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**European Competition Policy in a
changing world and globalised
economy: fundamentals, new
objectives and challenges ahead**

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

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Competition Law"

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Ladies and Gentlemen,

It's good to come together today to celebrate fifty years of European competition law. I'd like to welcome you to Brussels, and to thank our friends in the Global Competition Law Centre of the College of Europe for taking the initiative.

1. The fundamentals: a system ensuring that competition in the internal market is not distorted

Fifty years ago, a group of wise men (and they were all men!) joined together in a unique and inspired project. The Treaty of Rome has brought Europe peace, economic and social prosperity and stability, based on common values and principles.

At the heart of this project was a vision for a Single Market in Europe. Fortunately, the founding fathers had the foresight to know that without a sound competition policy, that vision would remain no more than a pipe-dream. So right from the start, our successive Treaties have set a clear objective: ensuring that competition in the internal market is not distorted.

Fifty years on, this shared objective retains all its pertinence. We are still striving to keep markets open and competition undistorted. We do so out of the same sense of conviction that drove the Treaty-makers in the Fifties: competition is the key means to increase consumer welfare, to ensure an efficient allocation of resources, to keep market players on their toes.

Competition benefits European citizens as consumers: greater choice, better products and services and lower prices are certainly among the key achievements of the internal market. But even more importantly, competition is the main driver for competitiveness. Open competition – tough competition even – is essential for a dynamic market. This drives European companies on to do better – to keep adapting, innovating and winning.

The long-term sustainability of economic growth and jobs in Europe depends on healthy companies competing vigorously. And, as the renewed Lisbon strategy shows, this is the basis on which Europe and its Member States can safeguard public interests that markets alone are unlikely to deliver: social cohesion, high-quality public services, security, environmental protection.

Over the past fifty years, European competition policy has used a range of tools that work to get the best deal for Europe's consumers and underpin a sustainable European economy in an ever-changing world. Antitrust and cartel policy have been directed against the most serious distortions of competition. Merger control has prevented significant impediments to effective competition. Liberalisation measures have challenged unjustified exclusive or special rights. And state aid control has prevented illegal state support and a damaging subsidy race among Member States.

2. A changed environment: challenges for competition policy

The fundamentals of competition policy have not changed in fifty years – which shows just how right the 'Founding Fathers' were. But the environment in which this policy operates has seen some radical changes.

2.1. Changes in the environment

First, the global market place has become a reality. European companies and consumers are part of a truly global economy. Anti-competitive practices increasingly have a world-wide scale. New trading partners have emerged and become credible competitors. Competition between Europe and other world regions to attract Foreign Direct Investment has become stronger.

Secondly, the internal market itself is becoming more and more integrated. The proportion of cross-border (as opposed to domestic) mergers is growing. However, this process is far from complete: trade between US states is still two to three times higher than trade between EU Member States.

Thirdly, markets are becoming more complex. The internal market is characterised less and less by standard goods produced with large economies of scale. It is much more about tailored products and diverse, individualised services, such as telecommunications.

These changes bring great opportunities – new and expanding markets and new niches for innovation – environmentally-friendly products for example - at home and abroad. And global growth is not a zero sum game. But fully exploiting these opportunities means embracing change. And that is more often easier said than done.

2.2. Challenges from the changes in the environment

So let's be honest and open about the challenges globalisation brings.

It's a fact that today's world gets ever more complex. Effective intervention requires an ever deeper knowledge of how markets function and a better understanding of the underlying economics. A sounder economics base will also bring a more consistent approach across the different instruments in competition policy. And the more complex markets and anti-competitive activity become, the more closely competition policy must interact in a coherent and mutually-supportive way with its sister policies – energy, transport, telecoms, the internal market, trade policy, even civil justice.

