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Ladies and Gentlemen,

Let me first thank for the opportunity to address the eminent representatives of the State Aid community present here, both from the Court and from the wider legal profession. I think we all agree that State aid control is a vital field of Community action. It is also however one of the most difficult ones.

I believe we have a very strong common purpose when applying State aid rules: Our basic task is to impose the necessary discipline on state intervention in the market economy as far as it falls under Article 87(1) of the Treaty. With its interpretation the European Court of Justice and the Court of First Instance have over the last fifty years given us a very strong and solid basis for doing this. State aid can have a highly distortive effect, both directly and as it cumulates effects over time. It can easily lead to wasteful subsidy races between Member States. If there is State aid it must be targeted to the areas of common interest where it is indispensable and most needed. This is the very essence of the test which we apply under Article 87(3) and which must now be based on state-of-the-art economics. It underlies the basic orientation of the State Aid Action Plan – less and better targeted aid. It is the basis of the new set of guidelines and regulations that have been issued – or will be very soon – under the Plan.

So given this **common sense of purpose**, let me then focus on **three points**:

- enforcing state aid discipline
- the orientation of aid towards common objectives, and the use of more sophisticated economic tools in the compatibility analysis
- and how we move forward on the reform of state aid procedures. This will also allow me to comment on private enforcement in the application of state aid rules, a very topical issue at this conference.

Firstly, enforcing State Aid rules

Our efficiency in establishing State Aid discipline across all Member States rests on our ability to take determined action when the red line has been crossed. Commissioner Kroes has made it clear that she is determined to do just that. We have adopted a number of important decisions during the last six months.

Let me just mention last month's decision on the sale of Austrian Bank Burgenland where we re-iterated that the State cannot pick winners and favour national champions as this would distort the correct functioning of the market; our decision on the privatisation of Romania's Automobile Craiova, where we provide clear signposts for privatisation in the Member States and made clear that if there is a justification for regional aid then it must be in conformity with the applicable rules; last week's decision on the Hungarian Power Purchasing Agreements where the Commission has shown that it will not shy away from

taking tough decisions, particularly where the aid in question stands in the way of the effectiveness of market liberalisation, such as the energy market.

I believe we have also shown that we can tackle emergencies such as the ramifications of the subprime crisis in Europe. A solid application of the Rescue and Restructuring Guidelines has helped to deal rapidly with the rescue phases of cases such as Northern Rock and WestLB, a good example of flexibility without derogating from the basic principles. Last week we concluded the German Sachsen LB case in record time, imposing a number of divestitures as compensatory measures. And we have opened in-depth investigations on the restructuring phases in a number of cases, such as Northern Rock and German IKB.

Let me refer also to one other aspect. In line with the State Aid Action Plan, recent efforts have resulted in a marked improvement in the execution of recovery decisions, leading to an increase in the amount of incompatible aid recovered and a decrease in the backlog of pending cases. The total amount of aid to be recovered on the basis of decisions adopted between 2000 and 2007 is over €9 billion. Of this figure, some €7 billion of illegal and incompatible aid had been effectively recovered by the end of 2007 together with a further €2.4 billion of interest. This is of vital importance to underpin both the credibility of the Commission and also the Court. Those who cash in on illegal subsidies must realise that they will have to pay back with interest.

Without going further into the details of this record, let me just emphasise that we are happy to be judged on our results. This is true of all the 180 staff working in State Aid control in DG Competition from the greffe to the case managers. With the successful implementation of the recent reorganisation of the State Aid workforce in DG Competition, flexible teamwork has become the rule, with the full commitment of all. And our state aid teams now work within the new market oriented Directorates in close contact with the antitrust and merger control units, focusing on our high priority areas, such as Energy and environment, Information, Communication and Media, Financial services, Basic Industries and industrial restructuring, and Transport and Posts. This will further reinforce market knowledge as well as knowledge of competition aspects in dealing with state aid cases. Combined with our strong horizontal Directorate responsible for regional aid, R/D/I, the State aid network, and enforcement and procedural reform this gives a new strengthened base for a more market oriented enforcement of state aid rules.

Let me now turn to my second point,

the new balancing under Article 87(3) based on a more economic approach, and the orientation of aid towards the common interest of the European Union.

State Aid has always had a strong orientation towards goals of common interest - just think of the regional aid objective. To this are now added the common interest goals resulting from the Lisbon programme. Research and Development, Innovation of the economy, and environment in general, now largely the Climate Change goals.

You have heard this morning about the new environmental guidelines that entered into force on 1 April. I will not go further into this. Instead, let us look at how the retargeting of State aid has worked in practice.

The latest State Aid Scoreboard shows some important trends which we expect to be further reinforced by the new guidelines. We see for instance that aid for environmental purposes – and this includes climate change - doubled between 2001 and 2006 from 7 to 14 billion €. It is too soon to say what the impact of the new environmental aid guidelines will be – we have several decisions in the pipeline. Nevertheless, these data show that better targeting of aid is actually happening in many Member States.

