

# **The importance of competition policy for the EU economy**

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The EU is currently going through a period of acute economic crisis. The sovereign debt crisis is destabilising the Euro-area and threatening the functioning of the monetary union, which has serious implications for economic growth in the EU and beyond. The immediate urgency today lies in the macro-economic sphere, and more in particular in finding an effective solution for the sovereign debt crisis in Europe.

Fortunately this is not the topic of today's discussion and I praise myself lucky that I do not have to come up with a solution for this complex problem right now.

Still, most observers would probably agree that one of the factors underlying the current crisis is the under-performance of the EU economy on international markets. This is due to a large extent to the reduced competitiveness of EU companies.

The European Commission has recognised this in its economic strategy paper, which it adopted in 2010 last year, its so-called 'Europe 2020 strategy'. This document sets out the Commission's ideas for achieving a new period of economic dynamism in Europe. The central objective of the 2020 strategy is to put the EU economy back on track towards "smart, sustainable and inclusive growth", namely:

- growth that is based on knowledge and innovation;
- growth that is sustainable in that it is resource efficient, low-carbon and environmentally friendly and finally
- growth that is inclusive in that care is taken to ensure that the fruits of economic growth are fairly distributed between different social groups of society and between different regions of the EU.

For most of you who are well-versed with the Chinese 12<sup>th</sup> Five Year Plan, these themes will sound very familiar...

A critical element in the Europe 2020 strategy is to improve the functioning of the internal market. An open and undistorted internal

market is seen is a driver for improving the competitiveness of EU companies. This is where EU competition policy has an important contribution to make.

As Mario Monti, a former Competition Commissioner remarked, the main objective of competition policy is to prevent and remove distortions of competition resulting from the actions of private companies or public authorities, thus enabling the markets to function more effectively. A regulatory framework that upholds effective competition increases the competitiveness of European industry. It induces firms to enhance their efficiency. Competition reduces price differentials and avoids waste of resources. A competitive business environment provides incentives to companies to innovate, which is the main source of productivity growth. Vigorous competition in "home markets" also prepares companies for competition on international markets. In addition, competition also brings benefits to consumers, in terms of lower prices, better quality and more choice, which is the ultimate goal of EU competition policy<sup>1</sup>.

As the guardian of competition in the European internal market, EU competition policy should therefore play a critical role in the implementation of the Commission's new economic strategy.

The question we need to ask ourselves is whether EU competition policy has the tools it needs to live up to this important responsibility?

I believe that it has. The Treaty has indeed given the European Commission a very comprehensive toolbox to tackle distortions of competition and trade in the internal market, irrespective whether these distortions are caused by anti-competitive actions of private or public companies or by government interventions.

As competition authorities in most other jurisdictions, the Commission has strong powers to control mergers and to combat cartels and

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<sup>1</sup> Mario Monti, Contribution of competition policy to competitiveness of the European economy , Speech at the Institute of European Affairs, Dublin, 2003

abuses of a dominant position. However, the Commission has also two other powerful instruments that are normally not found in the toolbox of competition authorities, namely provisions to control state aids (or government subsidies) and provisions to allow the Commission to address national regulatory obstacles to competition<sup>2</sup>.

That the Commission was given extensive powers to tackle not only private, but also public anti-competitive practices is due to the task it has been given when the EU was created in the 1950's to protect the integrity of the internal market. At the time, the so-called "common market" was still far from "common", but a market that was deeply segmented market, in which competition and trade were distorted by heavy regulation and by interventions of the governments of the six founding nation states.

This concern to protect the fragile economic integration process of the six original member countries had one more consequence. It convinced the signatories of the Treaty that it would be safer to transfer the responsibility for the enforcement of the EU's competition policy to a supra-national authority, the European Commission. As a supra-national body, the Commission was insulated from the influence of national governments, and of vested industrial interests at national level, all too often large State owned enterprises or national champions with close ties to national governments.

Over the past fifty years, the European Commission has used these powerful instruments to drive competition forward, to break down barriers between national markets and to keep competition in the internal market open and undistorted. As such it has contributed very significantly to European integration, to economic growth and consumer welfare.

In what follows, I will illustrate how the Commission has used each of

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<sup>2</sup> R. Anderson and A. Heimler, "What has Competition done for Europe?", *Aussenwirtschaft*, 2007, Issue 4

these instruments – its regulatory powers and its antitrust and State aid enforcement powers – to strengthen competition in the telecom sector.

