</sup>

There are also a number of cases pending in this area. An example from the European Commission (the Greek lignite case) is also included in our submission to the Commission.<sup>14</sup> Additional examples of interesting pending cases are provided in Annex B.

While ICC sees scope for the development of new sustainability abuses, several of the cases referred to in Annexes A and B illustrate that this is not always necessary as the theories of harm in question involve well-established categories of abuse (e.g. misleading the regulator in the UK water industry case or predatory pricing in the Greek lignite case).

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10 See the AstraZeneca Decision of the European Commission at para 772.

11 See, for example, AstraZeneca, Commission Decision at para 744.

12 Although not specific to climate change and sustainability, there is also a need to update the EU’s procedural regulation for antitrust (Regulation 1/2003)-and we welcome the fact that the European Commission plans to do this.

13 See paras 6 to 8 in Annex A.

14 See para 9 in Annex A.



## Shield: where sustainability considerations mean there is no abuse of monopoly power

While, as considered above, abuse of dominance/anti-monopoly provisions can be used if a dominant company abuses market power by engaging in unsustainable practices, we should never lose sight of the fact that many dominant companies are amongst our largest and most successful companies. They have the potential to make the greatest contribution to the transition to a more sustainable economy and to the fight against climate change. We must be careful not to discourage such companies (and individuals within them) from making this contribution and avoid wrongfully classifying efforts in this direction as abusive. While we are right to be alert to the possibility of some companies “greenwashing”, there are companies (and certainly many individuals within companies) which are genuinely trying to “make a difference”. This is sometimes called the use of sustainability as a “shield”. However, we need to be careful with this term as the fundamental point is that if there is a proportionate justification for a conduct, there is no “abuse” and therefore no infringement of the law to begin with.

In particular, it is clear under European law that there is a strong legal case for factoring in environmental and other sustainability considerations when analysing whether conduct does, or does not, amount to an abuse under Article 102 TFEU. This provision must be read in the light of the “constitutional” provisions of the EU treaties (as well as Human Rights treaties) which require environmental factors to be integrated into all EU policies and activities.<sup>15</sup> There is also an equally strong moral and logical case for doing so (not only under EU law but in the application of any laws controlling the misuse of “monopoly” power). If conduct is genuinely intended to combat climate change, reduce environmental damage or otherwise contribute to sustainable development, it is difficult to see how, as a matter of common sense and language, that can be seen as an abuse that the law intended to prohibit.

Although there are few cases of direct relevance, there are many instances where environmental (or other sustainability) considerations may lead to the conclusion that conduct that might at first (superficial) sight appear to be potentially abusive, is not on closer inspection. One example might be charging different customers different prices according to the use to which the product is put—e.g. how environmentally friendly it is (e.g. whether products are recycled or the energy efficiency of the downstream production process) to counter false allegations of discriminatory pricing or constructive refusal to supply.<sup>16</sup> A dominant firm should not be sanctioned for wishing to subsidise the development of clean production by its consumers.

Similarly, the Corporate Sustainable Due Diligence Directive (CSDDD) may require a dominant firm to terminate relations with a customer or supplier if there is reasonable need to clean up its supply chain or mitigate scope 3 emissions and switch to clean supplies.<sup>17</sup>

In our view, in most instances, conduct of the sort mentioned above is simply not an abuse. However, in cases where it might reasonably be held to be an abuse, it may be that the sustainability considerations amount to an “objective justification” for the conduct which negates a finding of abuse.<sup>18</sup>

For example, in one case the French competition authority found that the conduct of a monopolist (a community of Cistercian monks) had the effect of extending its monopoly powers—and was therefore potentially an abuse of its dominant position. However, the authority held that that conduct was an “objective necessity”. In that case, the monopolist controlled access to a small island port and had only allowed one company to operate there. They found this was justified on the particular facts by the need to conserve across a relatively small area the peace and tranquility of the monastery and to safeguard the integrity of the listed site.<sup>19</sup>

Generally speaking, the Commission should take into account the negative and positive externalities of a dominant firm behaviour when assessing whether it constitutes an abuse or not.

