



EUROPEAN COMMISSION

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Competition policy in a larger EU

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

Lithuanian Presidency's European Competition Day

Vilnius, 3 October 2013

President Grybauskaitė,
Chairman Keserauskas,
Ladies and Gentlemen:

I am very happy to speak at this European Competition Day in Vilnius during Lithuania's first Presidency semester of the European Union.

Our fellow European citizens expect that during the next months we will be able to take important decisions, starting with securing financial stability and creating better conditions for growth in Europe.

Until the end of the year Lithuania is in the driving seat.

The program of the Lithuanian Presidency and the agenda of the EU institutions go in the right direction. I hope you will overcome the obstacles and reach a great success.

This will be the best way to open a more optimistic period for our economies, after five years of crisis and high unemployment levels.

You can count on the Commission to fully support you in this endeavour.

The Presidency crowns two extraordinary decades for your country and for many others in Central and Eastern Europe.

They follow the long years in which you lived under dictatorships until you became independent from the Soviet Union, put an end to communist systems and moved to democracy.

With your accession to the EU, you have also embraced the rules that have been governing competition policy since the Treaty of Rome.

In the meantime, the enforcement of those rules has been adapted to the new economic environment.

Both for the newcomers and for the older members, extending the system that keeps the Single Market a level playing field from 15 to 28 countries has been quite a challenge.

Managing all the legal, technical and political aspects of this challenge must not have been easy, but – in retrospect – we are looking at a resounding success.

Let us see briefly how we got there.

First, let me recall in a few words what was EU competition policy like two decades ago, in the years after the fall of the Berlin wall.

As I've just said, the basic rules were the same as today. But the enforcement system was totally different.

We had a strongly centralised system that encouraged companies to bring their cases to the European Commission.

With very few exceptions, the role of national authorities was very limited and only in the mid-80's a number of EU countries started to enforce national competition laws largely inspired by EU law.

Almost at the same time, Central and Eastern Europe started to move towards democracy and a market economy.

After decades of dictatorship and central planning, and in parallel with the transition towards a parliamentary democracy and the rule of law, reforms were launched to ensure the efficient functioning of markets and to put in place independent authorities to enforce the new regulatory frameworks.

In 1990, competition authorities were established in Poland and Slovakia. In 1991, they were set up in the Czech Republic, Hungary and Latvia. Lithuania's first competition authority started in 1992 and Estonia followed the next year.

Let us now jump to 2004, which is a landmark year also for competition policy in Europe. On the same day as ten new countries joined the EU, a new enforcement system for EU antitrust law took effect.

The new system empowered national competition authorities to apply the competition rules that fall under articles 101 and 102 of the Treaty. And the European Competition Network was established to ensure proper coordination and consistency across Member States.

I want to stress this last point. It is important to note that the national authorities of all the members of the Union – old and new – began to work together under the modernised system and in the ECN as of day one of the enlargement from 15 to 25.

Thanks to the efforts made during the accession negotiations, in May 2004 the authorities of the new Member States were already weathered enforcers and came prepared.

The enlargement also meant extending EU State aid control to ten new Member States. Again, this too was a sea change.

Madam President,

Ladies and Gentlemen:

I know first-hand that the road that takes a country into the Union is not an easy ride. I was part of Spain's government when my country concluded the accession negotiations and joined the EU in 1986.

Almost thirty years have passed, but I still remember how difficult it was to convince the existing members of the club to take into account the reasons of the candidates and to change the legal and institutional framework to comply with the new rules.

This is why I have nothing but admiration for the negotiators and for the huge adaptation efforts required to integrate the whole *acquis*.

In the case of competition policy, one requirement was that competition-law enforcement had already started in earnest before accession day.

It must have been difficult, here in Vilnius and in the other capitals, but the steps towards a full integration into the Single Market always pay off – and the record of the national competition authorities since 2004 is there to prove it.

After ten years, the enforcement record of all the competition authorities in the European Competition Network is quite impressive.

Since 2004, the European Commission has taken more than a hundred antitrust decisions while the national competition authorities have adopted almost 700.

We have been able to combine this decentralised activity with a consistent outcome. Practically all national authorities give priority to the fight against cartels, which I think we all regard as the most harmful anti-competitive practice.

Another important area – both for the Commission and for the NCAs – has been keeping markets competitive in liberalised sectors such as energy, telecoms, transport, and the post – where we often deal with abuses by old monopolists.

National authorities across the EU are also active in the media, services and the food and retail sectors.

At this point, I would like to devote a few words to our hosts today, the Lithuanian Competition Council.

Since May 2004, the Council has consulted us on 15 envisaged decisions. This is a high number of actions in proportion to the size of the Lithuanian economy.

One action that grabbed my attention is last year's travel-agency case; a cartel in which the companies had used an e-platform to coordinate their practices illegally.

I point out this case because it shows that all the members of our network – in Brussels and elsewhere – need to go after companies that try to find new ways to cheat on free and fair competition.

Indeed, we are working hard to modernise and update our investigation tools, to maintain and – whenever possible – increase our efficiency.

This example also shows how important it is that competition authorities are independent, well-funded, and well-staffed; because this is what they need to remain at least as innovative as some companies are in their shenanigans.

I would like to insist on this last point.

