

The logo for Squire Patton Boggs, featuring the company name in a serif font and a circular icon with a stylized 'S' and 'P' to the right.

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UK

Cabinet Office has published its COVID-19 autumn and winter plan for England and Scotland proposes a mandatory domestic vaccination certification scheme. The [plan](#) for England confirms that the government will continue to provide “Working Safely” guidance and sets out that businesses should consider such guidance in preparing health and safety risk assessments (and put in place suitable mitigations). There is a continued focus on, and encouragement of, ensuring adequate ventilation, the provision of hand sanitiser, display of NHS QR code posters and consideration of use of the NHS Covid Pass. In Scotland, however, the NHS Covid pass will be mandatory for certain types of venue/event, as set out in the Scottish government’s [proposals](#) for the scheme. The proposals include regulations to impose a legal obligation on relevant businesses/venues to “take all reasonable measures” to restrict entry only to those who are fully vaccinated, unless they fall within an exemption. The government says that it will publish guidance on what “reasonable measures” would be.

Fine of £1 million for a chemical company for breach of control of the Major Accident Hazards Regulations 2015 (COMAH). A Health and Safety Executive (HSE) [press release](#) reported the fine, following the death of a maintenance contractor in an explosion at the company’s site in 2018. Following the hearing, the HSE inspector reminded companies handling or storing flammables to consider the potential risk of fire and explosion, and to have robust procedures in place to minimise and control risk at all times, including during planned maintenance work.

Company is charged with seven offences for failure to prevent bribery at Westminster Magistrates’ Court. The Serious Fraud Office (SFO) has [announced](#) a company was charged with the offences. The case will move to Southwark Crown Court for pleas to be entered. The SFO report indicates that Petrofac intends to plead guilty, following an agreement reached with the SFO. The case is a reminder that bribery offences can be prosecuted in the criminal courts, even though in recent years, the SFO has more commonly agreed settlements.

Sentencing Council has opened a consultation on various amendments to the Sentencing Guidelines. There are proposals in relation to specific Sentencing Guidelines, which are unlikely to be relevant to corporate defendants, but there are also proposals in relation to confiscation and compensation, which will be relevant to numerous sentencing guidelines.

The existing [Sentencing Guideline](#) covering health and safety offences provides that where an offence has resulted in loss or damage, when sentencing organisations, the court must consider whether to make a compensation order. Similar wording is included for the sentencing of individuals for health and safety, sentencing for corporate manslaughter, and sentencing for food safety and food hygiene offences. However, it is proposed to add the following: “where the offence has resulted in personal injury, loss or damage the, court must give reasons if it decides not to order compensation.” The Sentencing Council states: “The additional wording is not expected to affect the number of compensation orders made or the amounts awarded, however, if it did, it would be a result of courts carrying out a statutory duty rather than as a result of the change to guidelines.”



Confiscation is not specifically referred to in the Sentencing Guideline for health and safety and food safety offences. However, it is relevant to the sentencing of organisations for [unauthorised or harmful deposit, treatment or disposal, etc., of waste/illegal discharges to air, land and water](#), and to sentencing corporate offenders for [fraud, bribery and money laundering](#). For relevant offences, there is a proposal to use similar wording to that proposed for compensation, i.e. where the offence has resulted in personal injury, loss or damage, the court must consider whether to make a confiscation order and must give reasons if it does not do so. Additional wording is also proposed by way of clarification as to the making of confiscation orders. This includes wording to explain that where, following conviction in a magistrates' court, the prosecutor applies for the offender to be committed to the Crown Court with a view to a confiscation order being considered, the magistrates' court must commit the offender to the Crown Court to be sentenced there (in accordance with the Proceeds of Crime Act 2002 (POCA)). Where, but for the prosecutor's application under the POCA, the magistrates' court would have committed the offender for sentence to the Crown Court anyway, it must say so. Otherwise, the powers of sentence of the Crown Court will be limited to those of the magistrates' court.

HSE and the Department for Transport (DfT) have published updated guidance on work-related road risk for employers and workers. The [guidance](#) covers health and wellbeing, as well as safety. The HSE [press release](#) announcing the guidance reminds businesses that prosecutions could lead to significant fines and custodial sentences, as well as driving bans and/or operator licences being revoked. It refers to a 2020 decision where a company found guilty of failing to effectively manage fatigue for its employees driving for work was fined £450,000 and ordered to pay £30,000 costs after two men lost their lives in a motorway collision.