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<sup>15</sup> Article 11 TFEU (see also Articles 7, 9 and 191 TFEU; Article 3(1),3(5),and 3(5) of the Treaty on European Union and Article 37 of the EU Charter on Fundamental Rights).

<sup>16</sup> For further examples of the “shield” see “A sustainable future: how can control of monopoly power play a part” by Simon Holmes and Michelle Meagher [2023 44 ECLR Issue 1 at page 676].

<sup>17</sup> The wording of paragraph 168 in the Commission’s draft Guidelines appears too restrictive in that light.

<sup>18</sup> This would be subject to the usual standard of proof and evidential requirements. See, for example, Suzanne Kingston “Greening of EU Competition Law and Policy” at page 304. See also paras 11 to 13 in Annex A.

<sup>19</sup> “Passenger Transport to the Isle of Saint Honorat”, Conseil de la concurrence, 9 November, 2005.

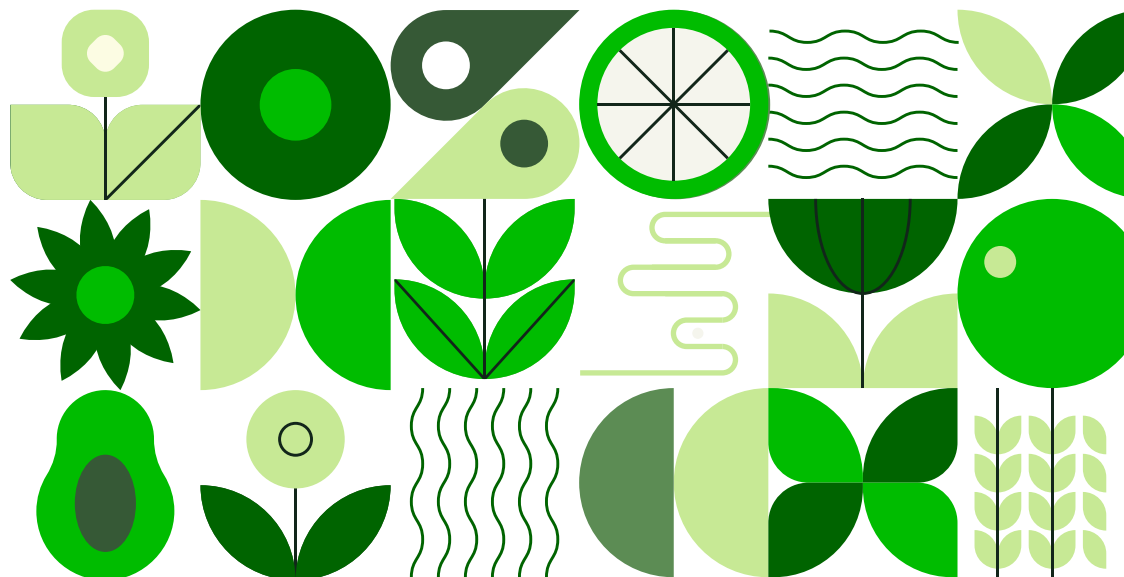
## Conclusion

The focus so far has, quite rightly, been on ensuring that competition policy does not stand in the way of vital cooperative action by businesses to fight climate change and help transition their industries onto a sustainable basis. However, climate change is an existential crisis for humanity, and we must use all the tools and policies at our disposal to combat it.

Many jurisdictions, such as the EU and most European countries, have powers to control abuses of monopoly power. In the current context, there is no legal or practical reason why these powerful tools should not be used to tackle unsustainable practices where these are carried out by dominant companies. On the contrary, there is every legal and moral reason to use them.

Equally, and most importantly, we should not lose sight of the fact that some dominant companies are amongst our largest and most successful companies with the greatest potential to play a part in fighting climate change. We therefore need to be careful not to wrongly classify actions taken to fight climate change, or to promote sustainability, as unlawful abuses of their position.

ICC respectfully submits that the EU Guidance should reflect this.



