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## **COMPETITION FOR CONSUMERS' BENEFIT**

EUROPEAN COMPETITION DAY

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

I wish to thank the Dutch Ministry of Economic Affairs and the Dutch Competition Authority, the Nederlandse Mededingingsautoriteit, for all their energy and enthusiasm which has gone into organising today's event.

This is the 10th Competition Day, which is a suitable number for me to conclude what has been one of the key commitments of my term as a Commissioner. It seems a long time from the first competition day in Lisbon, back in June 2000. Of course, it was in Lisbon that the EU launched the so-called 'Lisbon strategy'. Competition policy plays a key role in the realisation of that strategy and for that reason it is appropriate that the Competition Day and the Lisbon strategy should have started life in the same city. It is also appropriate that I should be giving this farewell speech at a Competition Day. The Competition Day is aimed at explaining the benefits of competition to the European citizen, and the promotion of consumer welfare has been at the heart of my mandate as Competition Commissioner. We have moved a long way from Lisbon to Amsterdam, not only from one side of Europe to another, but in terms of the developments of competition policy which have taken place during these five years. I would like to take this opportunity to look back over some of these achievements and their relevance to the lives of European consumers.

I said in my hearing before the European Parliament back in 1999, just before my term as Competition Commissioner began, that I would give "central importance to the consumer"..

I said in the same hearing before Parliament that explaining the benefits of competition policy to the citizen was a key task for the Competition Commissioner. This is not only crucial in terms of making the ultimate end users of competition policy, namely the consumers themselves, understand how and why competition helps them and improves their daily living conditions. It is also essential in the mission to bring Europe and its institutions closer to the citizen and let the citizens see what Europe does for them. I believe that competition is one of the fields in which the EU has managed to have a real positive impact on the lives of Europe's citizens.

I want to start by going back to some basic points which have underpinned all my work as Commissioner for Competition and which remind us of the importance of a fully functioning and active competition policy for consumer welfare. The competition policy pursued by the European Commission has a direct impact on the daily life of the citizens of the European Union. For example, the reduction of telephone charges, wider access to air transport and the possibility of buying a car in the EU country in which prices are lowest are tangible results produced by recent policies pursued by the Commission. I will come back to these and other examples later. Other, less visible, areas of Community competition policy also produce positive effects for the public. Merger control ensures a diversity of mass-market consumer goods and low prices for the final consumer. Likewise, by contributing to economic and social cohesion, the monitoring of State Aid helps to promote viable and durable jobs throughout the Union. When aid favours certain firms, it is liable to cause damage to competitors in other Member States, which in some cases might go as far as to jeopardise the very survival of those firms and, consequently and crucially, the jobs of their employees. Whether they be consumers, savers, users of public services, employees or taxpayers, the Union's citizens enjoy the fruits of competition policy in the various aspects of their everyday life.

Ladies and Gentlemen, I would like now to turn to some individual concrete examples of cases where the Community's competition policy has helped consumers.

Many such cases spring to mind as we look back to the last five years. Decisions like the Nintendo decision in 2002, where the Commission imposed a fine of more than €166 million on the computer game manufacturer Nintendo and its European distributors, directly affect the lives of consumers (and their children) by ensuring that they can benefit from the Single Market by having access to popular products at lower prices in other Member States. More recently, the decision of June 2003, where a fine of €2,5 million was imposed on Yamaha for restricting cross-border trade and imposing resale prices in the market for certain musical instruments, directly affects the welfare of the European citizen, particularly the more artistic of us (which, in turn, has a knock-on beneficial effect for us all!). Again, one could think of the Pokémon decision of May of this year. In this case the Commission fined the company Topps, a producer of the popular Pokémon stickers and cards, approximately €1.5 million for maintaining artificially high prices in Pokémon products by dividing the European market. This case, like the Nintendo case, shows the Commission's commitment to family welfare!

Moving from children's toys to the harsher realities of family life, the DSD decisions of 2001 are a good example of how the work of DG Competition affects the lives of consumers in more hidden but no less important ways. The DSD decisions have enabled competing undertakings to establish themselves on the market for waste collection in Germany. The new service agreements concluded as a result of the Commission decisions reduce costs for the collection and sorting of plastic packaging by more than 20%. These cost savings will be felt by end consumers. The DSD decisions demonstrate that the Commission is not only committed to take any necessary measure to create and protect competition in newly liberalised markets, such as waste management, but also that its decisions have an immediate consumer impact by providing greater supplier choice and lower prices.