Food Standards Agency (FSA) has responded to a report on food safety and standards, and confirms increased sampling surveillance. The [response](#) has been published on the FSA website. This includes comments that the FSA is seeking ministerial support and legislation to introduce mandatory display of hygiene ratings in food businesses in England. The FSA also states that it has informed government officials and ministers that further enforcement powers are required for the National Food Crime Unit. Its response also sets out that the FSA has seen no evidence of any change to food safety risk as a result of Brexit, although it notes changes are being phased in (such as controls on the movement of goods from the EU). Of particular interest in the response are comments from the FSA that it has developed a sampling strategy on the back of the National Audit Office report; has increased its sampling surveillance activities for retail and for imports; and is undertaking further surveillance sampling programmes in 2021 to 2022.

Department for Business, Energy and Industrial Strategy (BEIS) has published notices and consolidated lists of designated standards for machinery, personal protective equipment and electromagnetic compatibility. The notices update the lists of published standards under the relevant regimes.



Consultation response on tipping, gratuities, cover and service charges is published. The [response](#) confirms the government's intention to introduce legislation requiring that tips left for workers, for example in restaurants and bars, should be retained by them in full. The legislation will be supported by a statutory Code of Practice on Tipping.

Engineering company is fined after a worker is diagnosed with occupational asthma and HSE announces an inspection programme for construction businesses. A HSE [press release](#) reported on the prosecution and the fine. Although the fine was relatively low, the case is a reminder that HSE will take enforcement action where there is injury to health, as well as safety breaches in response to specific incidents. This is also underlined by the [announcement](#) of the HSE this month that it will be "cracking down on dust" by targeting construction firms to check that their health standards are "up to scratch" during a month-long inspection initiative, starting on Monday 4 October 2021.

Legislation raises the minimum age for buying and selling National Lottery tickets to 18. The National Lottery (Revocation and Amendment) Regulations 2021 raise the minimum age for buying a lottery ticket from 16 to 18 from 1 October 2021 (although, in practice, the National Lottery and retailers implemented this change in April 2021). They also prevent under 18s selling tickets from this date, unless they are aged 16 or 17 and are authorised to sell by an "authorising person," or where the sale has been specifically approved by a "responsible person." An authorising person is the person (over 18) who has management or control of the retail premises – the authorisation from such a person must be written and include specific information prescribed by the regulations. A responsible person is a person (over 18) who has management or control of the retail premises, or another member of staff. There is no prescribed form for the specific approval by a responsible person and, therefore, such approval could be verbal. Breach of the National Lottery Regulations (as amended) by a retailer (promoter of the lottery) is an offence under the National Lottery Act 1993. Retailers should therefore ensure that due diligence is in place to ensure that any members of staff who are under 18 do not sell tickets without the required authorisation or approval.

House of Lords has launched an inquiry into trade in goods between the UK and the EU, and a delayed timetable for border controls into Great Britain (GB) is published. On 14 September, the Cabinet Office issued a written [statement](#) further delaying the implementation of border controls. Meanwhile, the House of Lords is considering the effect of these delays and border controls generally on trade between the EU and the UK. The [inquiry](#) was launched on 20 September and is accepting evidence until Friday 29 October 2021. The [call for evidence](#) raises a number of questions, against the background of Brexit and delayed import controls, including the consequences of the trade and cooperation agreement between the UK and the EU, the advantages and disadvantages of the delays in checks and controls on imports into GB, the effect of the differences between border controls in the EU and those in GB, disruptions to trade flows or supply chains and the impact of EU border checks on exports from GB. The nature and extent of border checks in GB may impact on the level of compliance with changes to product marking and labelling rules resulting from Brexit (including UKCA marking and importer address labelling after the end of relevant transitional periods). There were no grace periods for EU-importer name and address requirements on the EU-side.



