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**European Competition Policy –
Delivering Better Markets and Better
Choices**

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Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

European Consumer and Competition Day

London, 15 September 2005

Ladies and Gentlemen,

As you know, the twice-yearly Competition Day was first launched five years ago in Lisbon. This first Competition and Consumer Day is a welcome opportunity to underline once more that competitiveness and competition go hand and hand. Both work for the benefit of the European citizens - most, well, in fact, every one of whom are also consumers in one way or another.

Competition policy and the Lisbon agenda

And this is where I again come back to Lisbon. Five years ago, the European Union set itself some ambitious targets. Within ten years we were to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable growth with more and better jobs and greater social cohesion.

Five years on, and Europe is still a rather long way off this goal. We have been slow to embrace the changes needed, and our economic health today looks little better than it did in 2000.

Change is hard and people need support to get through it. That is why the renewed Lisbon Strategy agreed earlier this year puts emphasis on delivery through partnership – a partnership of governments, business leaders, non-governmental groups, employee representatives and other social partners – together with individual consumers.

Our citizens expect – and rightly so – to see real and positive results in exchange for the often difficult process of economic and structural change. They want to see the profits of improved market operation being passed on for the good of individuals and society in general. That can be through generating the funds needed to guarantee a high standard of social cohesion and welfare. It can also be through giving individuals a good quality of life and better, more desirable, products and services at lower prices.

Competition policy serves one goal – to make sure that markets can operate as efficiently as possible to deliver these outcomes for our citizens. We want to help create a virtuous circle of economic growth and social welfare, in which the benefits are passed on within societies. I would like to take this opportunity today to describe how the European Commission is meeting these objectives in practice.

Consumer welfare as a standard in anti-trust work

Consumer welfare is now well established as the standard the Commission applies when assessing mergers and infringements of the Treaty rules on cartels and monopolies. Our aim is simple: to protect competition in the market as a means of enhancing consumer welfare and ensuring an efficient allocation of resources. An effects-based approach, grounded in solid economics, ensures that citizens enjoy the benefits of a competitive, dynamic market economy. And of course our anti-cartel work is clearly focussed on preventing unfair profits being creamed off markets at additional and direct cost to consumers. Today, however, I would like to focus on the new – proactive – tools of competition policy which are at the heart of our contribution to a better economy and a better deal for consumers.

Sector enquiries

All markets which perform poorly have significant negative effects on both consumers and business. This is however all the more true in markets which provide key inputs to a wide range of other commercial activities. Two such strategic industries are energy and financial services. But collective experience, backed up by a flow of consumer complaints suggests that these markets are not yet operating as effectively as they could. That is why in June the Commission launched pro-active investigations into these two sectors. These sector enquiries will not deliver quick fixes to every issue. Some findings may indeed lead to immediate enforcement action. But most of our work will contribute to a medium and longer term strategy to help us decide where our competition policy should be focused to deliver structural improvement in the EU economy.

In working on these investigations, the Commission is committed to liaising closely with market participants and Member State authorities. I am particularly mindful of two things. First, our work should draw on and be complementary to that of the National Competition Authorities. The market investigations carried out here in the United Kingdom on SME banking and payment systems are examples of what can be achieved through sectoral enquiries. Second, our work should fully involve industry. We are trying to limit the burden of requests for information, for instance by contacting representative samples of market actors. And we will consult openly: all stakeholders will have the opportunity to comment before the Commission comes to definite conclusions

Financial services enquiry

A modern, competitive and integrated European financial services industry is strongly linked to the Lisbon goals. Efficient financial markets reduce the cost of capital and are thus an important driver of growth throughout the economy.

Our work is complementary to the Commission's parallel initiatives to remove regulatory barriers within the Single Market for financial services, on which my colleague Charlie McCreevy leads. The Financial Services Action Plan has delivered a host of legislative measures for better integrated financial markets. We must now build on that success through new priorities. I would like to highlight three.

First, we need to move on from regulation towards more competition in financial markets. We must address all barriers to the Single Market – whether they are due to government intervention or the behaviour of individual companies.

Second, barriers to competition may well come from over-regulation. We need less red tape and more freedom for market forces. Financial markets must be carefully regulated to protect our savings and prevent systemic risks. But there is scope for better targeted, better quality government regulation to free up market forces.

Third, we need to address the concerns of consumers. The Commission has so far mainly looked into wholesale and capital markets, which are crucial for market liquidity and performance. But we know from consumer associations and individual complaints that many are not happy with the financial products they get, with the prices and fees they pay, and with the choice they have between banks and insurers.

Priorities for the financial services sector inquiry

The financial services sector inquiry will focus on three selected areas: payments, retail banking and business insurance.

Payment system networks bring both efficiencies and market power. Whoever sets up a payment network needs to get different groups of customers on board – those who make payments and those who receive money. Our objective will be to determine whether such cooperation is just about at the right level, or whether it could have effects that are not beneficial for consumers. We have received complaints, for instance from retailers against card payment networks on the grounds of excessive fees. We will seek to compare and benchmark such networks in all 25 Member States.

