

## **COMPETITION - A BETTER DEAL FOR CONSUMERS?**

**BY SVEN NORBERG\*\***

### **1. INTRODUCTION**

I would first like to convey to you the apologies of my Director-General Philip Lowe who was prevented from coming here and who asked me to replace him.

I would like to thank the Hellenic Competition Commission and in particular its president Dimitris Tzouganatos for the excellent organisation and programme, including hospitality, as well as for having attracted the record attendance for any Competition Day so far organised.

My task at the end of this very rich day is to try to conclude and to sum-up today's conference under the heading: Competition - a better deal for consumers? Before going into that I should perhaps mention that within DG Competition of the European Commission I am in charge of the anti-trust Directorate that is applying Articles 81 and 82 to the sectors of Consumer Goods and Capital Goods Industries. This means in practice that we deal with all branded goods except for those in the sectors where Nokia and Microsoft are active. We are thus working very closely with the consumers.

Instead of summing-up what others said and we all listened to, I will try to use the time allotted to me by giving some concrete examples from the Commission's daily work on how consumer initiatives, complaints and letters are followed-up. I will thus try to illustrate how we seek to achieve benefits for consumers by fighting cartels, price fixing arrangements and other illegal anti-competitive business practices.

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Before going into that, however, I would like to say that I entirely agree with those who said earlier today that we should aim at having an "informed consumer". However, it is not enough to be informed, you need also, as a consumer, protection against abusive and illegal behaviour of companies which only can be provided by efficient Competition law enforcement.

While talking about consumers, I would also like to underline the parallel there is from the Internal Market perspective, in particular, with the need also to protect SMEs from such abuses like price fixing or restrictions of parallel trade. Car distribution is a typical case where small dealers frequently have little or nothing to say against the pressure from strong manufacturers/importers. They, as I will show you later, also will have to rely upon the support from competition authorities.

## **2. CARTELS**

As you no doubt are aware, the Commission over the last years has intensified its fight against hard core cartels. During the last two years around three billion (3000 million) Euros in fines have been imposed upon companies participating in such cartels. I will today, by four examples, give you a flavour of what we are thus doing with the particular perspective of consumer interests in mind.

### Scandinavian airline cartel

I will start first with the airline cartel between Scandinavian Airlines System, SAS, and Maersk Air. The two companies notified a co-operation agreement that came into force the end of March 1999. The main areas of co-operation were code-sharing and frequent flyer programmes. Coinciding with the entry into force of the co-operation, Maersk, however, withdrew from the Copenhagen - Stockholm route, where it until then had been the only competitor for SAS. I may add that this is the most important

Scandinavian route with 20 flights a day in each direction. At the same time SAS had stopped flying on the Copenhagen - Venice routes where Maersk had started operations. SAS had also withdrawn from other routes leaving Maersk, its previous competitor on the route, as the only carrier. All this, which was not notified, formed part of a wider secret agreement between the parties that the Commission discovered as a result of on-site inspections in June 2000.

The market sharing agreement was qualified as very serious taking into account the nature of the infringement, its actual impact and the size of the relevant geographic market. SAS was fined around 40 million Euro and Maersk 13 million Euro in fines.

As a result of the decision, competition between SAS and Maersk, the two largest airlines operating to and from Denmark was restored to the benefit of consumers.

### Belgian breweries

In December 2001 the Commission fined Interbrew, the world's second largest brewer, the French dairy products company Danone, and its daughter company Alken-Maes plus two smaller brewers a total of 91 million Euros for participating in cartels on the Belgian beer market between 1993 and 1998. Infringements included market sharing, price fixing and information exchange. We are at present pursuing similar cartels in several other Member States.

### German banks

Also in December 2001 the Commission fined five German banks, for fixing prices for the exchange of the Euro-zone currencies, a total of 100 million Euros. Under the agreement the banks charged a commission of about 3% for the buying and selling of Euro Zone bank notes during the three year

transitional period beginning 1 January 1999 until the Euro notes would be issued. Following an investigation in 1999 the Commission established that various German banks and one Dutch bank had taken part in a meeting at which the above mentioned agreement was concluded in October 1997.

With a view to ending the Commission's cartel proceedings, several banks which had attended the October 1997 meeting unilaterally proposed to the Commission to substantially reduce their charges for the exchange of Euro Zone bank notes. The banks thereby abandoned their collusive behaviour and recovered their freedom to set prices individually.

Considering the exceptional circumstances of this case (market disappearance as of 1 January 2002) and the immediate and direct benefits to consumers the Commission ended proceedings against those banks which had proposed and accepted a reduction in their charges.

#### Greek Ferries

In December 1998 the Commission imposed 9 million euros in fines on major operators on the route between Greece and Italy for a price cartel as to passenger, car and truck fares during the period 1987 to 1994.

It all started with a consumer who complained in 1992 about similarity of fares for ferries on the route Italy-Greece (Ancona, Bari, Brindisi to Greece). The Commission made a dawn raid in July 1994 and found evidence of the price fixing between the major companies on the Italy-Greece route. The main operators, through a continuous concertation on price fixing and yearly price adaptation, had agreed on passenger fares and motor vehicles fares. Undertakings involved were Minoan Lines, Strintzis, Karagerogis, Anek, Marlines, Adriatica and Ventouris.

