



**EUROPEAN COMMISSION**

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## **Competition and Consumers**

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

EEA 25 years conference  
**Brussels, 14 June 2019**

Dear President Hreinsson,  
Dear President Angell-Hansen,  
Excellencies,  
Distinguished Guests;

25 years ago, the EEA Agreement entered into force.

25 years ago, we were in a very different Europe. You will remember that, at the time, the very recent Maastricht Treaty signed by the then twelve Member States had, among many other things, just coined a new term, we still had to get used to: the "European Union".

Under EU competition law, things were also different. The Commission still received a plethora of notifications of certain agreements and the EU merger control regulation was only few years old – an infant, so to say. The EEA Agreement was not just "yet another international agreement". When the EEA Agreement entered into force, it created an enlarged, joint area where common rules, including competition law, applied. Over the past 25 years, these rules have made sure that consumers could profit from products and services at affordable prices and from cutting-edge innovation. The objective has been to protect the 500 million consumers in the EEA from harm.

To achieve this, the EEA competition rules prohibit anticompetitive agreements between undertakings and abuses of dominant positions. These rules also allow to block mergers that significantly impede effective competition and to ensure that the EEA EFTA states comply with State aid rules when they grant aid to undertakings.

The EEA Agreement also created its own bodies. As you can see, today's event is hosted by the EFTA Court and the EFTA Surveillance Authority ("ESA"). The ESA monitors the three EEA EFTA states in the application of the EEA Agreement and has wide investigative powers in enforcing the EEA competition rules against undertakings in cases concerning the EFTA states party to the Agreement. The EFTA Court fulfils its judicial function, interpreting the Agreement accordingly. For example, in 2010 the ESA sanctioned Posten Norge A/S for taking advantage of its dominant position through exclusivity agreements with important retail chains in the over-the-counter parcel delivery market in Norway. The decision was appealed before the EFTA Court, which essentially upheld ESA's decision. The following year, the ESA imposed a fine of €18.8 million on Color Line for having secured exclusive usage right to the harbour of Strömstad in Sweden preventing competitors from establishing themselves on a busy ferry route between Norway and Sweden. That decision remained unchallenged.

The ESA also controls State aid granted by Norway, Iceland and Liechtenstein. The Commission, too, regularly enforces the EEA competition rules. As far as antitrust is concerned, it is competent notably when a case with EEA dimension also affects trade between EU Member States. Just this March, the Commission imposed a fine of €1.49 billion on Google in its decision on AdSense for the EEA. Google had put in place restrictive clauses in its contracts, which, for example,

prohibited internet publishers from placing any search adverts from Google's competitors on their search results. This denied other companies the possibility to compete on the merits and to innovate – and deprived EEA consumers of the benefits of such competition. This case is currently under appeal.

The Commission is also competent to review mergers according to the EEA Agreement, when they meet certain turnover thresholds. For example, in the case Energizer/Spectrum Brands of December 2018, it raised, among others, competition concerns towards the merging parties regarding the impact of that merger on the markets for household batteries, specialty batteries and hearing aid batteries in Norway. As a result, it received remedies from the merging parties, solving these competition concerns in Norway.

When it comes to State aid granted by EU Member States, according to the EEA Agreement, it is for the Commission to control that State aid. The ESA and the Commission need to cooperate closely when running such cases. This is necessary, as the EEA Agreement formulates it, to develop and maintain "a uniform surveillance throughout the [EEA] in the field of competition" and to promote "a homogeneous application". Thus, the EEA competition rules are enforced within a dense web of information exchange, contacts and communication as well as mutual support.

Indeed, there are comprehensive provisions of cooperation between the ESA and the Commission in dedicated Protocols. They allow, for example, to exchange information, including confidential information, and to request help from each other with investigative measures such as inspections.

Moreover, I can also report about my very personal experience with the meetings of the Heads of the competition authorities of the EU Member States, with which we form the European Competition Network, to which the peers of the EEA EFTA competition authorities and the ESA participate as well. These meetings prove to be very fruitful to have close policy discussions. They take place twice a year.

In our close working relationship, it also happens that we host colleagues from the ESA at the Commission. The debates on these occasions have been most fruitful and inspiring. I clearly remember our exchanges with President Angell-Hansen and her colleagues for the forward-looking spirit in which we discussed. Let me maybe seize the occasion to underline at this point that, over the years, our cooperation under the EEA Agreement has indeed proven to be excellent. The EEA Agreement has been actively contributing to the development of a modern converging competition culture within Europe, with shared values. This culture has also had positive spill over effects.

I like to believe that the fact that we have been united under the EEA Agreement for 25 years has helped us in the wider, international context beyond Europe. In the OECD when we discuss competition matters, or in the International Competition Network, where the more than 130 competition authorities from around the world meet, the competition authorities of the EEA and its

representatives can always build on a joint experience and common competition culture. To me, this seems an invaluable asset in such fora and – as I deeply believe – an inspiration to others.

In an ever more globalised economy, the EEA Agreement and its competition rules will be of increasing importance in the future. More and more cases are likely to have an international dimension. Our close cooperation will help tackling them to the benefit of consumers in the EEA.

I wish and hope that the past 25 years will be an inspiration for the next 25 years. These years will see new and different challenges. But if all actors show the same open, constructive and effective spirit as they have done so far, nobody needs to be afraid of what is to come.

Let me close with a very personal word of congratulations and thanks to the people who have worked at and for the ESA and the EFTA Court over all these years and who will continue to do so. Your commitment and devotion is remarkable. And for us, in the European Commission, working with you has been a privilege and a pleasure.

Long may it continue!