In terms of individual decisions, one of the best known recent decisions is that taken on the Microsoft case in March of this year. This is a case which reaches directly to the everyday lives of European citizens, given how important computers are to all of us in the conduct of our daily affairs.

In this decision, the Commission found Microsoft's conduct to be against the interests of consumers in two ways. Firstly, Microsoft refused to disclose information necessary for competitors' server products to 'speak' to the Windows PC operating system. This meant that those competitors could not develop products compatible with Windows, a serious disadvantage given that Windows is the operating system used on 95% of PCs. If competitors are eliminated from a market not because of competition on the merits but through anticompetitive practices, this is to the clear detriment of consumers and innovation. Secondly, on the issue of Microsoft's media player software, we concluded that by tying the sale of this product to the Windows PC operating system, Microsoft sharply reduced competition and the incentive to innovate, again to the detriment of consumers. There is significant evidence that the exposure which Microsoft gave the Windows Media Player by tying it to Windows makes developers of complementary content and software rely more and more heavily on Microsoft's technology, thereby closing access to the market for alternative media players. This is achieved not through competition on the merits, where the best product or technology wins out, but simply because the product is integrated with the dominant operating system present in virtually every office and home PC.

The settlement in the Coca-Cola case, which we announced on 18 October, will bring more competition to the carbonated soft drinks market and means that consumers will have more choice in shops and cafés in terms of what carbonated soft drinks they buy. It is another example of how competition policy can intervene to ensure that well-known brands are available to consumers with the greatest degree of choice within the market. I am also pleased by the way in which the investigation has been closed, with both sides being able to reach a mutually satisfactory agreement under the commitments procedure introduced in the new antitrust regime. This is the second example of a commitments decision since the new rules came into force in May of this year, following the German Bundesliga decision in September. This shows the new modernised regime working effectively and helping to promote constructive cooperation between the Commission and undertakings to produce results which genuinely work in the interests of consumers.

Moving from soft drinks to the harder stuff, I recall also the recent decision of the Commission in the French breweries case. At the end of September this year the Commission imposed fines totalling € 2.5 million on the two then main brewery groups in France, Groupe Danone/Brasseries Kronenbourg and Heineken France. The two groups were fined for having taken part in an agreement aimed at balancing the away-from-home beer sector (hotels, restaurants and cafés) in France between the two groups. The decision shows once again the commitment of the Commission to promote competition in industries which are of direct concern to European consumers and their leisure activities.

Besides high-profile and less high-profile individual decisions, we have worked hard towards longer-term strategic improvements in the competitive conditions in Europe. These long-term projects have a fundamental impact by restructuring the regulatory framework to enable competition to take place in the first place. One example of such work is the reforms made in the car sector, which culminated with the adoption of new legislation in 2002. This work is indeed still ongoing, and I am confident that the proud prediction that we would “put the consumer in the driver’s seat”, which I made at the outset in 2000, is in the process of being realised. A recent study has shown that manufacturers could do better in terms of providing access to technical information to competing providers of repair services. This shows that there are still challenges ahead to make the reforms put in place in the motor vehicles sector effective in practice. I am delighted to see my colleagues in the Internal Market directorate general also looking seriously at promoting competition in the vehicle sector. The new proposal for increased competition in the market for visible replacement vehicle parts is an extremely promising development in this regard. This shows how competition is at the top of the Commission’s agenda and can be a source of coordinated policy across the different services of the Commission.

In terms of longer-term regulatory projects, one of the achievements of which we are most proud is the remarkable progress made in the telecoms sector. The telecommunications sector is of vital importance not only for the citizens of the EU but also for the prosperity and competitiveness of the Union as a whole. Using fixed and mobile telephones and connecting to the internet has become an integral part of our daily lives. Promoting the development of efficient, reliable and affordable telecommunications services is one of the key tools in creating a single market for goods and services and meeting the goals of the Lisbon agenda.

