



EUROPEAN COMMISSION

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Joining forces for a global level playing field

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

ICN Forum

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Competition

Ladies and Gentlemen:

I would like to thank Margarida Matos Rosa for hosting this forum and its co-chairs Klaus Tilmes, Janet McDavid and Paul Lugard for taking the initiative to join forces. I understand it's the first time the World Bank, the IBA and the ICC organise the Pre-ICN Forum this way. I am honoured and happy to be with you on this occasion.

If you allow me to start on a personal note, it is always good for me to return to Portugal, which is where I lived with my family as a young boy for several years. One of the memories I have from that time is Port wine – but not for the reasons you're thinking of. Port wine, in fact, sparked my interest in economics. It all started when I read about early trade between Portugal and England, later reprised by David Ricardo in the classic example he used to explain his theory of comparative advantage.

Beyond the personal note, I'm also happy for the opportunity to contribute to the debate that will prepare the three-day ICN Annual Conference. The fact that our yearly gatherings now take the best part of a working week is a sign of the growing importance of fair and open competition on a global scale. And the fact that they attract interest beyond the traditional competition circles is an even more obvious sign of this. Yet another sign is the continued growth of the ICN. When it was born back in 2001 it covered only 14 jurisdictions. Today, it counts over 130 members.

In a sense, this is a logical evolution in the age of globalisation and one I could touch first-hand a year ago when I flew to Singapore for the 15th Annual Meeting, which remains one of the high points of my 20-month old tenure as Director General of DG Competition. But we cannot take any of this for granted. More than ever, we have to nurture a deeper understanding of competition and continue to reflect about its implications.

And, in this inquiry, I am always happy when – in addition to my frequent exchanges with fellow enforcers, practitioners and experts – I can address audiences beyond the core competition community. I know that many of you will agree that we should make an extra effort to share our principles, practices and goals with wider circles and in particular with citizens, whose interests we all ultimately serve. So, I am looking forward to today's presentations and debates that will explore the significance of fair, level and open markets for global business, trade and development.

Looking at today's programme I can see we have a lot to share and learn from each other. Almost every session reminded me of challenges, initiatives and issues that we see regularly at DG Competition these days.

Right after my presentation, we will talk about the benefits of competition for global markets and the digital economy will be one of the points

suggested for debate. We have been studying the e-commerce sector in depth and the final report with our findings is imminent. We have also kept a close eye on the challenges to keep digital markets fair, level and contestable. For instance, we are looking at the place of big data in our investigations, especially our review of proposed mergers and acquisitions.

The next two sessions will explore enforcement in high-tech markets and new investigative tools. This reminded me of our focus on the algorithms that companies increasingly employ to make sense of large amounts of data. And, on a more practical level, of the application we have recently introduced which allows whistleblowers to establish a two-way communication channel with our staff in full anonymity.

The following topic will be compliance, which is a long-standing priority for us. We have always strived to give abundant and consistent guidance to help companies stay on the right side of the law – because prevention is better than cure.

Finally, embedding the competition angle in public-policy priorities is precisely one of the goals that Commissioner Vestager gave to DG Competition since the Juncker Commission took office. Our work on cases must remain totally focussed on the merits of each case, independent and neutral. But enforcing EU competition law can do a great deal to support the broader priorities of the European Commission, from the creation of the Digital Single Market to the Energy Union.

Fair and open markets for global business, development cooperation, and competition agencies

Now I would like to broaden the horizon a little and look at the reasons why fair and open markets are a natural meeting place for the communities of interest that this forum brings together; entrepreneurs with a genuine international outlook, organisations devoted to international development cooperation, and the legal, economic and enforcement community.

I would like to devote a few minutes to argue that uneven market conditions, protectionist policies and barriers to international trade push the different objectives that our respective organisations pursue farther into the future.

Business was first to see the opportunities of international trade. Let me give you a local example. Shortly after Vasco de Gama opened a sea route to India we find the first written record of Casa da Índia in 1501. To acknowledge the whole story, the Casa and its predecessors were not adopting a business model we could accept today. This ancient

international business centre was in charge of monitoring the royal monopoly on trade with Asia and Africa. Of course, international trade at the time was not a matter for regulators, enforcers and dispute settlement mechanisms. It was rather the business of admirals, armadas and privateers.

Luckily, we consigned the habits of that age to history.