Two announcements issued on making green claims. Following a consultation in May 2021 (see [frESH Law Horizons May 2021](#)), the Competition and Markets Authority (CMA) has published the final version of its [Green Claims Code](#), together with a [guidance document](#). The code is based around six key principles regarding green product claims, including that claims must be substantiated, consider the full life cycle of the product, use fair and meaningful comparisons, and not omit important information. Shortly after the CMA code was issued, the Advertising Standards Agency (ASA) issued its own [statement](#) on the regulation of environmental claims and issues in advertising. The ASA has reviewed its regulation of environmental claims and announced that the Committee of Advertising Practice will later this year issue advertising guidance to ensure adverts do not mislead about the environment, and are socially responsible when considering environmental issues. This guidance will complement the CMA's work, to which the ASA has also contributed. The ASA is also commencing a series of enquiries into specific issues, starting with energy, heating and transport issues, and then moving on to waste (i.e. "recyclable"/"recycling"; "biodegradable"/"compostable" and "plastic alternative" claims) in spring 2022, followed by food sustainability. Further guidance for businesses will follow from these enquiries. The ASA is also going to commission research into consumer understanding of carbon neutral and net-zero claims and consumer perceptions of hybrid claims in the electric vehicle market, with further research pieces on other topics in 2022.

Environment Agency (EA) has eased regulation on treating effluent discharges due to supply chain failures.

The EA has issued [regulatory position statement \(RPS\) B2](#), which allows water and sewerage companies to request consent from the EA to discharge treated effluent from a wastewater treatment works to surface water or groundwater outside of permit limits, if they cannot get the chemicals to treat effluent discharge because of the UK's new relationship with the EU, COVID-19 or other unavoidable supply chain failures. Operators must demonstrate that they have taken all reasonable steps to comply with their permit, and that the discharge does not cause or risk causing significant environmental damage, significant pollution or significant harm to water, air, soil, plants or animals.

EA has published [RPS 241](#) to allow operators to accept certain (similar) waste codes not included in their permits.

This is instead of the "not otherwise specified" waste codes that are included in their permits or in a waste quality protocol. For example, waste code 10 13 99 (gypsum) is included in certain types of standard rules permits, and the RPS now allows those facilities to instead accept waste code 16 03 04 (gypsum from the manufacture of cement, lime and plaster). This will apply until 31 August 2022 and means that the EA will not normally take enforcement action against operators for operating without a permit for a waste operation if the activity meets the description and conditions set out in the RPS and the activity does not, and is not likely to, cause environmental pollution or harm human health. The EA also extended the duration of [RPS C8, Social distancing when signing and handing over waste transfer and consignment notes in person](#), to 31 March 2022.



EA reopens definition of waste service and (briefly) publishes additional guidance. The EA's definition of waste service, which provides opinions on whether materials have achieved "end-of-waste", has once again reopened, this time after a COVID-19-related 12-month closure. The EA has updated its guidance on the [legal definition of waste](#) to refer to the service, which remains an optional/voluntary step for organisations wishing to determine if something has ceased to be a waste following a recovery/recycling operation. The service costs £125 an hour (including VAT). The EA also published a new webpage called [Check if your material is waste](#), but then promptly removed a number of sections from the pages ("When a material is waste", "When a material has not become waste" and "When a material meets the end of waste test"), "as these need to be updated".

EA has published details of the latest civil sanctions imposed and accepted for environmental offences.

Together with the usual list of enforcement undertakings accepted for packaging waste offences, environmental permitting offences and civil penalties under the greenhouse gas emissions trading scheme, a more rare civil penalty was imposed for offences under the Fluorinated Greenhouse Gases Regulations 2015. This is believed to be only the second time that enforcement action has been taken under this regime. IMO Gas Supplies Ltd was penalised to the tune of £1 million for a number of failures to comply with HFC quota obligations, and for failing to report imports and keep records. Whether the penalty will be paid remains to be seen, because the company is a micro company, which has been subject to applications to strike-off in the past, and appears to have limited assets.

The World Health Organization (WHO) has published revised global air quality guidelines (AQGs) on air pollutants.

The AQGs cover particulate matter (PM2.5 and PM10), ozone, nitrogen dioxide (NO2), sulphur dioxide (SO2) and carbon monoxide. In particular, the recommended levels for PM2.5 (5 µg/m) and NO2 (10 µg/m) represent a substantial reduction compared to current levels (50% and 75% respectively). Although the AQGs are not legally binding standards, they do inform legislation and policy. Debate is currently raging in Parliament regarding whether the existing WHO target for PM2.5 should be enshrined in the Environment Bill (see below), but in the meantime, the guidelines are increasing this target.