We have dealt with several major innovation projects in applying the new R/D/I framework adopted in 2006. And this shows up in the Scoreboard statistics as well.

All three new generation frameworks and guidelines – **the new RAG, the R/D/I framework, and the environmental guidelines** - have been developed with more economic considerations in mind. This is expressed by the fact that in future our analysis of cases and aid schemes will generally fall into one of **three categories**: those that fall under the new GBER; those that fall under a standard assessment; and those that require a refined economic assessment and balancing under Art 87(3). We have shown with a series of recent decisions - with Neoval as a lead case - that the refined balancing of positive effects and distortive effects can work in the real world.

Let me now turn to my third point,

State aid procedures – a major construction site still in progress under the Action Plan. To some extent I believe that we will have to move into uncharted waters if we want to make this a real success.

But first let me show how far we have already managed to **cut red tape**. The Commission's objective to facilitate the granting of aid through block exemptions and focus its scrutiny on the most distortive types of aid is bearing its fruits. A few figures from the Scoreboard: in 2007, Member States were able to introduce more than 600 measures without prior notification to the Commission. This compares with less than 300 block exempted measures in 2006. In addition, Member States continue to notify State aid schemes – around 330 in 2007 alone. Schemes have an effect very similar to block exemptions: once approved by the Commission, Member States can grant aid to individual enterprises – often several hundred or even thousand enterprises – without further notification to the Commission. This greatly cuts red tape and enhances predictability. And all this simplification will be amplified by the adoption of the new General Block Exemption Regulation in July.

Let us however be frank. The State Aid Action Plan acknowledged the existence of shortcomings in the length and predictability of State aid procedures and called for actions to modernise them. We have since made efforts to improve our internal practice and increase efficiency in the State aid field. Thanks to these measures, the average length of the preliminary examination procedure for a notified case has fallen by one and a half months on

average over the last five years. The average duration is now around 5 months, and we remain within the two month binding time-limit after the notification is declared complete .

However, this positive record is not enough. We are working on a best practice package which should help us cut more red tape and make action in the State Aid field more and more efficient. We are currently consulting with the Member States on this issue. We will present this package for wider consultation at a large Commission State Aid Conference, planned for 21 November, at which Commissioner Kroes will take stock.

But let me be clear. We will need Member States help if we want to be successful. We will also need the help of national courts and the legal community at large.

This takes me to the issue of **private enforcement in State Aid control**. A quantum leap forward will only be possible if we are also able to activate this branch of enforcement – on top of our own enforcement action and that of the European Court. And this of course is why today's debate on this aspect is particularly welcome.

As you are aware, State aid enforcement by national courts is currently dealt with under the 1995 notice on cooperation with national courts. And as you also know, enforcement of cases by national courts still concerns only a small number of cases, far from the scale which we would need. We consider that the scope of this 1995 notice is not sufficiently broad and that some issues which are of central importance to potential claimants – and in particular issues such as damage claims and interim relief - are not addressed in sufficient detail. We are therefore drafting a new notice with a much broader focus on private enforcement of State aid rules. This new notice would also introduce more practical and user-friendly tools for the Commission's cooperation with national courts. And we have been encouraged by recent Court decisions – particularly the CELF judgement. I refer here to the discussions at this Conference. This field promises to become a major field of development in the autumn.

Let me stress however that the **Commission's own action will remain central**. The scoreboard shows that we have managed to deal with cases more quickly than in the past. That is a remarkable success story, given that simpler cases now tend to fall under the block exemption regulations, with the result that a larger proportion of more complex cases remain. Nevertheless, there is no reason to be complacent – we are exploring ways in which we can build and expand on the existing simplified procedures.

And we intend to prepare a Best Practice Code – which is to establish a real partnership with Member States. The Commission will continue its efforts to reduce the time required to treat cases, without trying to revise the existing procedural regulation. However, any further reduction would seem possible only if Member States also contribute to the process by improving the quality and the completeness of the information notified to the Commission.

Let me conclude

Improving State aid rules and practices is indeed a shared responsibility between the Commission and the Member States, as it is within the Commission between DG

Competition and Transport and others. The Commission will continue to discuss with Member States to see what each party can do further to improve State aid procedures and practice. The aim is to establish a set of practical rules which should allow the Commission and Member States to cooperate much more efficiently, speed up decision making further and enhance overall transparency of the process.

I have high hopes that Commissioner Kroes will be able to give you much more information on the progress made on these points at the November State aid conference that I have mentioned – so **mark on your agendas the 21st of November**.

Before I finish, let me draw your attention to one point that I would like you to keep in mind. We have here eminent participants from the European Court and from the Member States governments and courts. We will hear at this conference from Mr. Diamandouros, the European Ombudsman. And we have the wider law community attending. The contributions to this conference show the breadth of reflection needed. We will **all have to work closely together** if we want to move State Aid control forward successfully.

Thank you