In the late 1980s, the European telecoms sector was characterised by legal monopolies, and therefore by an absolute lack of competition, in almost all Member States. This resulted in high prices for telephony services, lack of consumer choice and very often in an appallingly poor service quality throughout Europe.

Competition in the telecom sector was introduced first through a legislative initiative. In 1988, the EU adopted a first directive on the basis of competition provisions in the Treaty forcing Member States to open the market for terminal equipment to competition. This initiative was resisted by a number of Member States who challenged the directive before the European Court of Justice. Fortunately, the Court ruled in favour of the Commission's initiative.

From then onwards liberalisation in the telecom sector accelerated. In the next years, the Commission issued a number of directives liberalising value added services and data transmission and, in 1994, the Member States finally agreed on a full liberalisation of the telecom sector by 1998. Since then, the Commission adopted further directives essentially to force reluctant member states to facilitate new entries in the national telecommunications markets and to enhance possibilities for customers to switch between operators without extra costs.

We see thus how the Commission has used its legislative powers to push for liberalisation and increased competition in the telecom sector.

However, liberalisation in itself did not solve all competition problems in the sector. At least two important problems remained.

A first problem was (and still is) the continued dominance of incumbent operators, often former State owned telecom monopolists that were privatized in the course of the initial liberalization process in the late

1980's and early 1990's.

Indeed, in spite of the fact that the liberalization process started more than 20 years ago, most telecom markets in the EU are still national and within many of these national markets incumbents continue to remain dominant, especially in the more traditional area of fixed telephony, as well as in the broadband internet access market.

In some cases, these dominant operators have been found to abuse their position. This was for example the case in Germany with Deutsche Telecom, in Spain with Telefonica and more recently in Poland with Telekomunikacja Polska. In each of these cases, the Commission did not hesitate to use its traditional antitrust enforcement powers under Article 102 of the Treaty to challenge the abusive practices of the incumbents and to impose very significant fines on each of them.

A second problem was that the private telecom markets were not always able to deliver the outcomes expected by society at large. For example, the Commission considered that it was essential that all EU citizens and companies had access to high-speed broadband networks. The roll-out of these networks across the entire territory of the EU required huge investments. Whilst these investments were profitable in densely populated regions, profitability in rural, less populated regions was far less certain. As a result, there was a risk that the digital divide between urban and rural regions would increase, if the roll-out of broadband infrastructure were left entirely to market forces.

To overcome this failure of the market, the Commission adopted specific guidelines setting out the conditions under which Member States would be allowed to provide public subsidies for investment in high-speed broadband infrastructure in those regions where such investments would not be commercially viable without public support. At the same time, the guidelines imposed clear conditions to limit the distortive effects of these subsidies as much as possible (for example

by imposing that contracts for the development of the infrastructure were to be awarded on the basis of open tenders and that the owners were to provide open access to other users of the infrastructure at a fair and reasonable price).

It is widely recognised that Commission's strategy to use the full range of competition policy instruments it has at its disposal in the telecom sector has had a very positive impact on the development of this sector in the EU. Most observers agree that the Commission active and comprehensive approach has increased competition in the sector significantly. In turn, this has led to an unprecedented acceleration of the rate of technical and market innovation and to huge gains for EU consumers. They have benefited from a sharp drop in prices, an enormous widening of choice and a very considerable improvement in the quality of telecom services provided.

As I mentioned earlier, this very positive outcome was due to a large extent by the fact that the Commission was able to deploy the full range of instruments at its disposal. However, the availability of a comprehensive set of good instruments was perhaps a necessary, but certainly not a sufficient condition for success in this case.

In my view there was one other critical factor explaining this success story: namely the strong position of the European Commission as a independent supra-national authority. This enabled the Commission to keep its distance from "vested interests" in the sector. In the initial phases, these vested interests were the State-owned telecom monopolists; later on, they were the dominant incumbents in national markets with close ties to national governments and regulators. The Commission's independent position allowed it to overcome resistance to change from these vested interests and to pursue the wider interests of EU citizens in a determined and non-discriminatory manner.

The approach adopted by the Commission in the telecom sector has been very instructive. It demonstrated the value of an integrated

market liberalisation strategy that draws on the full set of competition policy instruments available to tackle structural competition problems in a complex sector.