Today, responsible international businesses know that the value chains that span the globe can work to the benefit of all and be sustainable only thanks to commonly agreed and peacefully enforced rules. It goes without saying that we still have conflicting interests, so we don't always agree. But when we disagree, we can rely on international rules, institutions and procedures to settle our differences. These common rules include those that make sure that no economic player has an unfair advantage over its rivals wherever it does business in the world. Obviously, the flip side of the coin is that – wherever these rules exist – responsible businesses must respect them.

The European Union has embraced these orientations.

I am speaking to you on Europe Day; the day when we celebrate the speech French foreign minister Robert Schuman gave on May 9, 1950 to propose the creation of a European Community for Coal and Steel. It was only five years after the end of World War II. The countries that signed the Treaties of Rome 60 years ago – and those that have subscribed to them to this day – have understood that everyone is better off when we give ourselves common rules and supra-national institutions.

Again, it is not coincidental that the original Treaties of Rome included competition rules. And it is not coincidental that the implementation of these rules is the responsibility of the European Commission, often in concert with national competition authorities in all EU countries. Over time, this has built mutual trust economic peace and prosperity between nations that had been at war for centuries.

Turning to the organisations devoted to development cooperation, they know well that open economies and liberalised trade can contribute a great deal to poverty reduction and overall human and social development. After all, what is today the World Bank Group also had its origin in the willingness to overcome the devastations of World War II.

The opportunities that are created in an economy that opens up to the world should find their way to all the sectors of the population, especially those that most need them. It is a fact that open economies and trade have lifted millions out of poverty in the past few decades. And features like good governance, good education and trusted institutions should – indeed, must – be added to the equation.

I hope that a sustained drive towards collaborative global policies, carefully adjusted to the needs and specific conditions of local environments, will continue to do so in the decades to come. In this respect, particular attention must be paid to those who are affected and afflicted by structural changes in national, regional and world economies. Structural conservatism is not an option. But we cannot assume that the gains of modernisation and globalisation will simply trickle down to all. Proactive efforts are needed to make sure that change is inclusive.

I believe that competition policy and enforcement are part and parcel of this global drive. The ultimate goal of the dialogue among competition authorities – of which the ICN is the main multilateral forum – is the creation of a level playing field. The twin objectives are protecting responsible and law-abiding companies from rogue rivals wherever they do business and defending the economic interests of the people wherever they live in the world.

It is in this perspective that we have established sustained and fruitful relationships with the International Chamber of Commerce – the world's largest business organisation – and the International Bar Association – the world-wide voice of the legal profession. Both are precious interlocutors for our work.

Cooperation and convergence

This helps us address one of our main challenges.

As world markets continue to integrate and more and more companies rely on global value chains, competition agencies need to agree common standards and procedures more than ever before. We should be aware that enforcing our respective competition rules depends to a growing extent on co-operation with other enforcers. When the business practices of a company or group of companies harm competition in different countries and continents we can restore fair and level market conditions in their respective jurisdictions only if they play as a team.

We should also play as a team when large multinational corporations decide to join forces and seek the green light from a number of competition authorities. We continue to see many cases like these in our practice. For instance, between 2010 and 2015 we cooperated with non-EU authority in over half of all decisions taken. The flip-side of the coin is that large mergers today need to be reviewed in many jurisdictions. Take two recent large deals in the agro-chemical sector. The Dow/Dupont

transaction was notified to 24 jurisdictions and the deal between Syngenta and ChemChina in 19.¹

One can see that mergers feature prominently in today's programme – and for a reason. Evidence from research and from our practice points to growing concentration concerns in several sectors.

In cases like these, the competition authorities involved must coordinate their interventions. Take a typical investigation into an alleged cartel requiring inspections of premises in different jurisdictions. It is vital that we can inform each other of our respective investigations and that we can launch our inspections in a coordinated fashion.

Or take our reviews of proposed mergers and acquisitions. In case of global deals such as those I mentioned a minute ago, we should avoid taking our decisions weeks or months apart. The ICN Merger Working Group is looking into the timing of proceedings in merger cases. DG Competition will continue to share its experience and give its full support.

Beyond coordinating our action on the ground, in the global age we should also make sure that the rules we enforce are not incompatible in the different jurisdictions. Likewise, our different enforcement priorities and legal and economic views in different parts of the world should also be consistent to a certain degree. This is not easy, because we all come from different starting points and frameworks – for which we have the outmost respect as a matter of principle.

