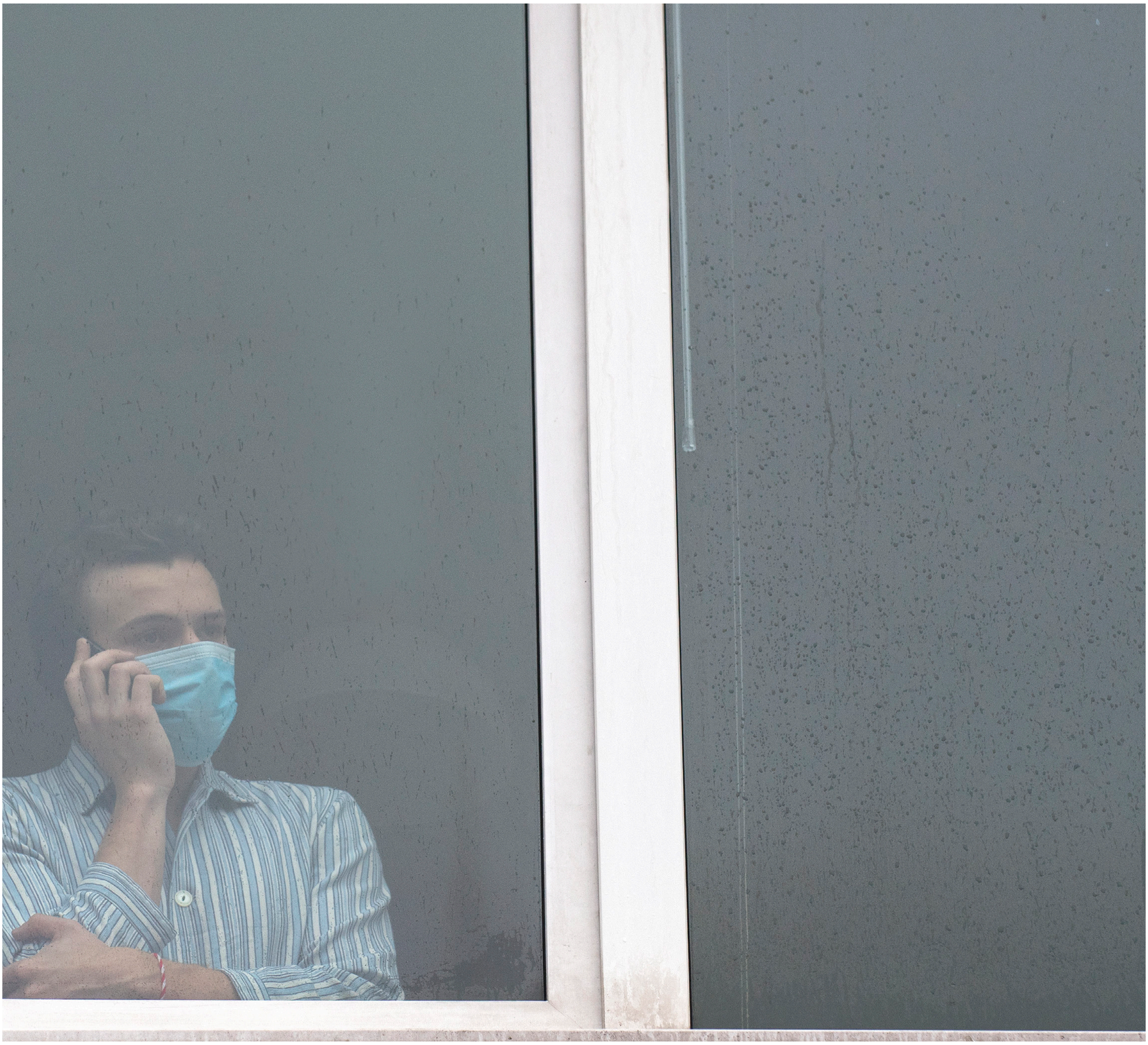
Today's Agenda

The coronavirus, markets and public policy: challenges and impacts

14 April 2020

At a time when confinement—strict, and soon perhaps even stricter—is still the order of the day in most countries, it is certainly premature to start drawing lessons and conclusions from the current coronavirus crisis. However, governments, companies, organisations and individuals are already having to change behaviours and take decisions in response to the pandemic that will have immediate but also longer-term effects. It is therefore worth anticipating some of the possible trends in public policy and in markets. This article concentrates on the trends in Europe.



Immediate challenges and impacts

As far as the coronavirus itself is concerned, most governments have concentrated on slowing the spread of the virus and relieving pressure on already stretched resources in the health sector. The main tools to achieve this are social distancing and confinement. At the same time, their attempts to prevent infection and provide more resources to the health sector have often been frustrated by a shortage of hospital beds and health workers, as well as by the lack of protective equipment such as masks, medical devices such as ventilators, and materials for tests. These shortages are due in part to a lack of preparedness for a pandemic at a national level, with insufficient strategic stocks of equipment, as well as overreliance on supplies from other countries.