House of Lords makes significant amendments to the Environment Bill. During several sessions throughout September, the Lords debated and voted on amendments to the draft Environment Bill. Amendments passed include a biodiversity and climate emergency declaration, adopting the WHO target on fine particulate pollution (PM2.5), setting a target for soil health, a statutory duty to meet interim targets, removing the power for the secretary of state to provide guidance to the Office for Environmental Protection (OEP), removing restrictions on the discretion of the court to grant a remedy to the OEP where a breach of environmental law is established, limiting amendments to the Habitats and Species Regulations, requiring the government to set an enhanced protection standard to prevent further loss of ancient woodland, and requiring conservation covenants to be signed as a deed and contain details of the duration of the obligation and landowner's consideration. The current text of the bill and the remaining stages of the process to finalise it can be viewed [here](#). The Environment Bill is due to have a third reading in the House of Lords from 13 October, and then it will return to the House of Commons. If the amendments made by the House of Lords are not agreed by the House of Commons, the bill will pass between the Houses until the wording of the bill is agreed, before it reaches the final stage of Royal Assent.



The Department for Environment, Food and Rural Affairs (DEFRA) has published an updated [UK plan for shipments of waste](#). It has also published the [response](#) to its January 2021 consultation. This plan implements the UK government policy of self-sufficiency in waste disposal, by prohibiting imports and exports of waste to and from the UK for disposal, subject to some limited exceptions. The plan has been amended as proposed in the consultation, namely to align the plan with the government's Naturally Occurring Radioactive Material (NORM) waste strategy; clarify that interim disposal operations should be carried out within the UK where possible; remove the existing exception relating to export of contaminated river sediment waste for disposal; and insert a new exception relating to the export of mercury and mercury-contaminated wastes for disposal.

DEFRA consults on reform of environmental permitting for [groundwater and surface water discharge activities](#) and for [water abstraction and impounding](#). The EA has published concrete proposals for the long-awaited move of water abstraction and impounding licensing into the Environmental Permitting Regulations (EPR) regime, intended to modernise the regulation of these activities. A separate consultation also proposes amending the EPR to take a more practical approach to regulating activities that affect groundwater quality and bringing in new protections for groundwater, increasing the range of permitting controls available to the EA for activities that affect groundwater to remove unnecessary costs for businesses while still ensuring strong protections are in place. The two consultations are open until 22 December 2021.

DEFRA has published [guidance on classifying portable and industrial batteries](#). This new guidance document provides additional detail and explanations on the definitions of different battery types, and how to classify them. It is relevant for Batteries and Accumulators (Placing on the Market) Regulations 2008 and the Waste Batteries and Accumulators Regulations 2009.

DEFRA consults on amending the [Restrictions on Use of Hazardous Substances in Electrical and Electronic Equipment \(RoHS\) regime](#) in line with the EU's position on [phthalates in medical devices](#) and [monitoring and control equipment](#). Since July 2021, four phthalates, bis(2-ethylhexyl) phthalate (DEHP), butyl benzyl phthalate (BBP), dibutyl phthalate (DBP) and diisobutyl phthalate (DIBP), have been subject to restriction under the EU RoHS Directive in the EU, limiting their presence to 0.1% in these categories of electrical and electronic equipment. However, this had not been brought into effect in GB, due to the timing of Brexit. DEFRA is, therefore, now consulting on introducing an equivalent restriction for GB, to apply from July 2022. The consultation is open until 12 October 2021.

The Ministry of Housing, Communities and Local Government (MHCLG) has published a [policy paper on a common framework in the UK for the hazardous substances planning regime](#). The EU Seveso III Directive (2012/18/EU) (implemented in the UK prior to Brexit) on the control of major accident hazards (COMAH) aims to ensure that businesses take all necessary measures to prevent and mitigate accidents within their establishments. It also regulates where these establishments are sited, and what is sited around them – these are the land use planning aspects of COMAH. Land use planning is a devolved matter, so this was addressed through separate regulations in England, Wales, Scotland and Northern Ireland. Following Brexit, there is more scope for the devolved nations to relax domestic requirements in this regard, and the framework seeks to preserve consistency and cooperation across the UK administrations, including by setting out decision-making processes, and dispute resolution mechanisms.



Record environmental £90 million fine for a “flagrant disregard” for the law calls for boards of directors to take note. On 19 August, the [sentencing remarks of Mr. Justice Johnson](#) were published in relation to the recent £90 million fine issued to Southern Water for sewage pollution. The remarks provide a full breakdown and description of how this record fine was calculated, and provide comments and conclusions on a number of issues that are likely to be of relevance in other cases. In a [fresh law blog article](#), we focus primarily on the application by Mr. Justice Johnson of the sentencing principles to the facts of this case, and what board directors should take particular note of.

