

Taking Competition Policy into the Future
Young Experts conference
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Looking to the future through a fresh lens

A buzz of optimism, bravery, enthusiasm and talent filled the air when the potential competition policy leaders of tomorrow gathered to lead a debate on the sector's future. That was the observation of DG Competition Director-General Olivier Guersent as he wrapped up their Young Experts conference on 3 February.

That policies need to adapt to the rapidly-changing digital, green and global economic landscape is already an accepted reality. Competition policy is under a major review as we speak. But what if we gazed into the next decade exclusively through the lens of the young people who will likely go on to shape, implement and lead on those changes? That's what happened when the Commission turned the tables and invited the youth to set the agenda and take charge of the event. As they talked candidly, tackled taboos and fired "moonshots", today's experts listened.

"We gave them a somewhat mystical mandate. We told them that they had to think through solutions to problems that are not there yet, in a world that doesn't yet exist. And, honestly, they succeeded," said event co-host Rossi Abi-Rafeh.

Held at the European Commission in Brussels and online, the hybrid event attracted an impressively diverse group of nearly 400 participants from 47 countries.

The youth policy dialogue forms part of the European Year of Youth. President of the European Youth Forum, Silja Markkula, said she was happy to see the Commission's commitment to consulting and listening to young people. "Young people may be different from each other, but we have distinct commonalities: we are finishing our years in education and taking our first independent steps, seeking first jobs and providing for ourselves. If we don't have a say in setting the rules for what the market looks like or how our private information is handled, we don't stand a chance," she said.

Keynote by EVP Vestager: 'The future looks just like you'

While competition policy has served us well until now, there are game-changers on the scene that “change the way we think, the way we act, and the way we act together,” said Margrethe Vestager, Commissioner for Competition and Executive Vice President at the European Commission, as she helped kick off the conference.

The twin challenge of digitising our societies and fighting climate change means information and resource efficiency are key concepts that must be at the heart of competition policy, she said. Change that would have been unimaginable in recent memory has already been happening in the competition policy arena. But where will we be in 10 years? Will changes accelerate before then? And what questions do we need to ask to arrive at the answers we need?

“We here in the European Commission realise that we are not the best place to answer the questions. Maybe not even the best place to ask the right ones. And that is why this conference is designed the way it is.”

As part of its youth focus the Commission “wants more than just dialogue with you. We want dialogue *by* you”, she told the participants.

Ms Vestager referred to the agenda and speakers having been selected by a Scientific Committee comprising eight winners of ‘student challenges’ set by the Commission in 2019 and 2021. She said the quality of contributions to those challenges were so high that anyone with doubts about the young generation should read them so their “lack of hope will be completely cured”.

The nine speakers represented a wealth of talent, a breadth of insights and a complementary mix of professions, she said, adding: “I was also pleased to see that a majority are women. I can tell you that this isn’t nothing. It would never have happened in the beginning of my career.”

The themes they selected “strike at the heart” of where competition policy is headed, said Ms Vestager. Moreover, the bold topics on the agenda – such as starting with a debate about expanding the powers of competition authorities – probably would not have been chosen had it been an “in-house” conference.

“And that is exactly the point. And that is good,” she said.

She ended by saying the future was hard to predict but she was willing to make one forecast: “Whatever the future holds for competition policy, there's one thing I'm sure about – and that is that it will look just like you.”

Panel debate: Expanding the powers of competition authorities

Speakers: Anne Dos, Martin Flora and Narita Nagin. Moderator: Rosa Warning

Dealing with crises such as the COVID-19 pandemic, mitigating against the impact of climate change, and navigating society's digital revolution. Arguably, competition law is already reaching into these, and other, areas of life – but how far should it stretch?

The desire to use antitrust to tackle broader social and economic issues beyond consumer welfare is widely heard, said Rosa Warning as she introduced the first panel debate. A call for contributions ahead of the conference had seen a diverse range of issues identified as upcoming challenges for competition policy.

