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Keep politics out of Europe's competition decisions

The Franco-German proposal to rewrite EU merger rules may seem tempting, but it's the wrong approach to industrial policy

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The European Commission's decision last month to block the proposed rail-industry merger between Alstom and Siemens was clearly a blow for the two companies. It was also a major setback for the French and German governments, which had strongly supported the deal.

Upset by the decision, France and Germany now want to rewrite EU merger rules and give member states more say over proposed tie-ups. But although such an approach may seem tempting, Europe would be wise not to leave competition policy enforcement in the hands of its politicians.

Supporters of the Alstom-Siemens merger said it would create a European high-speed-train champion to rival China's CRRC, which operates in a large, and mostly closed, domestic market and – according to the deal's backers – may soon increase its presence in Europe. But this was not a 'no-brainer' merger that would inevitably have made the EU's rail industry more globally competitive. After all, Alstom and Siemens already dominate their respective national markets for train-signalling systems and high-speed rolling stock.

The merger's advocates dubbed it 'Railbus' in an attempt to draw a parallel with the creation of European aircraft manufacturer Airbus in 1970. But whereas Airbus was a new challenger to Boeing, which had a near-monopoly in the commercial-aviation market at the time, the Alstom-Siemens merger would have reduced the number of players in the European rail industry.

No reason to weaken competition policy

True, Europe must wake up to the challenge posed by China and the United States. The world's 20 biggest high-tech companies are either Chinese or American, and the same may well be true of the health-care sector in a decade or two, given developments in artificial intelligence, big data, and genetics. But this Sino-American dominance reflects many factors, and European mega-mergers alone will not redress the balance. And although Alstom and Siemens are understandably frustrated by their lack of access to China's large high-speed-rail market, this calls for a World Trade Organisation dispute-settlement procedure or for stronger EU trade and procurement policy, not the weakening of its competition policy.

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Nonetheless, on 19 February, the French and German economy ministers announced a joint plan to revise EU merger rules to enable the creation of European industrial champions. But requiring the European Commission to take into account other matters, such as companies' global presence, could potentially conflict with its existing mandate to protect EU citizens. After all, the Commission blocked the Alstom-Siemens deal primarily because of serious concerns that it would lead to higher prices for signalling systems and high-speed trains in Europe.

The new Franco-German proposal would give member states the right to override the Commission's antitrust decisions in 'well-defined cases.' But national politicians may be tempted to define such cases broadly in support of a favoured merger. Although elected officials should set the EU's competition authorities' overall mandate, enforcement should remain in the hands of the EU Competition Commissioner and the Directorate-General for Competition.

No problem with mergers – per se

There are several good reasons for this. For starters, politicians are subject to intense lobbying by large firms and industry organisations, which may be more interested in limiting competition than promoting it. Similarly, political pressures previously encouraged credit booms through lax banking supervision and generous monetary conditions, ultimately leading to central-bank independence. And in network industries such as telecoms or energy, politicians tend to favour artificially low user prices,

which can deter investment (for this reason, the US put independent judges in charge of overseeing rate-of-return regulation of public utilities in the early twentieth century.)

Second, even if elected officials resisted such lobbying, they would not necessarily make better decisions than the EU authorities do at present. The Director-General for Competition has a dedicated staff that includes some 30 PhD economists specialising in competition matters. It is doubtful whether national government ministries in Berlin, Paris, or other European capitals would be willing or able to marshal a similar concentration of brainpower.

Political frustration at the rejection of a single – albeit high-profile – merger is not a good reason to undermine the EU's long-standing, independent competition authority.

Finally, the claim that the EU's competition authority is too intrusive is unfounded. If anything, the opposite is true; the European Commission clears the majority of mergers without requiring companies to take remedial steps to address competition concerns. In 2018, for example, the Commission approved 370 mergers unconditionally, and a further 23 with conditions (or 'commitments') attached – in most cases after a one-month investigation. The Commission blocked only two mergers in 2017, none in 2018, and fewer than 30 since the EU Merger Regulation was adopted in 1990.

Political frustration at the rejection of a single – albeit high-profile – merger is not a good reason to undermine the EU's long-standing, independent competition authority. Fortunately, there may still be room for industrial policy in Europe, provided this does not involve the traditional French practice of ministers picking winners. A better approach would be an EU-level policy that draws on the successes of countries such as South Korea and the US. In the latter, for example, the Defense Advanced Research Projects Agency (DARPA), the National Science Foundation, and the National Institutes of Health have all generated twenty-first-century technologies.

Far from conflicting with EU competition policy, such an approach would help to make European industry more productive and globally competitive. That goal requires keeping Europe's national politicians away from day-to-day competition decisions.

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Patrick Rey
Toulouse

Patrick Rey is Professor of Economics at the Toulouse School of Economics.



Jean Tirole
Toulouse

Jean Tirole, the 2014 Nobel laureate in economics, is Honorary Chairman of the Toulouse School of Economics and Chairman of the Institute for Advanced Study in Toulouse. His most recent book is *Economics for the Common Good*.

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