This document contains our responses to questions 9.1, 10.3, 12.2, 18.8, 18.10 and 24.1 of the questionnaire.

9.1. Please explain your answer. If you replied yes, please also indicate the type of intervention that would be needed.

We believe there is **a need for intervention in digital markets where platforms act as gatekeepers in the form of targeted ex ante regulation of digital gatekeeper platforms**, as set out in Vodafone's separate response to the Commission's current consultation on the proposed Digital Services Act (DSA). Whether or not an additional legal instrument to the DSA is necessary to address structural competition problems is largely going to be a function of how wide in scope and effective in practice the DSA is likely to be, it being understood that the *P2B Regulation* already constitutes an initial (but incomplete) regulatory step in that direction. There needs to be a balance between the addition of new regulatory tools which can complement the work of competition rules and the need to not over-regulate to the point where innovation might be impaired.

In addition to targeted ex ante regulation, we consider that the Commission should review and **update certain of its current competition law guidelines and notices** in order to ensure that they are fit for purpose for the modern, digital economy. For example, we support the (ongoing) consultation on the Commission's Notice on Market Definition, and believe it is also necessary to review and update the Article 102 Enforcement Priorities Guidelines, the Horizontal and Vertical Guidelines, the Horizontal Merger Guidelines (in particular on innovation effects) and Non-Horizontal Merger Guidelines (in particular on conglomerate effects). This is necessary to provide businesses with greater certainty and increase the competitiveness of European firms that could challenge current gatekeeper platforms in certain markets and could compete more effectively in other emerging digital markets. It is also necessary because both companies and the Commission currently lack clear guidance on how EU competition law rules will be applied to new and emerging business models and potential theories of harm in the digital economy. As noted in our response to the Roadmap and IIA for this consultation, revised guidance from the Commission should in particular support a more dynamic approach to assessing competition in digital markets.

In addition, we support the increased use of existing powers available to the Commission, including **interim remedies powers and sector inquiries**. The Commission should endeavour to make greater use of these powers to better understand markets as they develop and evolve, and to intervene at an early stage, where appropriate, in markets characterised by presence of gatekeeper platforms which are prone to leveraging, anti-competitive monopolisation strategies, tipping, etc. In our view, the competition problems arising in these markets can be tackled by enforcing existing antitrust law more frequently and in a more timely manner and targeted ex ante regulation of digital markets where gatekeepers have undermined or eliminated contestability. To the extent that the DSA introduces market monitoring obligations, it is arguable that enforcement of the current competition laws would be more effective.

We believe that introducing a new competition tool carries a significant risk of over-enforcement which distorts competitive outcomes (in particular by chilling investment and innovation). Vodafone therefore considers that the Commission should: (a) proceed with the implementation **of targeted ex ante regulation** to tackle the specific concerns which arise in markets characterised by the presence of gatekeeper platforms; and (b) make more use of and update its existing competition law tools and guidance. In addition, the Commission should consider (again, as an alternative to a New Competition Tool) **widening the scope of its existing powers under Regulation 1/2003** to enable it to make recommendations to companies, sectoral regulators and legislators following sector inquiries, which would seem to be a more proportionate and legitimate way to proceed.. We do **not believe there is a need currently for any additional form of intervention, including one that takes the form of the proposed "New Competition Tool"**, which should only be pursued if the measures referred to above, once implemented, prove to be ineffective and once the results of current Court appeals in the various digital platform cases have been resolved.

10.3. Please provide examples and explain them.

Vodafone considers that at least some of the examples cited in response to question 8.2 above could also be viewed as forms of anti-competitive abusive practices which can be captured by an acknowledged theory of harm.

In addition, and as also explained in our separate response to the DSA consultation, Vodafone has been adversely affected by the imposition of certain **unfair contractual terms and unfair practices by gatekeeper digital platforms** or eco-systems, including:

a. The imposition of '**high impact terms**', such as uncapped liability. This has the effect of increasing our exposure to liability in way that results in an unfair distribution of liability across the value chain.

b. The requirement to **license all IPRs** at no cost for the use of the digital gatekeeper's proprietary products. As a result of such practices, Vodafone is unable to effectively monetise and develop digital products and services that could challenge the digital gatekeeper's own propriety products and services.