The telecommunications sector in the European Union was opened to competition in 1998. Progress since then has been dramatic. Consumers can now choose from a larger number of alternative service providers. A plethora of inventive new services which are more efficient

and more user-friendly are now widely available. Price decreases have been impressive. Between 1998 and 2003 residential users' telephone bills for national fixed line calls were reduced by 13% on average. The savings have been even greater for international calls, where the average cost of calls to OECD-countries fell by 41% for residential users between 1998 and 2003. It is quite clear that the consumers have benefitted hugely from this process, while at the same time our economy has become more efficient and more competitive.

Similarly, I began a review of the liberal professions, publishing a Report on this earlier this year. Liberal professions cover professions such as lawyers, notaries, architects, accountants and pharmacists, which are central to the lives of all European citizens. The Report invites the regulatory authorities in the Member States and the professional bodies to review existing rules, taking into consideration whether those rules are necessary and proportionate for the achievement of the public interest objective, and whether they are necessary for the good practice of the profession. The Report has raised the debate in various Member States and has already led some professional bodies to reconsider the existing regulation and to improve the supply of information to users. Liberalisation of these sectors may still be a long way off but I believe that the work that we have done here is a valuable first step and I hope that, building on this, further progress can be made in future.

I would like to turn now from the results of DG Competition's technical work on substance to its external relationship with consumers. Here also we have been working hard to promote consumer interests and we have put in place a series of institutional reforms designed with exactly that purpose in mind. I believe that I have met the priority of explaining the benefits of competition policy which I set out before the European Parliament. I am confident that these reforms will continue to have influence in future years.

There is of course the Competition Day. As I said earlier, the Competition Day has been a key component of our efforts of promoting the value of competition to European consumers. We have also intensified our co-operation with consumer organisations, particularly with BEUC (Bureau Européen des Unions de Consommateurs), which is the principal Europe-wide consumer association. The Commission holds regular meeting with consumer representatives on jointly selected topics and encourages consumer organisations to become more actively involved in pointing out areas which are of particular concern. It also builds in a consumer impact assessment in its evaluation of certain competition cases. We highlight these cases in the Annual Report on Competition Policy in order to draw attention to possible consumer benefits which derive from the Commission's decisions and practice.

A recently appointed Consumer Liaison Officer within DG Competition ensures that consumer interests are more systematically taken into account in our enforcement activities. He is in charge of establishing and maintaining close contacts with consumer organisations. He closely observes cases in sectors which are particularly sensitive for final consumers in order to encourage consumer groups to express their views and be heard. Furthermore, as soon as I took office we decided to publish a new consumer brochure entitled "Competition Policy in Europe and the Citizen". The first version was published in 2000. It explains how European competition policy and the work of DG Competition have a positive impact on consumer welfare, and it provides relevant examples of how that work can improve the lives of Europe's citizens. An updated version will soon be published.

I have also taken steps to guarantee greater transparency in the implementation of competition policy across the Union, both towards the interested parties and the general public. These

measures complement the initiatives taken to ensure the effective explanation of our policies to consumers, which I have just talked about. We have for instance seriously improved our record in terms of granting access to documents to third parties: out of the 262 requests for access addressed by third parties to DG Competition this year up to the end of September, only 37 have received a negative reply. In terms of transparency towards the general public, I have made a point of regularly attending meetings of the Committee on Economic and Monetary Affairs of the European Parliament. This ensures that our policies are clearly and thoroughly explained to the Parliament, which is a crucial link to the citizen. I have also taken great pains to explain the impact of and reasoning behind the decisions taken by DG Competition in individual cases, as well as our policy initiatives. To this end, we attach extensive use of press releases and of an effective communication strategy with the press. All these initiatives are further indications of the importance we have given to explaining the work of DG Competition to the consumer. Furthermore, in relation to State Aid policy, we have improved transparency so that the European public is better informed of just how much public aid is being granted and of what the Commission is doing in this area. In 2001, we launched a State Aid Register listing cases under consideration by the Commission and Commission decisions concerning State Aid. In the same year the Commission also established a Scoreboard giving information on levels of State Aid granted in all Member States. Both the Register and the Scoreboard are publicly accessible on DG Competition's website.