Insurance also raises potential problems of cooperation, although for different reasons. Insurance is not a network industry, but cooperation within the industry may still bring efficiencies – for instance by standardising complex legal policy clauses, or to cover large risks. This is why the Commission exempted certain forms of cooperation between insurers in 2003. But “structural patterns of coordination” within associations of insurers may go beyond what is good for competition. And if insurance markets do not work as well as they could, European business and especially Small and Medium Enterprises face higher premiums and higher costs.

Retail banking markets again raise different issues. Consumer concerns are our starting point here. And our enquiry may have to go beyond the classical area of antitrust law. Financial products can be quite complex and opaque and this may restrict demand-side power. In short, it is hard for consumers to get clear comparative information about products allowing them to make informed choices. The main focus of our enquiry will be whether retail financial markets deal with information asymmetries in an efficient way, or whether competition in those markets can become more effective to the benefit of consumers. And we may look at how regulation affects competition. Do public rules that may have a legitimate objective end up making markets more rigid and limit competition and consumer choice? To paraphrase Milton Friedman, we want government to protect the consumer but we also need to protect the consumer from government! We will certainly not try to second-guess such rules, but my hope is that our competition enquiry can give decision makers and regulators valuable evidence to consider.

Energy sector inquiry

Separately, we have also launched an inquiry into competition in the gas and electricity markets. The enquiry responds to concerns voiced by consumers and new market entrants about the development of wholesale markets and limited consumer choice. Gas and electricity prices are high and rising, even in Europe’s most liberal market places.

One of our aims is to increase transparency – and thus consumer confidence - about market functioning and the price formation process. We are concerned that cross-border flows seem insufficient to constrain price differences between most Member States, and integration between national markets has been slow in many regions. In addition, new market entry has been limited, and market concentration remains very high.

The final report on the energy sector enquiry is expected in 2006. If infringements of anti-trust rules are behind the apparent malfunctioning of the electricity and gas markets, we will not wait for the final report to take up cases but start them as soon as they emerge from the results of the enquiry.

I hope that this will provide an adequate response to the growing disappointment of energy users about the fruits that the liberalisation of the gas and electricity sectors energy have brought to them. The Commission has no choice other than to act decisively on these concerns.

Professional services

Another example illustrating how competition policy can improve competitiveness in the interest of the consumer is the recent Commission activity in the field of professional services. This work is perhaps best described as an informal sector enquiry. It is about obtaining better and more careful re-regulation of the sector to pave the way for greater competition. It is not about complete de-regulation.

Professional services have an important role to play in improving the competitiveness of the European economy. They are not only purchased by final consumers but they constitute also important input “products” for businesses and, thus, have substantial spill-over effects. Our research shows that more competition in this sector would be good for the EU economy, business and consumers. It would promote cost-efficiency, lower prices, better quality and new and more innovative services.

We will therefore continue to work with the Member States and the professional bodies to review existing rules, taking into consideration whether those rules are necessary and proportionate to achieve a public interest objective, and whether they are necessary for the good practice of the profession. A handful of countries are already making good progress in this direction, while in others, the reform process has yet to get started.

Private enforcement

Ladies and gentlemen, so far I have focused on enforcement and proactive work by competition authorities. However, in line with the partnership approach of the new Lisbon Agenda, we have to look at whether and how other actors – the consumers and businesses most directly affected by anti-competitive activity – can uphold their rights under competition law. Competition law can be used in diverse ways in civil disputes between private parties. The Treaty itself contains a rule of nullity of agreements prohibited by the Treaty’s rules on cartels (Article 81). Injunctive relief allows courts to forbid a behaviour infringing competition law. Damage claims can provide recovery of losses which have been suffered by victims of anti-competitive behaviour be they other businesses or consumers.

At the end of this year the Commission will present a Green Paper on damage actions for the infringement of the Treaty’s rules on cartels and abuse of monopoly power (Articles 81 and 82). It is based on a study which found that this form of private action is totally underdeveloped. The Green Paper will look at a number of obstacles to a more efficient system of damage actions for breach of EC competition law, and discuss possible solutions. Our aim is to kick off a wide public debate on this potential source of direct enforcement activity as a complement to the efforts of European and national authorities. We have no illusions. The debate will raise some tricky issues and we will leave all decisions on possible follow-up until we have properly assessed reactions.

Conclusions

Ladies and gentlemen,

Competition is a key driver for competitiveness. This European Commission will use competition policy instruments - old and new - to encourage markets to deliver their full potential, for the benefit of European consumers and the long-term sustainability of Europe's way and standard of life.

The Lisbon Strategy for growth and jobs cannot be realised by the European Commission alone. We rely on our partners: the Member States, national competition and regulatory authorities and, of course, the business community and consumers. One of the key ways in which we can demonstrate to individuals that economic reform is a worthwhile exercise, is to deliver real and timely results for them at an individual level – as consumers with ever more, and better, choices. If we want this reform process to succeed – and believe you me, this process is as urgent as it is essential – then every one of us has to rise to this challenge.

I would like to thank the Office of Fair Trading for organising this European Competition and Consumer Day. And I would like to close by adding my personal thanks to Sir John Vickers for all he has done in leading the Office over the past years. I think I can be open: you have set a model for how cooperation between European competition authorities can work at its very best. Your personal enthusiasm and commitment have been an enormous support to the European Commission, and I speak on behalf of all my colleagues in wishing you every success for the future.