EU

European Commission outlines priorities for the year ahead in the State of the Union speech. Ursula von der Leyen, the President of the European Commission, delivered her yearly State of the Union speech on 15 September. Referring to the [achievements](#) of the past year, she highlighted the gravity of climate change, and how the [European Green Deal](#) is crucial in tackling its devastating effects, in particular the 55% emission reduction target by 2030, which the EU Climate law [Regulation 2021/1119](#) has made legally binding. The President highlighted the importance of EU action in the global context, in particular regarding the UN Framework Convention on Climate Change Conference of the Parties (COP26) in Glasgow in October and the intention to commit to investments in Africa to create a market for green hydrogen.

European Commission publishes a road map on carbon removals. The Commission issued a [road map](#) towards a communication on restoring sustainable carbon cycles, which it wants to adopt in Q4 2021. The EU Climate Law ([please see frESH Law Horizons April 2021](#)) requires that EU-wide greenhouse gas emissions and removals are balanced within the EU at the latest by 2050. According to the road map, the objective of the communication is to develop a long-term vision for sustainable carbon cycles in a climate-neutral EU economy. This would include carbon capture, storage and use. It will discuss a range of options for carbon removal and storage solutions, and for recycling carbon from biomass, waste and directly from air to replace fossil carbon in the production of fuels, materials and food. The Commission also intends to clarify how a regulatory framework for the certification of carbon removals can complement current climate policies. However, the proposal for a regulatory framework will not be part of the communication as such, but constitute a separate forthcoming initiative. At a [recent event](#) on carbon removal strategy, a Commission official said that a legislative proposal will be tabled next year. The road map is open for feedback until 7 October 2021.

European plastic manufacturers’ support for mandatory recycled content targets causes controversy. PlasticsEurope, the association of European plastic manufacturers, [announced](#) that it supports the Commission’s “proposal” for a mandatory EU recycled content target for plastics packaging, and called for a target of 30% for plastics packaging by 2030. Recycled content would need to be derived from all “waste materials” through a technology-neutral approach that includes both mechanical and chemical recycling, whose ramping up was essential, with a credible mass balance framework. PlasticsEurope defined the mass balance approach as a “set of rules that enables traceability between feedstock input and product output, and along the value chain *to the producer* of a final article [emphasis added]”. The announcement marks a significant shift of the association from an earlier [key recommendation](#) made after the Commission adopted its [European Plastics Strategy](#) in 2018. The association of European plastics converters (EuPC) swiftly [responded](#) to PlasticsEurope. The European Recycling Industry Confederation (EuRIC) [strongly welcomed](#) PlasticsEurope’s statement. You can read more about this debate, and chemical recycling, in our Sustainability Outlook newsletter for September.



European Commission discusses revision of the implementation of the End-of-Life Vehicles (ELV) Directive. The Commission [made available](#) the summary record of the most recent meeting of its Group on Waste, held in June 2021, where it discussed with representatives of the member states the review and implementation of the ELV Directive 2000/53. The current directive was not fully adapted to address challenges and opportunities posed by the evolution in the production of vehicles. The Commission would consider extending the scope to vehicles not currently covered, specific targets for recycling per material and for repair and remanufacturing, among others. The study to support the impact assessment had been launched in January 2021 for a duration of 12 months. Its main topics were missing vehicles, illegal export and trade of ELV and enhanced circularity. During the meeting, the Joint Research Centre presented an ongoing study on recycled plastic content, whose finalisation is foreseen for January 2022. It would include technical proposals on potential targets on the mandatory recycled plastic content in vehicles. The Commission has launched a [public consultation](#) on the review of this legislative text, which will run until 26 October 2021. It plans to present the proposal for a revised ELV Directive in Q4 2022.

European Commission consults on extended producer responsibility (EPR) in online sales. Consultancy firm Enumia is carrying out research for the Commission to consider ways of improving compliance with EPR obligations and tackling “free-riding” in the case of online sales. Its [survey](#) seeks to gather the views of producers and retailers of electrical and electronic equipment (EEE) and batteries. Stakeholders can also [register their interest](#) in the study. These recommendations will inform the European Commission’s work on developing EPR policy.