These are only a few examples of the cartels the Commission has been attacking during the last years.

### **3. OBSTACLES TO PARALLEL TRADE**

In Commissioner Monti's speech the Commission's recent decision to impose fines on Nintendo and several European distributors for obstacles to parallel trade in video games was mentioned. This was only one of many examples of how the Commission intervenes with the help of the Competition Policy instruments at its disposal to secure the European consumers' rights to buy products wherever, within the internal market, this is most favourable to them.

While the Commission does not act as a price regulator and has no mandate or intention to try to harmonise prices in Europe, the fact that there still exists very substantial price differences for products like cars or pharmaceuticals within the different Member States has over the years induced industries to try to prevent parallel trade.

I will give you a few examples of our actions and will concentrate on the motor vehicle sector where the price differences between the 15 Member States still are very substantial as demonstrated by our bi-annual car price reports, the next one to be published in about a weeks time<sup>1</sup>.

We have thus so far adopted three decisions with heavy fines against major European manufacturers (VW, Opel, DaimlerChrysler), where the main infraction was restrictions on cross-border sales:

- VW I concerning sales of VW and Audi cars from Italy to Austria and Germany, 90 million Euro in fines. This case originated with Austria's accession, on 01.01.1995, to the EU when Austrian consumers realised that car prices in Austria were considerably higher than in the rest of the EU.

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<sup>1</sup> Prices as at 01.11.2002 published 27.02.2003

- Opel and GM Netherlands (Decision October 2002), 40 million Euros in fines.
- DaimlerChrysler (Decision October 2001) in Germany and Belgium 72 million Euros in fines.

#### **4 PRICE FIXING**

Fixing of prices is a classic element of almost all cartel cases as illustrated by the cases I referred to earlier. Thereby competitors seek to avoid having to get into price competition between each other at the expense of the consumers who will have to pay unnecessarily high prices.

Another sort of price fixing is the one in the vertical relationship where a supplier / manufacturer tries to force his distributors to apply a given price for his products. This behaviour is also illegal and belongs to the hard core restrictions.

In the Volkswagen II case (Decision June 2001) we had an example of such behaviour. During 1996-1999 VW, through instructions to its dealers in Germany, tried to prevent any discounts being given to consumers who were buying the new VW Passat model. The idea was to bring through to the customers that the image of the brand had been strengthened by the new model. Traditionally in this sector it is known that discounts to end consumers are in the range of 8-10%.

The Commission considered this infringement as a particularly serious one and imposed a fine of 30 million euros.

## **5. SOME CONCLUSIONS**

What do we learn from these few examples from the practical life of DG Competition regarding the relevance for consumers of a strong enforcement of the competition rules?

Professor Fox ended her most interesting lecture by saying that as much as competition helps consumers, consumers should also help competition. I cannot but agree. We as competition authorities need the support and understanding from consumers of the interest they have, not only in the short term but also in the long term, in healthy competition and an efficient enforcement of European Competition Rules by the competent competition authority, be it at a European level the European Commission or at a national level like here the Hellenic Competition Commission. Competition law and enforcement thereof is the consumers' best friend. However, it is important that we have active consumers who can give us, the competition authorities, both market information and evidence of the particular interests of consumers that should be protected. I have two examples of what I mean, again from the car sector.

First, I would address the importance of having active consumers and give you the example of consumer complaints in the motor vehicle sector: The responsible unit handles several hundred direct complaints/letters from consumers mainly on delivery time and price differentials. Such consumer complaints were at the origin of all our decisions against car manufacturers. While a simple letter rarely is enough, a series thereof normally can provide us with a basis to open an investigation. Beyond that, these letters are all treated in order to resolve the practical problems with the manufacturer itself. The job for my colleagues is not always easy but the result as to settling practical problems is now quite a success.

The other example concerns the input from consumer organisations to the regulatory review in the motor vehicle sector. In our work, of more than three years, on the substantial review of car distribution in Europe, which resulted in the new Car Block Exemption Regulation 1400/02 that came into force last October, we had very valuable input from consumer organisations like BEUC, who is represented here today, and the national consumer associations as well as from motor associations like FIA and the national motor associations. It was very important as always that we could receive input from consumers to counterbalance somewhat the heavy industrial lobby.

Before terminating I would also like to say a few words on the fundamental reform at European level that is the decentralisation of the enforcement of Articles 81 and 82. This means that much of the work today done at European level by the EU Commission, from 1 May 2004 should be handled by the then 25 national competition authorities. These latter should then be prepared and equipped sufficiently well to take on this. To a great extent this will indirectly bring about a considerable harmonisation of competition policy in Europe to the benefit of EU consumers. The European Competition Network of all competition authorities (ECN) will here be extremely important.

Having said this and now finally arrived at answering the question raised by the programme title, "Competition a better deal for consumers?", I would like to replace the question mark by three exclamation marks and give you the unequivocal answer: Yes indeed competition is a better deal for consumers!!!

Thank you.