c. **No notice given of technical changes** to platforms, which then requires apps to be amended, in some cases resulting in lack of functionality. By not being provided with such advance notice, Vodafone is left exposed to technical issues that can stop services working and harm its reputation with customers. This can also impact functionality which may affect Vodafone's compliance with regulatory requirements.

d. **Opt-in consents** inserted into the Vodafone app experience, which has the effect of increasing friction and harming the overall customer experience, while at the same time not adding meaningful controls on how end user data is ultimately to be collected and monetised by digital gatekeepers.

e. **Unreasonable transfers of liability** to the app developer (*i.e.*, Vodafone) without mutual liability being accepted by the platform owner. This shifting of the financial risk burden solely on to the developer results in an unfair distribution of liability throughout the value chain, thereby making it harder for end users to seek redress and penalising backend developers of apps.

f. **Other unreasonable terms, in relation to the provision of Vodafone services or adjacent obligations such as marketing**, which impose a disproportionate cost to Vodafone.

We are also aware of a broader range of unfair commercial terms and unfair practices that foreclose competitors in relation to various markets for digital products and services, including:

a. **Bundling and tying,** as occurred in the Microsoft case concerning the bundling of Internet Explorer with the Windows operating system, and in the Google Android case concerning, among other matters, the Commission's finding of tying of the Google search app and Google Chrome browser with Google's Play Store.

b. **Exclusive dealing**, as occurred according to the Commission's decision in Google Adsense concerning the requirement that Google's customers sign exclusively with Adsense, which the Commission found had the effect of foreclosing rivals in online search advertising mediation.

c. **Self-preferencing practices** in favour of a platform or eco-system's own services, as the Commission found to be the case in Google Shopping concerning the search ranking of Google's own online shopping service

d. **Discrimination** such as that alleged by Spotify and Epic recently against Apple's (in particular because Apple forces developers to charge their customers via the App Store payment system , rather than through the developer's website or some other means) and to share a significant proportion of the revenue with Apple, thereby effectively increasing third party developers' costs and hindering their ability to compete with Apple's own services.

e. **Predatory pricing or margin squeezes**, whereby as-efficient rivals cannot profitably match the dominant firm's prices without incurring the risk that they will exit the market, thereby enabling the dominant firm to subsequently earn monopoly profits.

f. The **refusal to supply or license an input**, which is important in order for a firm to be able to compete effectively in a downstream market.

g. **Use of superior access to data**, which we understand to be the potential concern of the Commission in launching an investigation into whether Amazon's access to data in its role as a merchant platform adversely affects downstream competition in online retailing between Amazon and its rivals. (The parallels are significant between the proposed DSA regulatory intervention and the approach adopted under Article 106 TFEU with regard to firms that have a "conflict of interest" in their commercial dealings and their rule-setting functions, as this conflict fuels self-preferencing practices.)

h. **Strategies to lock-in customers** that can arise from the lack of interoperability or interconnection between platforms, including for example the strategies described in response to question 8.2 above.

Vodafone would be happy to discuss these examples further with the Commission.

12.2. Please identify the markets concerned and explain those market situations.

We do not agree that a highly concentrated market is problematic *per se* from a competition perspective. As with other markets, the potential for competition concerns to arise in oligopolistic markets depends on the specific characteristics of the market in question. For example, while a "tight" oligopoly market structure may facilitate tacit collusion in certain industries, this depends on a number of factors. For example, the risk will be higher in markets characterised by homogeneous products with high common and transparent cost bases. However, concentrated market structures are still likely to produce competitive outcomes where the product ranges of market players are diverse and where customers can switch easily and at relatively little cost.

For example, we note that mobile communications markets (and many other markets with similar or comparable characteristics) are not conducive to concerns of this nature. In this regard, we note the following in relation to mobile communications:

- Operator profitability and return on capital are currently relatively low in these markets (in contrast to many digital markets). This is a clear indication of their highly competitive nature. Relatively low profitability and return on capital expenditure in telecoms markets where there is competing infrastructure does not enable the same financial leverage used to support market power as in digital markets. It is only in those telecoms markets where a position of clear market dominance exists (*e.g.*, wholesale fixed access, which is dominated by one fixed incumbent in most countries) that profits are raised and incumbents are regulated while, in those markets that are contestable, profitability is low and competition is fierce even under an oligopolistic market structure (e.g., as in the mobile sector).
- The *status quo* of these markets is "reset" regularly as operators are required to roll out new technologies approximately every five to seven years, and there is fierce competition on network quality and capacity in the interim.
- There is already well-established and effective sector-specific regulation in place which is based on competition law principles. This regulation applies in addition to the "traditional" competition law framework established in *Airtours* and *Impala*.
- Where operators enter into network sharing or other cooperation arrangements in order to facilitate pro-competitive investment and innovation, resulting in the faster and wider rollout of new networks and/or services to customers, such arrangements are already effectively policed under antitrust and/or merger control rules.
- To the extent that operators in markets have been required by regulators to increase transparency in relation to their customer offers, this should not be interpreted as providing a foundation for tacit collusion, but as providing the basis for informed end-user decision-making which in turn reduces the risk of customers being rendered inert to change.
- Switching is straightforward for customers, as the speed and low cost of number portability facilitates customer churn.

Thus, although the market characteristics typically associated with markets with digital gatekeepers are prone to inherent competition concerns, oligopolistic market structures such as those that are well understood in the mobile telecommunications sector:

- Do not display an entrenched lack of competition nor the risk of monopolisation. The General Court recently clarified that the mere fact that a market is highly concentrated does not automatically result in a significant impediment to effective competition.
- Are characterised by a different approach to innovation than digital markets, where the need for quick intervention is premised on the greater speed and less "structured" form of innovation cycles that take place there, along with the cumulative effect of various market features which can cause such digital markets to tip.

Additionally, EU intervention in telecoms mergers has been based on potential unilateral effects and almost never on potential coordinated effects. Accordingly, there are no hidden market failures that existing competition tools have not been able to address.

Vodafone's experience therefore does not suggest that, as a matter of general principle, the Commission requires additional tools to tackle potential competition law risks in oligopolistic markets. To the extent that such concerns may arise in certain markets based on their specific characteristics, and these cannot be tackled under existing competition law rules, the example of the telecommunications sector illustrates that sector-specific regulation is probably the most effective means by which address such concerns arising from complex oligopoly situations (as is explained further in response to question 13.1 below).

Finally, we note that the Inception Impact Assessment for this consultation (the IIA) refers to the increasing digitalisation of society and economy which has attracted increasing attention under competition policy, specifically "*the large platforms [that] have become gatekeepers for many digital and non-digital products and services*". Our understanding of the role of a gatekeeper is that it coincides with the accumulation of market power increasingly in the hands of one undertaking. This is consistent with the IIA, which refers to certain market characteristics (which are typically and in some cases uniquely present in digital markets) which underpin this development, including extreme economies of scale and scope, strong network effects, zero pricing and data dependency. The IIA identifies that it is specifically against this backdrop that it has engaged in a process of reflection on the role of competition policy in order to assess whether the current competition law framework allows for intervention that preserves competitive digital markets. Against this backdrop, there is nothing that has been put forward in the IIA which suggests that oligopoly market structures are problematic *per se* and/or require intervention in the form of the proposed New Competition Tool to maintain or improve competition in those digital markets.

18.8. Please explain your answer, indicating why you consider the indicated features relevant for qualifying a company as a gatekeeper. Please also add any other relevant features that qualify a company as a gatekeeper and rate their importance.

As set out in our separate response to the DSA consultation, Vodafone considers that there is a need for targeted intervention when a range of **criteria are cumulatively satisfied**. These criteria should encompass the following:

(i) a non-contestable and concentrated market structure should be identified;

(ii) the digital gatekeeper in question is an unavoidable trading partner; and

(iii) the application of competition rules would be ineffective in addressing the identified market failures.

Each of these criteria are discussed in detail below.

Criterion *1: Non-contestable Concentrated Market Structure*

Under this first threshold criterion, regulators would need to identify the following elements in the marketplace in which the digital platform operates, namely:

(i) **The existence of a well understood and defined digital "platform" or Internet eco-system** of products that lies above regulated telecommunications networks, which generates **direct and indirect network effects** that might be capable of **deterring switching** by the creation of "positive feedback loops", or which is prone to the phenomenon of **"tipping"** in favour of a particular operator (or a very limited group of operators).