So far, the immediate economic impacts of social distancing and confinement have been addressed through substantial packages of aid—in the form of income support to individual workers and liquidity support to companies—on the assumption that normal activity will resume after the crisis and that as few jobs as possible will be lost. This has obliged governments to increase public borrowing beyond normally acceptable limits. Increased public spending has also been accompanied by a general easing of monetary policies by central banks.

Given the necessary increase in public support to firms, the European Commission has already announced that state aid rules will be applied more flexibly, whether in relation to compensation for exceptional damages caused by COVID-19, to rescue and restructuring of individual firms, or to helping firms to meet short-term liquidity needs.[1] The Commission has already given rapid approval to some emergency national aid schemes in Croatia, Denmark, Estonia, France, Germany, Greece, Italy, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Poland, Spain, Sweden and the UK.[2]

At the same time, the Commission, all EU national competition authorities, and the UK Competition and Markets Authority have recognised that some cooperation may be necessary between competitors in strategic sectors such as health, pharmaceuticals, agribusiness and retail distribution, in order to ensure that essential products and services are provided to everyone during the crisis period.[3] In light of the impact of the crisis on the real economy, competition authorities are also likely to be mindful of the need for some degree of information exchange and cooperation between firms in banking, insurance and financial services.

As far as merger activity is concerned, the immediate impacts of the crisis largely depend on the extent to which private firms view some advantage in postponing or bringing forward mergers or acquisitions. In general, the increased level of uncertainty caused by the disruption to the economy may discourage a large number of transactions. But the currently low market value of stocks may encourage the acquisition of smaller innovative start-ups, for example in the pharmaceutical or digital communication sectors, which stand to gain from the situation created by the virus. The transactions concerned could be so-called 'killer acquisitions' if the acquiring firms had an interest in foreclosing competition from new competitors. Alternatively, they could simply reflect further defensive concentration among existing competitors, including stronger players buying up failing firms. In both cases, competition authorities need to be vigilant.

It is inevitable too that competition authorities will have to deal with requests for not applying, postponing or changing remedies agreed as part of merger authorisation decisions if current market conditions make it impossible to implement them. A good example of this is divestments where it is no longer possible to find a buyer. Oxera Partner Maurice de Valois Turk examines in more detail the specific COVID-19-related issues around remedies in a recent piece.[4]

Interim challenges

Assuming that social distancing and confinement lead to a flattening of the curve of new infections, governments will subsequently be under pressure to lift restrictions—on the one hand because of the ongoing and increasing disruption to the economy, and on the other because confinement measures will become intolerable to people and increasingly difficult to enforce.

Until a COVID-19 vaccine becomes available, the key challenge will be to restart the economy while minimising the risk of further spread or resurgence of the virus. Social distancing is likely to remain a key requirement, as well as the preference for teleworking. Although increased testing of the population could allow some people to return to the workplace, it is difficult to see how 'normal' pre-crisis activity can resume soon without detonating further propagation of the virus.

This means that one cannot expect a return to a fully functioning economy until vaccination is available…unless of course firms and ordinary people change the way markets work and those start to grow.

Longer-term changes in public policy

Hopefully, public policies, together with changing market dynamics, may result in a successful relaunch of the economy, either before or after the availability of a vaccine.

But there are already indications that governments will seek to change existing policies in order to avoid another crisis of this sort.

In the first place, acceptance of confinement measures has generally been based on the public's confidence in well-established national institutions, as well as scientific advice. Supranational institutions, such as the EU, and multilateral institutions, such as the UN and the World Health Organization, have an important role to play but it has to be underpinned by the solid relations between people and the governments they elect directly. Perhaps in the USA, more value is attached to state, rather than federal, administration, but in Europe, the role of national governments is critical. For the EU, this does not mean 'less Europe'. In fact the EU's member states could react more effectively in some areas by acting together, whether in terms of preventive or curative measures. Common procurement measures and R&D are a useful area for further European cooperation. But what is done by Europe as a whole must be part and parcel of the reassurance provided by national governments to their populations in the face of any threat.

Second, few European governments are going to accept in the future that their response to a health crisis should be impeded by global supply chains. They will insist that local—or, at least within the EU, European—firms produce strategically important products and that strategic stocks of these products be maintained. This will mean developing local procurement and financing it through higher public expenditure and higher taxes. Under these circumstances, governments will be looking not just to increase taxes generally but also to concentrate tax increases on firms and individuals who make substantial earnings in Europe but pay very little in tax. Global digital companies must be aware of this.

At the same time, European governments will be concerned to prevent control of key assets in the health sector from falling under foreign control without appropriate safeguards. We can therefore expect the health sector, alongside energy and digital infrastructures, to be categorised as 'strategic national assets'. The current debate about changes to the EU Merger Regulation, as well as that over the strengthening of the existing EU framework for monitoring of foreign direct investment, will be heavily influenced by this.