### ICC comments on sustainability included in its response to the European’s draft Article 102 Guidelines in relation to abusive exclusionary conduct by dominant undertakings

1. ICC would like to draw attention to the absence of any meaningful reference to sustainability considerations in the draft guidelines. This stands in stark contrast to the updated Horizontal Guidelines in 2022, which dedicated an entire chapter of the guidance on horizontal co-operation agreements (HGL) to “sustainability agreements”. The HGL set out how businesses can work together to fight climate change, put their industry on a more sustainable basis and achieve broader social sustainability objectives. While not perfect, the HGL provides a clear framework by which businesses can enter into agreements on things such as green production, phasing out the use of dirty fuels, and sourcing inputs on a more sustainable basis.
2. ICC encourages the Commission to consider taking a similar approach to the draft guidelines and provide a clear framework for taking into account sustainability considerations at all levels of the Article 102 assessment. Taking such an approach would be consistent with the Commission’s statement on Paragraph 1 of the draft guidelines regarding the importance of ensuring “an efficient allocation of resources, thereby contributing to sustainable development and enabling strong and diversified supply chains, all of which contributes to the Union’s resilience and long-term prosperity.”

### Sustainability and the conduct assessment

3. The courts have long recognised that dominant companies have a “special responsibility” not to allow their conduct to impair genuine undistorted competition and that the categories of abuse are not fixed. Moreover, recent decisional practice has demonstrated that the existing categories of conduct are increasingly flexible. There is, therefore, no reason why unsustainable practices by dominant companies, such as burning toxic waste, dumping pollutants in rivers, using child labour, paying starvation wages or cutting down Amazon jungle, should not be recognised for what they are—abusive practices, and where perpetrated by dominant companies, treated as an abuse of dominance.<sup>20</sup>
4. One practical example might be the distortion of competition that arises when a dominant company avoids the costs of disposing responsibility of waste products (e.g. by dumping them on land or in rivers) while its smaller rivals incur those costs, suffering a competitive disadvantage as a result. This could be considered both an “exclusionary” and arguably an “exploitative” abuse by a company in a dominant position.
5. Although there are more limited cases in this area, national competition authorities are showing increasingly willingness to recognise sustainability considerations in the assessment of abuse.
6. For example, in the Google/Enel X case, harming the environment was an aggravating factor when fines of £100 million were imposed on Google by the ICA, the Italian competition authority. The ICA took into account the “possible negative effects (which) could occur to the diffusion of electric vehicles, to the use of “clean” energy and to the transition towards a more environmentally sustainable mobility”.<sup>21</sup>
7. Similarly, in the Corepla case, the ICA imposed a €27 million fine on a plastics supply chain consortium for abusing its dominant position in the market for the recovery and recycling of plastic packaging for food use. The ICA said its intervention contributed to the achievement of recycling and waste management-related environmental goals (as established by both EU and Italian legislation).<sup>22</sup>
8. Another example is the Engie II case in France. In this case, the French competition authority was concerned that various pricing and contractual provisions of Engie were an abuse of its dominant position. These included an obligation on co-owners not to use energy sources other than gas for heating and hot water. The case was settled by means of commitments which included releasing co-owners associations from the obligation to use only gas for heating and hot water which would enable them to consider other energy sources for heating and hot water.<sup>23</sup>

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20 For a more detailed consideration of this see, for example, “A sustainable Future: how can control of monopoly power play a part?” (Simon Holmes and Michelle Meagher) at Part II and articles cited therein.

21 AGCM Press Release of 13 May, 2021

22 AGCM Press Release of 10 November, 2020

23 Decision of the French Competition Authority of 7 September, 2017



9. Moreover, the Commission is considering a number of pending cases in this area. For example, in alleging that the dominant Greek electricity provider PPC has abused its dominant position by selling its electricity in the Greek wholesale electricity market below cost, the Commission's statement of objections alleges that not only were independent power providers marginalised, but also investment into more environmentally friendly energy sources was deterred. In outlining the harm, the Commission draws upon how the conduct may have led, not only to higher prices for Greek consumers, but also to "higher emission levels and local pollution".<sup>24</sup>
10. While ICC considers that there is scope to expand the categories of abusive conduct to include unsustainable practices by dominant companies (where these exclude rivals or exploit consumers), the above cases illustrate that this may not always be necessary where the theories of harm involve well established categories of abuse. In Google/Enel X, Google had refused to allow interoperability between its (dominant) Android operating systems and an app which allowed electric car drivers access to a range of charging services. Similarly, in the Greek Lignite case, PPC is alleged to have engaged in predatory pricing.