It's also a fact that our new, complex world and the changes it imposes can generate fear. That is quite natural. Politicians have a duty to accompany people and companies through change. It is not good politics to play King Canute and try to hold back the tide. Yet that is exactly what we are seeing when some European governments try to advocate "matching aid" to prop up failing companies, or when they put unjustified obstacles in the way of cross-border mergers. I'm not at all convinced their protectionist sandcastles will fare any better than Canute did with the oncoming tide. Wouldn't it make more sense to give people the tools they need to build seagoing crafts and ride the waves?

3. The response of competition policy

Competition policy is no alien to change either. It too needs to adapt and face up to new challenges. The leadership and hard work of many people in this room has ensured that competition policy has remained up to the job through the past half century. So what are we doing to achieve as much for the decade to come? Let me give you a few examples.

3.1. Fight against cartels

I'll start with cartels. Ask me what I'd most like to give the European Union as a present to mark its fiftieth birthday, and I'll give you a clear answer. I'd like to be able to say that we have not discovered a single cartel this year in Europe. Sadly, that is not the case.

In the past 5 years the Commission has taken some 35 cartel decisions, and imposed more than 6,3 billion euros of fines. We have found illegal behaviour in markets ranging from beer to elevators, road bitumen to industrial thread. In each and every case, customers have paid higher prices and the economy at large has picked up the bill.

That is why it remains so important to let companies engaging in illegal behaviour know what future they face – by proactively fighting cartels where we find them. Our leniency policy is also essential, because it puts cartelists in a constant dilemma which undermines the trust on which secret agreements are built. Our revised Leniency Programme gives interested companies more certainty about what they can expect and what is required. And the ECN Model Leniency Programme is an important step to convergence in national approaches to leniency.

We are now looking carefully at other possible means to increase the effectiveness of our cartel policy. One option is a form of direct settlements. Companies that accept to admit their responsibility in a cartel infringement could, under certain conditions, benefit from a shorter procedure and reduced fines – and thereby save some of their reputation... I hope to tell you more about our reflections on this later this year.

3.2. State aids

My second example is the flagship policy of this mandate: the State Aid Action Plan launched in 2005 is the first ever comprehensive reform of state aid policy in fifty years of Community law. We are using refined economic analysis to see how less aid can be used better, to help Member States target aid where it can add most value to support the Lisbon growth and jobs agenda and thereby get real value for taxpayers' money. And we are redesigning our rules to make them simple, transparent, user-friendly, coherent and predictable.

Halfway through delivering on the Action Plan, I am pleased to report very good progress. We have adopted new Regional Aid Guidelines, Risk Capital Guidelines, a Framework for R&D&I, rules on compensation for essential public services, and a revised 'de minimis' Regulation.

But there is plenty of work still ahead! We have just put forward a first draft General Block Exemption Regulation. This will simplify, rationalise, consolidate and expand the possibilities for Member States to grant less distorting aids without having to first notify them to the Commission. Of course, block exemptions already exist for some aid to SMEs, employment, training and regional investments. But the new regulation should cover additional categories, such as aid for research and development, environmental aid or risk capital aid. Consolidating these measures in one instrument will mean more simplicity and predictability, and less bureaucracy in state aid decision making – all of which means better regulation.

Another key project for this year is the renewal of the Environmental Aid Guidelines. Through applying a similar approach to that used for R&D&I, we want to deliver the right balance between allowing support for genuinely environmental measures and minimising distortions and negative spill-overs. This approach is of course coherent with the wider work of the Union to address the challenges of energy and climate change.

As you see, we are serious about updating the substance of our policy. But just as important is the work we do to make sure Member States comply with our state aid rules. The past months have seen a very positive trend in reducing the amounts of aid to be recovered: at the end of 2006, there were 60 pending recovery decisions, compared to 75 the year before, and some 83% of the total amount of aid to be recovered since 2000 had effectively been recovered. We plan to build on this success through a notice on the execution of recovery decisions, to clarify the roles and duties of the Commission and Member States as regards immediate and effective recovery.