A successful competition policy can only work if it is administered transparently. The end users of competition policy must be aware of what the rules are and feel that they have a stake in their formulation and implementation. This is an area in which much has been achieved in recent years. We must build upon those achievements and continue to make progress.

The Commission – I am sure – will keep driving forward the agenda of promoting the interests of consumers through an active and strong competition policy in the future, building on the groundwork of recent years.

One of the achievements of the outgoing Commission was the completion, at the end of 2002, of the so-called “modernisation” reforms in the antitrust field. Modernisation decentralises competition enforcement in the Union to national authorities and courts to assist the Commission in ensuring that Community competition law is observed. It helps to bring the decision-making process closer to the consumer. Under the new regime consumers can address their grievances to national competition authorities as well as the Commission and, crucially, they can also bring antitrust actions directly in their national courts against companies which break Community competition law.

Higher levels of private enforcement of Community competition law in the form of private actions before the courts will be a powerful additional incentive for companies to comply with the EC competition rules. From the perspective of consumers, private enforcement will also bring the competition rules closer to the citizen. Consumers or the organisations which represent them should be able to claim compensation for harm suffered as a result of violations of our laws on competition. Private enforcement should thereby encourage the direct participation of consumers in the enforcement of competition law in Europe. As I said earlier, I regard competition as a field in which the EU has had a real, tangible effect on the lives of citizens. Greater numbers of private competition actions will raise awareness of the competition rules and further a culture of competition in Europe, to the benefit of European business and consumers alike.

To try to make the possibility of private enforcement of competition law more of a reality, the Commission is currently looking at the conditions under which private parties can bring actions before the courts for breach of the Community competition rules. At the end of last year I commissioned a study in this area, the final results of which were published on DG Competition's website in September of this year. The study found that private competition actions in Europe are "totally underdeveloped". On the basis of the study, work has begun in DG Competition on the drafting of a Green Paper on the encouragement of private enforcement of EC competition law. The aim of the Green Paper is to facilitate the consultation of all stakeholders and stimulate debate.

Private enforcement is part of the fundamental challenge of ensuring compliance with the law. This is of prime importance to any competition agency and will be one of the key tasks confronting DG Competition in the future. Ensuring compliance with the law means ensuring that industry and consumers alike can enjoy the full benefits of fully-functioning, efficient and innovative markets in Europe. Compliance can be achieved in many ways, both through ex post enforcement of the law as well as by raising the profile of competition law through increased advocacy of competition issues and the value of a healthy and active competition policy. Competition advocacy ensures compliance by preventing infringements in the first place.

Consumers and the organisations which represent them are key in the fight to ensure that the law is complied with. Together with the Commission and the national authorities, consumer associations have an important role to play in competition advocacy. Consumers can help to punish violations ex post by means of a complaint to a public competition agency. Given their knowledge of the day-to-day functioning of markets, in particular those in mass-market consumer goods, consumers can provide the Commission with information of interest. Such information may enable the Commission to initiate investigation proceedings. Consumers can also contribute to greater compliance by asserting their right to compensation for harm suffered as a result of an infringement before the national courts.

Ladies and gentleman, it is time to conclude this last address at the Competition Day which I started.

I am convinced that a rigorous application of competition policy is the best way of guaranteeing economic freedom. Economic freedom, within a proper regulatory framework, is a precondition for the development of a free society. Freedom of competition is thus a public freedom. It impacts not only on the economic environment but also on the organisation of society at large. It is in this way that competition policy is a 'people's' policy. These convictions have been behind my work as Competition Commissioner.

Amsterdam is an appropriate venue for this farewell speech as it knows well the Commissioner designate who is to take over from me. I began by mentioning my hearing before the Parliament at the beginning of my term. In five years time my successor will, I hope, be able to look back to the beginning of her mandate with the same feeling of deep satisfaction and reward at targets set and achieved. I have put consumer welfare at the top of the agenda of competition policy in Europe. I hope I have contributed to strengthening the foundations for a strong European competition policy which constantly promotes the interests of Europe's citizens. As I have said, there is still a lot of work to be done, since also the policy

makers need to be innovators. I am confident that my successor Neelie Kroes, with her outstanding experience and strong determination, will be perfectly up to that task.