We consider that an online platform accords in principle with an "Information Society service", as defined in EU Directive 2015/1535. This would have the following characteristics: (i) the ability to create and shape new markets, to challenge traditional ones, and to organise new forms of participation or conducting business based on the collection, processing, and editing of large volumes of data; (ii) operating in multi-sided markets, but with varying degrees of control over direct interactions between groups of users; (iii) benefitting from 'network effects' where, broadly speaking, the value of the service increases with the number of users; (iv) often relying on information and communications technologies to reach their users, instantaneously; (v) playing a key role in digital value creation, by capturing significant value (often through data accumulation), which facilitates new business ventures but also new strategic dependencies.

(ii) On the *input side* of the platform, such platforms would benefit from **high entry barriers** which, in particular, may be due to the control of **key innovation capabilities**.

Barriers to expansion or entry can take various forms, particularly in the form of advantages specifically enjoyed by the dominant firm such as economies of scale and scope, privileged access to essential inputs, important technologies or an established distribution and sales network.

(iii) On the *customers side* of the platform, the market position would benefit from the prevalence of the practice of **single-homing**, which may be due to strategic behaviour (*e.g.,* exclusivity clauses, tying, MFNs) or, just as effectively, from the non-utilisation of multi-homing options due to consumer inertia.

In addition, when there are **elements of "free" provisioning of service**, which may increase information asymmetries and have the tendency to mask commercial incentives, the rationale for public intervention may increase. This can be the case when 'price' reflects a digital representation of value, particularly in the form of personal data that is provided in exchange for the supply of the services in question.

Criterion 2: Digital Gatekeeper which is an Unavoidable Trading Partner

Under this second criterion, the regulated digital platform would have the following commercial and structural characteristics:

(i) The digital platform's business model is **associated with the provision of some form of intermediation** between two types of users across various sides of the platform. This implies that the platform in question allows a user to offer goods or services to other users with a view to facilitating transactions between them.

(ii) The digital platform would act as a **"gatekeeper" or as a provider of some form of a "bottleneck facility", which renders it an "unavoidable trading partner"** (comparable to a "must have" product in a conglomerate market environment) for other operators on that digital platform (which would include a 'digital eco-system').

The satisfaction of this criterion would require that the platform in question has achieved a significant level of user uptake and that access seekers depend on the platform to reach a significant body of users.

(iii) The environment in which the digital platform operates is characterised by a **lack of effective countervailing bargaining power** being exercised by the underlying regulated networks over which the eco-system operates and by its immediate or end-user customers (depending on the business model deployed).

Countervailing buying power may result from the relative size of customers or their commercial significance to the dominant firm, and their ability to switch quickly to competing suppliers. In this way, new entry can be promoted or vertical integration can take place, at least where customers can credibly threaten to do so.

(iv) **Existing regulatory obligations are not effective** in preventing the digital platform in engaging in exclusionary behaviour. To the extent that a digital platform is exploiting a regulatory loophole, or where regulation (either asymmetric of symmetric in nature) is not capable of exerting a meaningful market discipline on the platform, additional regulatory intervention is likely to be a proportionate response.

Criterion 3: Ineffectiveness of competition rules

On the assumption that either a finding of **dominance cannot be established** in relation to a particular digital platform (despite positive findings usually associated with market power) or the **identified conduct and effects cannot be effectively addressed pursuant to appropriate remedies under *ex post* competition rules and within a reasonable period of time** given the speed of technology and market evolution, there is a risk that the changes effected to the marketplace are irreversible and the possibility of innovation from other competitors is foregone unless regulatory intervention occurs.

Under the electronic communications regulatory framework, competition law interventions are deemed to be insufficient where, for instance, the compliance requirements of an intervention to redress persistent market failure(s) are likely to be very detailed or where frequent and/or timely intervention is indispensable.

Vodafone considers that this approach can best be implemented in the form of targeted ex ante regulation, as proposed in the DSA consultation (refer to Vodafone's separate response to that consultation).

18.10. Please explain your answers above. Please also use this space to mention any other competition concerns that arise in markets featuring a gatekeeper and rate them in importance.