I urge all EU governments to give their competition authorities the resources, the legal powers, and the independence they need to go after anti-competitive practices and their perpetrators.

In the end, NCA's have been established to enforce laws that parliaments and governments discussed and supported. It would be paradoxical if they were not given the means to fulfil their statutory functions to the best of their ability.

In recent years, the Commission has closely monitored reforms to the competition regimes in Greece, Ireland, Portugal, Belgium, UK, Spain, Romania and other EU countries.

In addition, some competition authorities have been hit by the measures that many EU governments have made to consolidate their budgets.

Challenges arise in different parts of Europe, regardless of when the respective countries joined the EU, and these are a source of concern.

The achievements I have illustrated earlier do not grow on trees. They are the result of our constant efforts to improve our practice. Competition policy and enforcement need to evolve at all times to stay ahead of the curve.

Precisely because creating the best conditions for competition and innovation is a necessary condition for Europe to emerge from the crisis, this is the time to give competition agencies what they need to be effective.

And this implies, among other things, giving competition authorities the means to recruit and retain qualified staff and the ability to work together with their peers within the European Competition Network.

Just as importantly, competition authorities need to be independent. They must be free from any external influence either from the companies they supervise or from the state.

I know that I'm calling on EU governments to spend taxpayers' money in times of tight budget constraints; but we're talking about relatively small investments that can generate huge returns for consumers and the economy.

Our work puts us in direct contact with market realities. We know first-hand what Europe needs to nurture the first signs of recovery. And this is – first of all – an integrated, efficient, and competitive Single Market.

We are ideally placed to tell governments not to fall into the trap of protectionism; not to look back at the wrong-headed ‘picking-winners’ industrial policies of the last century.

Keeping national competition authorities in top form is one of the crucial decisions they should take to boost the performance of our economy in the interest of consumers and of everyone living in the EU.

The European Commission and DG Competition are doing their best to prove these points with their deeds.

Like the national authorities, we have also looked into the newly liberalised sectors whenever dominant incumbents made it difficult for competitors to enter the market and compete on fair conditions.

For instance, in the energy sector, we have had to keep old monopolists in check in Belgium, Germany, France and Italy.

In Central and Eastern Europe, we have also recently accepted a set of commitments offered by ČEZ, the Czech electricity incumbent, involving the divestiture of a significant generation capacity in order to allow a new player to enter the market.

Other on-going investigations for suspected abuse of a dominant position involve Bulgarian Energy Holding and the company managing Romania’s electricity exchange, OPCOM.

Still in the energy sector, we are looking at the business practices of Gazprom, which we suspect of abuses in the supply of upstream gas in Central and Eastern Europe. Since we opened the formal probe one year ago, we have been investigating very actively.

We are dealing with the complaint by Lithuania, which was filed after our preliminary probe had started, but the geographic scope of our investigation is wider, encompassing the other Baltic states, Poland, the Czech Republic, Slovakia, Hungary and Bulgaria.

Any company active within our Single Market, irrespective of where it is based, must play by the rules. We suspect that Gazprom has been hindering the free flow of gas across Member States and the diversification of sources of supply. We also suspect that it has imposed unfair prices on its customers.

It would be premature to anticipate when the next steps might be taken, but we have now moved to the phase of preparing a statement of objections.

As to the telecom markets – which is still largely divided along national borders – we can look at a similar picture.

An example is the 2011 Telekom Polska case, where we found that this former monopolist had tried to prevent or at least delay the entry of competitors into Poland’s broadband market.

Also, last year the Commission sent a Statement of Objections to Slovak Telekom. Our concern was that the company may have refused competitors access to its local loops and wholesale services, and may have imposed unfair wholesale prices on alternative operators.

Again, the situation is not limited to Central and Eastern Europe; in fact, we’ve taken decisions involving old telecom incumbents also in Germany and Spain.

Finally, before I conclude, I would like to mention a current policy development in antitrust enforcement – the legislation on antitrust private damages actions that the European Commission proposed last June.

When the draft is approved, the citizens and businesses that have suffered from illegal anti-competitive practices will have more tools to seek redress in national courts. The interaction between public and private enforcement of EU law will also be clearer and smoother.

At present, the draft is being discussed by the European Parliament and the Council. I want to take this opportunity to thank the Lithuanian Presidency for the priority it has given to this important piece of legislation. Under its guidance, the Council's Competition Working Group is making significant progress. I am therefore hopeful that the EU legislators will adopt the law in Spring next year.

Ladies and Gentlemen:

The picture that emerges from this quick review of competition policy in the enlarged Union is quite encouraging.

The reform of 2004 that radically changed the enforcement of EU antitrust law is producing results. Together, the Commission and the NCAs form a much stronger team across the EU to protect European consumers and citizens against the companies that decide to break the law and weaken competition.

We actually play as a team because we follow the same core principles.

We all share the view that competition policy is about creating the best possible conditions for consumers, investors and innovative entrepreneurs in the internal market.

We also agree that our work has rarely been more important than today, as Europe is pulling out of a long recession.

I encourage everyone to keep up the good work. We must all pursue our shared goals with determination and defend the integrity of the Single Market in every part of the EU.

Finally, let me express again my gratitude to the Lithuanian Competition Council for hosting us in Vilnius today.

Thank you.