I believe that the ICN has been a success for over 15 years now also because of this. Not a single authority – large or small – has sought to impose its ways on the others. But even without a common underlying legal framework, there is a great deal of progress we can make. I think we should continue to use a pragmatic principle.

Working together to make our rules and policies more consistent – what we often call 'convergence' – doesn't mean 'do as I do' nor is it a goal in itself. Convergence is a means to minimise the risk of conflicting outcomes. One notable example is the Recommended Practices on Predation that the ICN adopted three years ago. Another is the series of recommendations the OECD has sent to governments asking them to

¹ Dow/Dupont's 24 notifications: Argentina, Australia, Brazil, Canada, Chile, China, Colombia, COMESA, Egypt, the EU, India, Indonesia, Japan, Kenya, Mexico, New Zealand, Russia, South Africa, South Korea, Ukraine, Serbia, Taiwan, Turkey, and the United States,.

Syngenta/ChemChina's 19 notifications: Australia, Brazil, Canada, China, the EU, India, Mexico, South Africa, Ukraine, Serbia, Russia, Pakistan, South Korea, Macedonia, Israel, Turkey, Japan, Kenya and the United States.

promote international co-operation among competition authorities since the 1960s. The latest call for competition agencies to exchange confidential information and give each other investigative assistance.

DG Competition and international cooperation

The European Commission and DG Competition have traditionally been at the forefront of international cooperation, both on the multilateral and bilateral levels. Back in 2001, we were among the 14 founding members of the ICN. Since then, we have been active with all international fora devoted to competition; including the OECD, UNCTAD, the WTO, and the World Bank GROUP.

As to bilateral cooperation, the oldest formal agreement is with the US agencies, which is over two decades old. In the course of the years, dedicated agreements have been signed with the agencies of Canada, Switzerland, Japan, and Korea. We also have Memorandums of Understanding with the Russian Federation, India, Brazil – since last year – with South Africa. And the work is continuing. We are reinforcing ties with Canada and Japan; establishing cooperation channels as part of free trade agreements with the agencies of Armenia, Mexico and Indonesia; opening new channels with the Philippine authority; and re-opening our dialogue with Mercosur. In our own neighbourhood, we are – for example – working with the Ukrainian authority. I gave you this brief list also to show that we care about cooperation not only between established agencies, but also with new and emerging ones.

Let me also mention our dialogue with the Chinese government which was formally established in 2004 and produced a first Memorandums of Understanding five years ago. Our exchanges have recently become more intense in the areas of merger review and government intervention in the economy, also as regards subsidies and state owned enterprises. These are matters of priority for Commissioner Vestager and her colleagues at the European Commission.

As enforcers, we must be aware of the political and economic context in which we operate, but when it comes to individual cases, we should only look at the facts of the case, our laws, and past jurisprudence. This is essential. We must set the highest legal standards for ourselves if we are serious about enforcing the law. Our authority may be given by law, but it is only thanks to our practice that we can win the respect of entrepreneurs, consumers and our colleagues in sister agencies.

Close

Competition enforcers face new challenges and a special responsibility in the age of globalisation. As I said, we must continue to cooperate as we study and investigate our cases and to work together to set global standards for our action. Here the work of the ICN and its working groups deserves special praise.

I also notice the growing inclusion of chapters devoted to competition in bilateral and free-trade agreements. This is a welcome trend which I hope will continue into the future. Crucially, we must give new impetus to our work in the context of multilateral trade negotiations.

I will conclude with our responsibilities. The liberalisation of trade and open economies have improved living conditions and prospects for countless fellow human beings. At the same time, this historic change has created – almost inevitably – a widespread sense of uncertainty. In some circles, 'globalisation' has become a term of abuse.

It would be a real shame if the political and opinion leaders who ride this wave of discontent managed to dismantle the structures devoted to international dialogue that we have patiently built over the years. The world-wide community of competition enforcers is ideally positioned to confound the proponents of protectionism and the opponents of open and fair markets.

In the end, we are here to protect the interests of the many against the wrongdoings of the few. We can show to the people that fair and open markets can be managed well; that there are public authorities that do just that; and that the human and material resources that are released when the playing field is level can improve the lives of us all.

Thank you.