“How far should we, and can we, expect competition policy to go as a tool to combat matters that are important to society, which may or may not fit within a traditional consumer welfare standard?” she asked.

‘Pushing boundaries’

An expansion of competition powers may be needed for times of crisis, said Anne Dos, citing the ongoing pandemic.

Her proposed changes included: setting a clear procedural framework, which could include introducing comfort letters to address legal uncertainty; updating investigation tools, including remote solutions; and providing clarity on what practices are legitimate in times of crisis.

“It is necessary to prepare for future crises. Competition authorities need to be able to support the world's economies in times of need,” she added.

Fiji-born Narita Nagin said climate change is “the most important challenge for competition authorities in the next 10 years”, which should “evolve to keep pace with market dynamics and stay aligned with societal values and expectations”.

Competition authorities should be able to prioritise by using their discretion and “pushing boundaries”, she said. In addition, the law should not create risks or hurdles that “stifle genuine efforts by firms to innovate or operate more sustainably”.

Martin Flora said the pandemic had shown the potential of technologies and the rapid pace at which they can introduce new solutions to the market. While the accelerating innovation trend is beneficial to consumers, it also brings new scope for market disruption. To tackle this, he said, competition authorities must develop new practices and focus on ensuring reasonable market entry conditions and clearly communicating their regulatory intentions.

Have competition authorities already, in practice, extended their reach? Citing the 2019 case against Facebook by the German competition authority, and the EU's enforcement action against car firms for colluding to prevent the development of sustainable technology, Ms Dos and Ms Nagin both said such examples reflected a change in focus rather than an expansion of scope.

In a robust Q&A session, the panellists' proposals and predictions were challenged, debated and defended.

When asked what single reform they would propose now, Ms Nagin said she would suggest the EU adopts the authorisation process used by the Australian competition authority, the ACCC. This enables firms to approach the ACCC when considering actions that could breach competition laws. They can be authorised to proceed if it finds there is a public benefit that outweighs the anti-competitive effect.

"It provides flexibility to the competition regulator to consider environmental safety, security, privacy and a whole range of other social issues, in addition to economic issues, in assessing any proposed conduct, which gives it a much wider lens to make decisions that truly benefit society," she said.

Taking a contrasting view, Ms Dos said she preferred a more "step-by-step" approach that also provides legal certainty for businesses, such as that being taken by the European Commission.

Mr Flora said he would propose the definition of a new theory of harm around the issue of patents – the mere possession of which "can be actually can be seen as the market distortion".

Panel debate: Competition policy and artificial intelligence

Speakers: Ban Mohammad Sabah Beiruti, Jia Rong Low and Emilie Van Hemeldonck. Moderator: Agustina Hermida

The "disruptive technology" of artificial intelligence (AI) has challenged the very foundations of competition, forcing us to debate new concepts and look at the landscape differently.

Does the growing use of AI throughout the economy turn the concept of market power on its head? Should we instead be focusing on the 'data power'? If so, how can the market be more effectively analysed and regulated? Should the competition

authorities themselves embrace AI-based monitoring systems to stand a chance of keeping up?

The panellists grasped these and other similarly complex themes as they debated a range of questions that also included the potential for regulation by design, liability and whether AI should have its own “legal personality”, and the pros and cons of the EU’s AI Act and GDPR.

First of all, said Ban Beiruti, we must face the fear: “It is imperative that we understand how AI works and break down its risks in order to douse our fears towards it. Because if, from a regulatory stance, our vantage point is underlined by fear, then this will cause over-regulation to smother innovation.”

She said it was important to examine the range of ways AI can impact competition and to balance the objectives. At the root is the race to develop AI systems with data; the more they have, the more accurate they are. As well as altering the dynamics in every market in which it exists, AI can also be seen as a barrier to entry, and could itself be used to implement anti-competitive actions – with or without human input.