In recent years, the Commission has applied the same integrated approach to a number of other sectors. In almost all cases, the sectors in question were selected because they were of strategic importance to the EU economy and because the Commission had indications that the markets concerned were not functioning properly.

An early example was the airlines sector, in which market liberalisation backed up by strict enforcement of merger and State aid rules has been hugely beneficial for EU consumers, but ultimately also for the EU airline sector itself. Other important sectors in which the Commission adopted a comprehensive strategy to improve competition are the energy sector, retail banking, business insurance and most recently the pharmaceutical sector.

Summing up.

Through the example of the telecom sector, I have tried to explain that the contribution EU competition policy to economic development and growth is not just through the enforcement of antitrust and merger rules.

Our experience has taught us that there are many instances in which competition problems are so deeply rooted that a mere enforcement of antitrust rules targeting the anti-competitive behaviour of individual firms would not be sufficient to ensure vigorous competition to the benefit of consumers. At the same time, experience also taught us that it is sometimes necessary to back up regulatory reform with strict enforcement actions to prevent incumbents from privatising the benefits brought by liberalisation.

In other words, what is needed is an integrated approach based on a thorough understanding of the markets concerned and of the obstacles to hindering competition in that particular market.



This is something most competition agencies around the world would probably agree with. And this is also why many agencies invest heavily competition advocacy activities: Providing non-binding opinions to legislators and sector regulators to convince them of the need to adopt pro-competitive solutions to make markets function properly.

In the EU, we are quite fortunate in this respect. We are fortunate because the Treaty gave the Commission a full set of powerful tools to push for pro-competitive solutions, and more in particular the power to take regulatory initiatives that are binding on Member States, the power to back up its regulatory measures with enforcement actions in the antitrust, merger and state aid fields.

As one of the most influential members of the college of Commissioners, the Competition Commissioner sits at the table where the decisions on all EU legislative initiatives and enforcement actions are taken. And as we have seen in the telecom example, this has enabled him to force through the opening of the telecom sector to full competition.

As I mentioned, the Commission has in the past used its full range of competition policy powers to strengthen competition in a fully integrated European market. It is felt that this has produced huge benefits for European consumers. But not only for European consumers, but in the end also European companies themselves.

Exposure of EU companies to more vigorous competition within the internal market, and a strict enforcement of antitrust, mergers and State aid rules has a positive impact on companies in the EU because it forces them to become more productive and more innovative, in other words to become more competitive on world markets.

It is easy to see the link with the Commission's 2020 strategy: it is clear that the EU will not be able to achieve higher growth rates unless the competitive position of its companies on world markets is improved. It is obvious therefore that EU competition policy could

make a very important, even critical contribution to a successful implementation of the Commission's 2020 strategy.

This would be the “base-line scenario”. A scenario in which the EU would continue to pursue a strategy based on openness and free competition, both within the internal market and with the rest of the world. This is a base-line scenario, because so far the Commission is firmly convinced that the EU has benefited greatly from the liberalisation of world trade.

However, it is important to keep in mind that there is a small, but vocal group of people in the EU, who take a less positive view of the EU's current free trade stance. They argue that the EU's current economic problems are the result of unfair trading practices of our main trading partners who take unfair advantage of the openness of the EU economy. They would for example argue that the EU's strict and non-discriminatory enforcement of its competition rules, including its State aid rules is not matched by a similarly strict and non-discriminatory approach in countries such as China. They would contrast foreign ownership restrictions in China with the openness of the investment regime in the EU.

According to these critics, the only way to remedy the situation is to reciprocate. For example by introducing industrial policy considerations when applying EU merger and state aid rules, or by adopting a more restrictive approach towards Chinese investment into Europe.

The Commission has so far successfully resisted pressures to adopt a more protectionist stance. However, at a time of deep economic and financial upheaval, we have to remain alert and should not take it for granted that the public will continue to support our view that it is in our best interest to maintain our markets open, no matter what.

This is why I believe that it is essential for China and the EU to engage with each other in a constructive and open dialogue on these issues, with a view to improve transparency and mutual understanding. In

recent years our dialogue in the area of mergers has blossomed and has become mutually very enriching. We could build on this success and extend our dialogue further to other areas.

One such area would be the application of competition law to State owned enterprises. As the telecom example shows, the EU has extensive experience in this area and we would be more than happy to share this experience with our Chinese counterparts.

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