European Commission launches a study on the unintentional release of microplastics. The [study](#), “Cost-benefit analysis of policy measures reducing unintentional releases of microplastics”, aims to identify policy options that could reduce these releases in the environment. It will support the Commission’s work on a possible legislative initiative in the field. Stakeholders can register their interest in the study. The new [Circular Economy Action Plan](#) (CEAP 2.0) already addressed the intention of the Commission to develop an [initiative](#) with regard to labelling, standardisation, certification and regulatory measures on the unintentional release of microplastics. The Commission plans to launch a public consultation in this field that will focus, as the study, on the release of microplastics from synthetic textiles and tyre abrasion, and of pre-production plastic pellets. The proposal for a regulation is planned for Q4 2022.

The European Chemicals Agency (ECHA) updates authorisation formats to conform with recent court rulings. ECHA published an [updated format](#) for applications for authorisation, which is required to use substances of very high concern that have been included in REACH Annex XIV (the Authorisation List). The opinion format for the Committees for Risk Assessment and for Socio-Economic Analysis was revised as well, to reflect the judgments of the EU General Court in two authorisation cases (T-837/16 and T-108/17 – please see [frESH Law Horizons November 2019](#) and [August 2020](#)). The judgments concerned situations where suitable alternatives are available and the applicants need to submit a substitution plan. The new format combines the analysis of alternatives, the socio-economic analysis and, when relevant, a substitution plan into a single document. As [requested by the European Commission](#), the opinion format also includes a conclusion on whether or not the applicant has shown that the benefits for society from using the substance outweigh the risk to human health or the environment.



ECHA publishes a SCIP database of hazardous chemicals in products. ECHA's [database](#) of substances of very high concern (SVHC) in products (SCIP) currently contains more than four million article notifications. Since January 2021, companies supplying articles placed in the EU market that contain more than 0.1% weight by weight of SVHCs must notify it to ECHA. Since September 2021, the information submitted in the notification has been made publicly available. The aim of the requirement is to promote the reduction of the content of hazardous substances in materials and products, and to make the information available to consumers and waste operators to help them make their purchasing choices or decisions on the recycling of materials. ECHA also published [support materials](#) and [tools](#) to help companies comply with their obligation.

European Parliament calls for phasing out animal testing. The Parliament adopted a [resolution](#) titled "Plans and actions to accelerate a transition to innovation without the use of animals in research, regulatory testing and education". The resolution acknowledges that past use of animal-based research has contributed significantly to advances in the treatment of many human health conditions and played a role in animal health, and that non-animal methods are not yet available across all scientific research areas. However, it calls for an EU action plan with ambitious and achievable objectives and timelines to this end. In particular, the Parliament calls on the Commission to set reduction goals in consultation with relevant agencies, in particular ECHA and EFSA, through a more proactive implementation of the current regulations on the safety of chemicals and other products, and to support the reduction goals by using a fully connected and interoperable EU chemical safety database. It recalls that Article 13 of REACH tasks the Commission with updating the requirements for test methods as soon as non-animal methods become available.

European Commission plans an environmental implementation review. The Commission published the [road map](#) for the 2022 Environmental Implementation Review (EIR). The Commission carries out the EIR every two years in collaboration with member states and other stakeholders. It aims to address the causes of implementation gaps in EU environmental law and policy. The road map recalls a [study](#) that the economic costs associated with the failure to implement EU environmental norms were around €55 billion a year in 2018, including costs related to legal procedures against member states (infringement cases). The 2022 EIR will consist of 27 country reports (Staff Working Documents) on the progress by each EU member state in complying with the main environmental obligations. It will also include a communication presenting the Commission's recommendations and conclusions. Stakeholders may provide comments on the road map until 18 October 2021. The Commission plans to finalise the EIR in Q3 2022.

European Commission presents examples for greening the competition policy. The Commission issued a [policy brief](#) on how EU competition rules can complement environmental and climate policies more effectively. The policy brief provides examples of concrete policy reform across all areas of competition law antitrust, merger control and state aid. The Commission wants to assess sustainability benefits in cooperation agreements and clarify whether and how these benefits can outweigh the restrictive effect on competition. The consideration of environmental benefits as efficiencies will exempt the agreement from competition rules, although each agreement needs to be assessed individually. In this context, the Commission is revising its rules on horizontal agreements between companies, and will [consult](#) on them until 5 October 2021. Currently, the Commission does not have a mandate to intervene in mergers solely because they are likely to harm the environment. The policy brief proposes strengthening enforcement concerning possible harm to innovation, including green "killer acquisitions", i.e. when a company with a strong market position that does not pursue environment-friendly strategies acquires an undertaking active in green innovation, which is usually a smaller player.



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