The practices listed below are commonly seen in markets involving digital gatekeepers, all of which are capable of generating competition concerns of varying levels of gravity:

- Imposition of **unfair and potentially anti-competitive terms** and conditions due to strong bargaining power vis-à-vis smaller businesses (for example, MFN clauses, restrictions/abusive conditions on data sharing and use, exclusivity clauses, obligations regarding IPR).
- **Self-preferencing strategies**, where digital platforms often use their gatekeeper role to favour their own content, service or advertising (when vertically integrated), or to favour paid-for content by certain content providers or advertisers in effect by discriminating against other competing users. This is the case, for example, when search and ranking algorithms confer preference to the platform's own services above those of competitors or when the digital platform has an incentive to bias its recommendations toward the content provider charging a lower royalty. The fact that the digital platform may have superior information about consumer preferences increases the risk of bias. This is also the case when the platform does not treat third party applications the same way as its own applications.
- **Leveraging** into neighbouring markets is a common practice in markets with digital gatekeepers, which can rely on their wide portfolio of services to leverage into neighbouring markets where competition is foreclosed, or where their entry alone is capable of restricting the entry and expansion of new entrants (by raising their costs of doing business).
- **Bundling/tying with 'must have' services and apps**, where the bundling leads to anti-competitive foreclosure. Such practices often form part of an "envelopment" strategy, which can often be put into effect by a gatekeeper platform entering a market by bundling its services in order to leverage its shared user base, data or other common components, thereby excluding or marginalising other competitors in the market.
- **Restricting content/service interoperability and restricting access to components**, software/hardware which is critical to compete. It is often the case, on the grounds of introducing technical innovations, that digital platforms compel competitors to adapt to technological changes introduced by the platform, which may different proprietary standards (which may not always be possible for competitors, or for whom such adaptation of technical standards may be very costly), or by requiring payment of an exorbitant price to have access to the standard developed by the platform. Another form of problematic conduct occurs when platform owners fail to provide advance warning of planned software updates, which result in harm to the performance of a third party's business that is operating within the platform's eco-system (including those situations where they offer services which potentially compete with those of the platform operator).
- **Limited data portability** due to lack of interoperability (e.g., APIs, limits to sharing customer data), which creates obstacles for emerging competitors.
- Single-homing requirements and **restrictions on multi-homing**, which involve consumers being compelled to use on an exclusive basis (or at least primarily) the gatekeeper's eco-system, will usually lead to foreclosure risks because customer switching is being rendered more difficult, which leads to gatekeepers attaining strong positions in the market where they can, for example, set the conditions of access to third parties.

This leads to **foreclosure and poorer competitive outcomes** for consumers insofar as:

- Closed eco-systems in particular **prevent innovative** new services from emerging, which affects companies of all sizes and is particularly harmful to smaller European companies.
- For European consumers, detrimental impacts occur through the restrictions in choice for products and services. We increasingly see our customers being locked into digital eco-systems, rarely switching, while providing ever-increasing amounts of personal data which further ties them into that eco-system.

24.1. Please explain your answer. Please indicate which structural competition problems the new tool should tackle or address.

As explained in our response to question 9.1 above, we believe the Commission should: (i) continue with its ongoing review of, and make certain important updates to, the existing competition law framework to ensure it is fit for purpose; (ii) increase its use of existing powers in relation to interim measures and sector inquiries, and (iii) introduce an ex ante regulatory framework for digital gatekeepers , as set out in Vodafone's separate response to the DSA consultation, before considering the need for a New Competition Tool. The Commission should only consider further forms of intervention, including any potential New Competition Tool, once these reforms have been introduced and assessed, and if they are shown to be ineffective in addressing the specific competition problems that the Commission is seeking to address.

Prematurely introducing a new legal mechanism would not only be **inconsistent with the principles of proportionality, legitimacy and good administration**, and not justifiable for the following reasons:

- The existing competition law framework is sufficient to address structural competition problems in many cases, especially if the Commission expedites enforcement action (e.g. through use of interim measures as we have suggested above and revises certain Guidelines and Notices (as explained above -see in particular the response to question 9).
- In particular, we believe the following revisions to **Guidelines and Notices** will not only enable more efficient and dynamic enforcement of competition, but will be beneficial for competition in the EU:
    - The Relevant Markets Notice should be updated to encourage a more dynamic and forward-looking market assessment to keep up with the fast pace of digital markets.
    - The Horizontal and Vertical Agreements Guidelines should be revised to allow for the consideration of theories of harm that arise from vertical and conglomerate foreclosure concerns in digital markets, especially given the prevalence of those sorts of concerns in the digital world, the similar approach to foreclosure adopted under both sets of concerns, and because of the development in thinking about such foreclosure concerns arising in recent merger practice both in the EU and elsewhere, as these types of concerns pose the greatest threat to competition-related barriers for European firms wishing to enter the digital space where firms from other jurisdictions (predominantly the US) are already present.
    - The Article 102 Enforcement Priorities Guidelines should be updated to specifically address the impact of certain types of digital market business models, identify competition problems associated with the exploitation of such business models, and explain further the rationale behind potential theories of harm that might apply in markets with digital gatekeepers.
    - The Horizontal Merger Guidelines (in particular on innovation effects) and Non-Horizontal Merger Guidelines (in particular on conglomerate effects)
- The Commission already has extensive powers to gather information about markets where it believes that it is not working as well as it should in part due to competition problems in that market or sector, and to intervene where it is necessary to address irreparable harm to competition and/or consumers. In our view, many of the types of competition concerns that the Commission has raised through this consultation could be addressed through greater use of **interim measures powers and sector inquiries**, which might require relatively minor amendments to Regulation 1/2003 and which are unlikely to meet with much political opposition at the Member State level. For example, sector inquiry powers could be strengthened to give the Commission the power to make recommendations to sector regulators and/or legislators.

- A new legal mechanism that would allow the Commission to intervene and potentially to impose **remedies without the need to satisfy the burden of proof required for a finding of infringement of competition law** must be approached with great caution in any circumstances. It is questionable whether a new competition tool would be **proportionate or legitimate**, in particular as it would give the Commission significant powers to intervene in markets without going through the legislative process (e.g. without involving the European Parliament and the Council of Ministers) as it is the case today when the Commission wants to impose remedies after a sector enquiry.

At a more fundamental level, one must **question whether the legal basis** upon which the Commission proposes to act can in fact be Article 103 TFEU, read in combination with Article 114 TFEU. Given that the proposed New Competition Tool is proposing to extend the Commission's powers beyond those granted under Article 101 and 102, it is difficult to see how the proposed measures could be considered to "give effect to the principles" set forth in those Treaty Articles. By the same token, Article 114 TFEU is designed to achieve harmonization in approach as between Member State enforcement, which is also clearly not the policy basis which is driving the new proposed measures.

Notwithstanding the above, should the Commission ultimately decide to introduce a New Competition Tool, Vodafone's view is that:

- With regard to the question of whether it should be dominance-based or market-structure based, it **should apply to different related markets in which a gatekeeper platform is active** and which can, due to the structural features of the markets, leverage and extend their market power across different relevant markets (not necessarily the individual market where that gatekeeper has market power). See the response to question 18.8 above for our proposed definition of gatekeeper.
- Its **scope should be limited to digital markets** that have tipped, or are on the verge of tipping, towards dominance by a single gatekeeper firm (defined by reference to the criteria set out in response to question 18.8 and in our separate DSA consultation response) resulting in a structural lack of, or identifiable adverse effects on, competition. Vodafone's experience does **not suggest that it needs to deal with complex oligopoly issues**, as explained above, Vodafone's experiences do not suggest that there are any identifiable candidates beyond digital markets that would justify such an intervention.
- Where the Commission identifies a structural competition problem in a market subject to existing regulation, intervention through **sector-specific regulation and/or Articles 101/102 should be prioritised** and the New Competition Tool should only be used where these tools are insufficient or not capable of addressing the particular problem at hand. This is necessary to avoid inconsistency, duplication and a "double jeopardy" situation.
- The New Competition Tool must be subject to **various checks and balances** in terms of its scope/threshold, process, remedies and appeal rights – see our response to questions 29, 30 and in Section E below. Currently, the UK regime from which we understand the proposed New Competition Tool takes inspiration has a series of essential procedural checks and balances which are not currently available under the EU competition law regime.
- The Commission should only be able to intervene in markets pursuant to an investigation under the new competition tool if it can show adverse effects on competition to a sufficiently high level of standard of proof.
- Finally, to the extent that a New Competition Tool equips the Commission with the power to impose remedies, these should **be limited non-binding remedies to companies, recommendations/proposals to sector-specific regulators and/or legislative recommendations.** We do not believe the Commission should be able to impose binding remedies on companies in circumstances where it is not first required to establish an infringement of Article 101 or 102. See our response to question 30. As suggested above,

however, we consider that a more proportionate way to achieve this could be through an extension of the Commission's existing powers for sector inquiries under Regulation 1/2003 to enable it to make recommendations and proposals for regulatory and legislative reform.