## **Sustainability and the objective justification assessment**

11. ICC also encourages the Commission to make explicit the ability for undertakings to raise sustainability considerations in the context of the efficiencies defence and/or objective justification mechanism. This is particularly pertinent given the fact that many dominant companies are amongst the largest and most successful companies in our economy and, therefore, have the potential to make the greatest contribution to the transition to a more sustainable economy and the fight against climate change. Similar to the HGL, the draft guidelines should make it clear that the Commission wants to encourage, rather than discourage, large companies from making this contribution and avoid wrongfully classing efforts in that direction as abusive.
12. Examples of the potentially justifiable conduct to which the Commission could refer, drawing inspiration from the Hellenic Competition Commission (HCC),<sup>25</sup> include the setting of a higher price to cover environmental and broader sustainability costs or to reinvest in environmental protection and/or the attainment of sustainability objectives without this being found excessive, bundling or tying environmentally friendlier product options, charging different customers different prices for products based on the impact on sustainability goals or refusing to provide inputs to an undertaking that does not satisfy certain sustainability standards.<sup>26</sup>
13. Taking such an approach would demonstrate the Commission's commitment to encouraging businesses to strive to achieve broad social sustainability objectives. Climate change and putting the European economy on a more sustainable basis is absolutely critical. ICC, therefore, encourages the Commission to take the opportunity to consolidate and clarify the law and practice in this area.

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<sup>24</sup> The Greek Lignite case, Commission Press Release of 7 February, 2024 [IP/24/672]. October 2024.

<sup>25</sup> Hellenic Competition Commission, 'Sustainability Sandbox- Public Consultation: Proposal for the creation of a sandbox for sustainability and competition in the Greek Market' (July 2021).

<sup>26</sup> While initiatives such as these can, where necessary, be analysed under the "objective justification" mechanism, in many cases they will simply not amount to an "abuse" such that no such analysis is required.

## Annex B

### Further pending cases: where abuse of dominance tools are being used to tackle allegedly unsustainable conduct

#### UK Water Industry Case

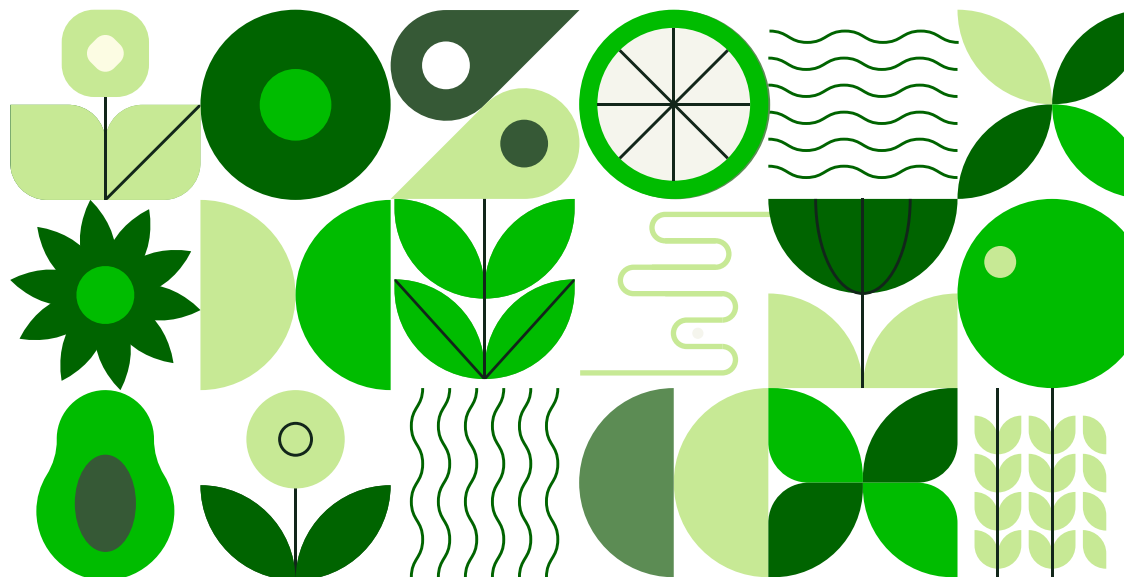
Perhaps the most interesting of these cases is a collective action for damages brought in the UK's Competition Appeal Tribunal (CAT) against several water and sewage companies.<sup>27</sup> The allegation is that these companies infringed the Chapter 2 prohibition of the Competition Act 1998 (the UK's equivalent of Article 102 TFEU) by providing misleading information to the relevant regulatory bodies in relation to pollution incidents. This alleged under reporting resulted in the companies being allowed to increase prices to consumers for sewerage services. The claim is for over £1.5 billion and brought on behalf of over 30 million consumers.<sup>28</sup>

