AmCham EU
SPEAKING FOR AMERICAN BUSINESS IN EUROPE

Competitiveness scorecard for the EU

A ten-point checklist to assess the impact of a regulatory proposal on competitiveness.

How will this proposal...

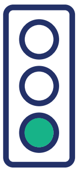
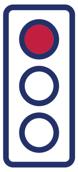
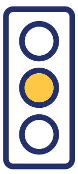
1. **... enhance the Single Market and ensure an even playing field?**
2. **... make the EU more open and attractive to trade and investment and strengthen the EU's relationship with like-minded trade partners?**
3. **... make the EU's workforce more skilled?**
4. **... directly foster innovation and the translation of innovation to industry?**
5. **... effectively support necessary supply chains and infrastructure investments across the EU?**
6. **... help to grow gross domestic product and productivity across the EU?**
7. **... accelerate digitalisation across the EU?**
8. **... decrease costs and regulatory burdens for business and consumers?**
9. **... improve consumers' purchasing power?**
10. **... enhance the EU's competitive resilience in a changing economic, environmental and social landscape?**

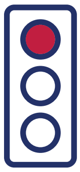
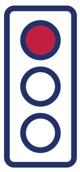
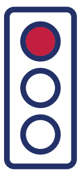
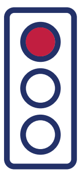
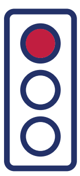
Example Competitiveness Scorecard – Foreign Subsidies Regulation & Implementing Regulation

Overview

This is an example scorecard based on AmCham EU's Competitiveness Scorecard concept. It was prepared with reference to the Foreign Subsidies Regulation text and Implementing Regulation text and various AmCham EU position papers and a joint statement.

Example Scorecard

	Assessment	Comments
... enhance the Single Market and ensure an even playing field?		The Foreign Subsidies Regulation and its Implementing Regulation aim to level the playing field by addressing distortions caused by foreign subsidies in the Single Market, potentially improving competitive conditions for all market players.
... make the EU more open and attractive to trade and investment and strengthen the EU's relationship with like-minded trade partners?		The regulation aims to prevent distortive foreign subsidies from negatively impacting the EU market. However, the regulation could be perceived as protectionist, potentially deterring foreign investment and complicating trade relations with like-minded partners such as the United States. The uncertainty around the use of the ex officio investigation instrument creates significant uncertainties around the use of the FSR and its ability to be selectively employed.
... make the EU's workforce more skilled?		This regulation does not directly impact workforce skills development, as it focuses on market distortions rather than employment policies or skills training.

	Assessment	Comments
… directly foster innovation and the translation of innovation to industry?		By aiming to eliminate distortive subsidies, the regulation could foster fair competition, potentially leading to innovation. However, the compliance burden might divert resources from R&D and cause EU and non-EU companies engaged in business around the world to adapt their business strategy to transaction screening complications, stifling innovation. For foreign headquartered businesses, compliance and uncertainties related to the use of the ex officio instrument might necessitate a re-evaluation of their investment strategies in Europe. The threat of corrective measures or prohibitions on certain investments could deter future investments or complicate ongoing operations.
… effectively support necessary supply chains and infrastructure investments across the EU?		The regulation could protect EU businesses from unfair competition, potentially supporting more sustainable supply chain and infrastructure investments. However, stringent controls could also deter beneficial foreign investments in these areas, as noted under the innovation metric. In the context of public tenders, tenders from companies with large FSR filing requirements may struggle to compete in auctions due to the timelines and uncertainties related to FSR screening.
… help to grow gross domestic product and productivity across the EU?		The intended effect of the Regulation is to boost productivity and GDP growth by creating a fairer competitive environment. However, in practice, implementation complexities, lasting administrative costs and burdens, and potential deterrents to foreign investment could dilute these benefits.
… accelerate digitalisation across the EU?		The regulation does not specifically address digitalisation, but creates significant compliance burdens for investors in the digital and tech sectors. Even if investigations do not particularly target the tech sectors, compliance with the FSR in the context of larger transaction screening mechanisms (merger control and FDI screening) risk increased costs and complication of investments in the tech sector.
… decrease costs and regulatory burdens for business and consumers?		Although aimed at reducing distortive practices, the regulation may increase regulatory burdens for European and non-European businesses alike, especially those with large global footprints, which could lead to higher operational costs. The regulation could affect the dynamics of major M&A activities, which might not only delay transactions but also affect the valuation and strategic planning of such deals.

	Assessment	Comments
… improve consumers' purchasing power?		By fostering a more competitive market free from distortive subsidies, the regulation could eventually lead to fairer prices and improved purchasing power. However, any increase in business costs might be passed on to consumers.
… enhance the EU's competitive resilience in a changing economic, environmental and social landscape?		The primary regulation is designed to strengthen the EU's competitive position by ensuring that foreign subsidies do not distort the EU market. Proper implementation will be crucial to ensure it does not inadvertently hinder the EU's attractiveness to foreign investors. The introduction of this regulation therefore adds a layer of uncertainty for businesses with global operations that are planning to expand or start operations in the EU. Ambiguity in how rules may be applied could lead to legal challenges and financial unpredictability, which will disincentivise investment in the EU.

What was missed by the **European Commission's 2021 Impact Assessment** and the **Regulatory Scrutiny Board's evaluation of the Impact Assessment**?

- A clearer link between competitiveness and specific economic sectors or markets most likely to be affected.
- An attempt at specific quantification or elaboration of the expected direct impacts on GDP growth or productivity across the EU, which are critical components of competitiveness.
- The Regulatory Scrutiny Board pointed out that the impact assessment did not present positive and negative impacts in a balanced way. This suggests that more emphasis could be placed on understanding both the beneficial and detrimental effects of regulation on competitiveness. The Board also highlighted the need for clearer explanation of policy options and their impacts. This indicates that this Scorecard concept can be a useful tool for helping to evaluate competitiveness in a transparent way.