Market responses to the crisis

1. In the short term

Partly in reaction to public policy measures, firms and individuals are changing their strategies and behaviours in response to the crisis.

In the short term, markets are reacting rationally: prices of goods and services in short supply are rising, providing incentives to suppliers to produce more and to new competitors to enter the markets concerned. We are hearing of many examples of new entry and supply-side substitution—for example, brewing to production of hand sanitisers, and Formula 1 cars to ventilators.

Services offering interactive teleworking (Skype, FaceTime, WhatsApp, Starleaf, Webex, Teams, Zoom and others) and entertainment streaming services (Netflix and many others…) are growing exponentially. Companies specialising in tracking of individual behaviour are now being mobilised by governments, raising questions again about the value of data privacy, but this time with different stakeholders. Firms specialising in deliveries and services to the home (such as Amazon, Deliveroo and Uber Eats) are currently benefiting from social distancing and confinement. And, importantly, relatively unknown digital services and apps (such as Houseparty) have boomed overnight and come up as credible competitors to established names such as WhatsApp, illustrating the fast-moving and dynamic nature of digital markets and providing future case studies for how competition can work among platforms.

People who were content to do all their shopping at a large supermarket are now happy to go to a local supplier (of vegetables, for example) where there is no need to queue because of social distancing and more guarantee of quality. This trend could possibly reduce the buyer power of the large supermarket chains, particularly vis-à-vis farmers and smaller suppliers, not just in the short term but also in the longer run as consumers develop their 'new-found' way of living.

The public policy requirement that illnesses should in general be treated at home rather than in a doctor's surgery or at a hospital is encouraging the development of markets for online therapeutics, self-testing, self-care, online prescriptions and delivery of medicines to the home. One could also argue that the advantages of collective care for older people in rest homes, in part in common living areas, is now undermined by the need for social distancing. Recent examples of large rest homes which have been affected by coronavirus may persuade families to find other solutions for the care of elderly relatives.

More generally, the use of cash has become a concern because of its potential to transmit infection. Cashless, card and online payment services are becoming the preferred method of payment, to the benefit of those firms operating these systems.

Finally, public transport systems cannot for the moment guarantee effective standards of social distancing and are therefore regarded as vulnerable to propagation of the coronavirus. This has placed a premium on the use of cars, whether privately owned or shared.

2. In the longer term

As explained earlier, social distancing and confinement will remain important for the period until a COVID-19 vaccination is available. But there is some reason to believe that the short-term market reactions to the crisis, which have been enumerated earlier, will be part of longer-term trends.

First, even if a COVID-19 vaccination is available soon, there is no guarantee that other viruses will not create similar pandemics.

Second, some of the trends towards online shopping and the focus on deliveries to and activities in the home were already fairly well established before the current crisis. They can only be accentuated by it. Antitrust enforcement needs to be fully aware of situations where dominant companies can abuse their power or foreclose competition in these sectors.

Third, there are economic sectors where it is still uncertain as to whether they can resume a pre-crisis level of activity in the medium to long term. This particularly applies to those sectors involving travel and/or close social interaction. People will necessarily be more wary of visiting a country where the policies towards pandemics are different from those of their own country. Firms and ordinary people alike are getting used to online communication, and it is generally less costly. Holidaymaking in groups, camps and activity centres, and cruises may look less attractive to many people compared with the security of travelling by car to a holiday destination.

The sectors on the front line here include air and sea transport, holidays and cafes. At this stage, one can only speculate about the degree to which firms in these areas will be faced with major challenges. They may be affected by restructuring, downsizing, nationalisations and bankruptcies. Merger policy and state aid control will have to deal with the impact of these changes on competitive conditions and on the ultimate benefits or detriment to consumers.

Conclusion

For the moment, no one has a reliable crystal ball to predict all the effects of the present crisis. Much depends on scientific advice. Much depends on the action taken by individual countries, whether individually or in cooperation with each other. It is also crucial that ordinary people have confidence in the measures taken by their governments. At the same time, firms and individuals may react constructively to the challenges and, by changing existing and developing new markets, may produce better results for the economy and for society than we could normally expect.

1 See Oxera (2020), 'A practical guide to the state aid rules to tackle the impact of COVID-19. April, https://bit.ly/2V8W584.

2 For further details, see European Commission (2020), 'Coronavirus Outbreak – list of Member State Measures approved under Article 107(2)(b) TFEU and under the Temporary State Aid Framework', 7 April, https://bit.ly/2K2SwJU.

3 For example, see guidance from European Competition Network (2020), 'Antitrust rules and coronavirus', last updated 30 March, https://bit.ly/2V6AKvK; and Competition and Markets Authority (2020), 'CMA approach to business cooperation in response to Coronavirus (COVID-19)', 25 March, https://bit.ly/3aa70CD.

4 Oxera (2020), 'COVID-19: a 'material adverse change' for merger remedies?', April.