We are also reflecting more generally on procedures. In modifying the implementing Regulation, we hope to ease the cumbersome procedure for modifying notification forms, and maintain consistency between reference and recovery rates. In elaborating Best Practices Guidelines, we hope to speed up procedures overall. But let's not fool ourselves: we will always only be as fast as the quality, completeness and timeliness of Member State notifications allow. We are working hard to get this message across – to ensure, here again, that not just the 'what' of our policy, but also the 'how', is up to the job in today's world.

3.3. Merger control

One further area where we cannot afford to lag behind is merger control. We had over 360 mergers in 2006 and 2007 looks as though it will beat even that record. The proportion of cross-border (as opposed to domestic) mergers has grown considerably.

This merger tsunami is a good sign. It shows that the market itself is adapting to change, and that European companies are adapting to global competition. Healthy restructuring is taking place in many sectors, from energy to banking, from air transport to telecommunications. These processes – provided that they have been shown to have no negative effect on competition – must be allowed to run their course without undue political interference. In most cases this happens. In the rare cases where it does not – and you know the examples I have in mind - we will continue to be firm in challenging illegal national measures, using both Article 21 of the Merger Regulation and the internal market rules of the Treaty.

Faced with more and more cross-border merger activity, we are looking at how to further improve our legal framework. Work is ongoing on guidelines on vertical and conglomerate mergers, a consolidated jurisdictional notice and a new merger remedies notice. As for the question of consistency in the treatment of merger cases with a cross-border impact (especially in liberalised sectors), the recent consultation with Member States on revising the two-thirds rule has been most useful. We will continue reflecting on possible reforms going forward – but I for one still tend to consider the two-thirds rule as somewhat outdated.

3.4. An approach which is adapted to the complexities of today's markets

Let me return to what I said earlier on the complexity of today's world. In a world of global interdependence and interlinked networks, policy-making needs to be equally joined up. The mutual interaction of - for example - single market, consumer protection and trade policies with competition policy has never been more important. All serve the same basic objective: to make markets function better to the benefit of European consumers and Europe's competitiveness.

So we should use the full range of policy tools available to intervene – but only where markets are not functioning properly. Sector inquiries and market monitoring are two relatively recent tools which allow us to identify remaining barriers to free competition – be they the result of business practices, regulation or state subsidy. These tools are not of course miracle solutions – and we should be realistic about their scope and purpose. But they have proved useful in several ways: paving the way for competition cases, shaping sector-specific legislation, and embedding competition principles and market knowledge in wider European policy-making.

But it's not enough to be joined up within our European borders. Increasing globalisation also means more multi-jurisdictional mergers, anti-competitive conduct and even state subsidisation across borders. This is why international cooperation has become vitally important for all modern competition authorities. Europe must continue to be a leading light in this work, both in terms of day-to-day enforcement cooperation and of substantive policy convergence through bilateral and multilateral agreements.

4. Conclusion and outlook

Ladies and gentlemen,

There is no doubt that competition policy and enforcement is as important today as it was fifty years ago. But like everything else in life, if it is to remain relevant and effective, it must change to reflect the realities of the day. I hope I have given you an idea of some of the changes we are making to adapt EC competition policy to the 21st century. The proof of the pudding will of course be in the eating – and that will be for our successors to judge.

But let's come back to today. I started by saying how good it is to be here together to celebrate fifty years of competition policy. I chose my words carefully. Because the achievements of the last fifty years are indeed worth celebrating. And because, at the end of the day, they are the result of individuals working together for one goal.

The founding fathers set out the right vision. That vision has been made real, revived and renewed by the Competition Commissioners, European judges and others who have steered European competition policy in the past. But perhaps most important of all has been the day-to-day commitment and dedication of the generations of Community officials, lawyers, economists and academics who have devoted their careers to competition policy. Whether they are just starting out now, or are already retired, it is these individual women and men – many of whom passed through the College of Europe – who have made this project really work. So our celebration today really is a celebration of a good job – which we could only ever do together.

Thank you for your attention.