“[As] data is the building block for AI power, perhaps it is more relevant to consider whether the database of a company can create or strengthen a dominant position... that would eliminate competition in that field. Perhaps competition authorities need to be more concerned with data power rather than market power,” she said.

Supporting a point also made by Ms Beiruti, Emilie Van Hemeldonck said competition authorities themselves need to embrace computational techniques such as big data, AI, machine learning and deep learning in order to analyse the market more efficiently and effectively, and detect breaches.

‘Resist AI-centric policies’

Ms Van Hemeldonck said AI enables companies to engage in new ways of anti-competitive behaviour. For example, algorithms enable companies to automatically monitor the prices of competitors in real time and then re-price.

“Detecting these new... behaviours will be increasingly hard. This puts our legal framework and legal concepts under pressure,” she said. Adopting technology-based detection tools would reduce the burden on authorities and increase efficiency.

However, Jia Rong Low warned that such an approach could yield uncertain outcomes and “small benefits” in comparison with the costs involved.

He also took an opposing stance on the emphasis of 'data power' over market power within competition policy.

"I don't think it is true that having a lot of data necessarily translates into the ability to create a powerful or impressive AI. And I don't think it is true that having a powerful AI necessarily translates into having market power in the traditional competition sense," he said.

He advocated a more "AI-informed competition policy", which applies existing competition principles and experiences to the "new future, where AI will become more central in the economy".

"I think we should resist the temptation to create an AI-centric competition policy," he added. AI-centric policies might presume that companies with very powerful AIs are dominant or treat mergers of companies with powerful AIs as likely to substantially lessen competition.

"I think that such presumptions and shortcuts would be misguided," he said.

Closing remarks by DG Guersent: New ideas from talented youth are welcome

In closing the event, Olivier Guersent, Director-General of DG Competition said the intellectual bravery and bold ideas of the participants had made him feel positive.

"Of course, nobody really knows what the future holds, in particular for competition policy. But what I can say is that the expertise, the commitment, the patience, everything you displayed in your discussions, is a good reason to be optimistic for the future. Another reason why walking into this room lifted my spirits is the concentration of so much young talent," he said.

Mr Guersent said the organisers and speakers had been "courageous" with the ideas they had brought to the conference. Their Scientific Committee had taken bold decisions throughout, designing the event in an innovative way, selecting thought-provoking topics and encapsulating complex arguments in short interventions, Q&As and video presentations, he said.

Competition policy is "under attack" as well as being subjected to demands to accommodate wider objectives that go beyond its core purpose, said the Director-

General. “We will need to design new paths and, for this, what could be better than a group of young and committed talents?”

While some may argue competition policy should stick to what they would call the “core business, the narrow perimeter”, he said he didn’t agree: “It has a duty – within the limit of its core mandate, of course – to try to help the broader policy objectives of the [European] Union. The transition to a low carbon economy, digital transition, building a more resilient industry in Europe...”

To find the best route forward, we need people born in this digital age, for whom it is intuitive, he said. “You have listed practical ways for legislators and enforcers to regulate these industries and harness the power of the new technologies. Some of these suggestions point at paths that we’re already exploring; others look to us like moonshots. And that’s precisely the reason why we come to conferences like this.”

The speakers had taken the opposite stance to commonly-held views on expanding the powers of competition authorities, which took courage, he said.

Citing some examples from the panel discussions and video presentations, he said participants had heard that competition policy can promote media plurality, help monitor the digital industry and better prepare us for the next crisis, post-COVID. “So, the change in perspective is undeniable... and that is very welcome.”

He concluded: “If the future of competition policy looks like you... there are reasons to be optimistic.”

Did you miss the debate?

To learn more about the event and watch the sessions go to the [YEx22 page](#) in DG Competition’s Green Gazette. The page also includes links to six short video presentations by three young experts who took on topics ranging from media plurality to algorithmic collusion and market tipping in the digital context.