#### Italian Novamont Case

The Italian competition authority has launched an investigation into Novamont for allegedly abusing its dominant position in the bioplastic bag sector. It is said to have entered into exclusivity agreements both with food retailers and with manufacturers and distributors of plastic bags which may have prevented the emergence of alternative and more efficient bioplastics.

The case illustrates neatly the interplay between competition/competition policy and sustainability:

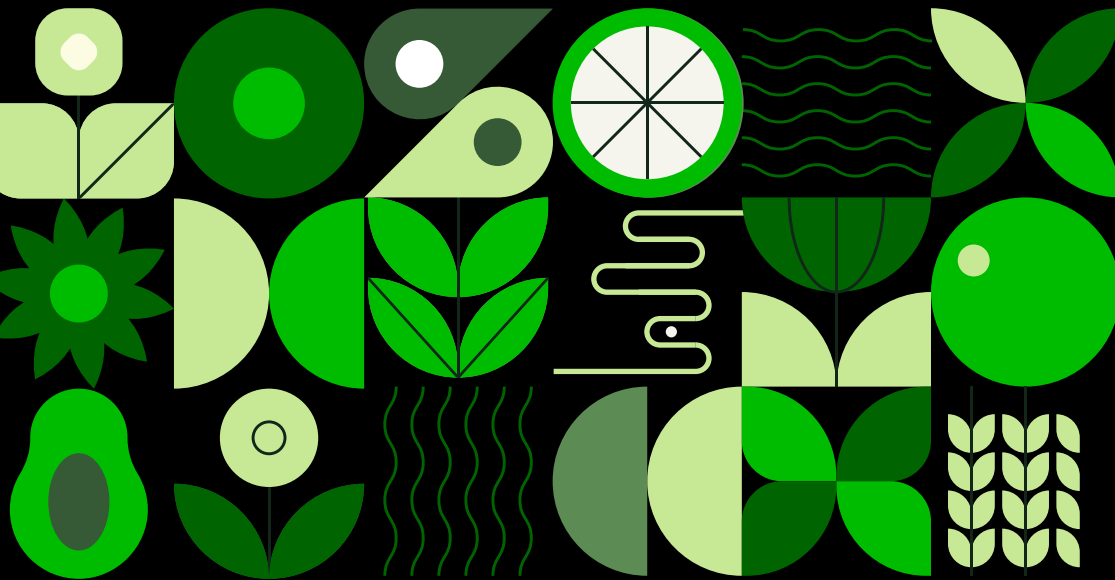
“Safeguarding an open competition process in the bioplastics sector helps achieve the environmental protection objectives pursued by European and domestic legislators, since it could encourage alternative and more efficient bioplastics than Mater-Bi and since it also favours, from a dynamic point of view, the development of cheaper or better quality eco-compatible products.”<sup>29</sup>



<sup>27</sup> Simon Holmes is a member of the CAT but not involved in these proceedings.

<sup>28</sup> CAT Case No 1603/7/7/23.

<sup>29</sup> AGCM Press release of 9 April, 2024.



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