

Joaquín Almunia

Vice President of the European Commission responsible for
Competition Policy

**Competition policy for innovation and
growth: Keeping markets open and
efficient**

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

European Competition and Consumer Day

Copenhagen, 8 March 2012

Ladies and Gentlemen,

I would like to begin by thanking Agnete Gersing for inviting me here today at the European Competition and Consumer Day.

We will debate about strategies to boost growth and productivity in Europe, about ways to enhance the competitiveness of our businesses and about how consumers should receive a fair share of economic benefits.

But today is March 8th, and I will not miss the opportunity to wish everyone in the room – both women and men – a good International Women's Day.

Like every year, this anniversary is an opportunity to reflect on the long march of women towards equality in opportunities, treatment, and prospects for their professional and personal development.

For several years now, the conclusion is: yes, there is progress; but there is still a lot of ground to cover because traditions of gender discrimination are hard to eradicate.

Of course, one becomes more optimistic in countries such as Denmark, where Ms Thorning-Schmidt leads the Government and Ms Gersing is at the helm of the National Competition Authority.

Your country is proof that we can end discrimination, not only because it is right, but because the economy benefits from access to the talents of all members of society.

In a similar vein, the Danish Competition Authority is a determined advocate for boosting prosperity through the opportunities provided by open and competitive markets.

Last month, at the European Competition Forum that we organised in Brussels, Agnete Gersing made a strong plea in favour of more competition in these times of economic hardship. She said that competition is "*the most important single driver of innovation, competitiveness and therefore growth*". I fully agree.

Your Competition Authority is prompt in putting this theory into practice. You are one of the most vigilant enforcers in Europe and your work shows in very practical terms that competition is a growth-enhancing policy, with a beneficial impact on consumers.

For instance, you have intervened in sectors as varied as the real estate business, energy markets, the postal sector or aviation. I am sure that your work is playing a great role in keeping the door open for innovation and growth in these sectors.

Last but not least, you have a privileged dialogue with consumers. This is something we want to improve at European level too, because consumer organisations can bring strong added value to our competition files, providing a necessary perspective for our work.

In my remarks today, I would like to give you an update on the latest developments in the EU strategy to bring economic recovery closer. I will then speak about the role that competition policy can play in turning the much-needed growth into reality and about how competition creates the best conditions for businesses to flourish and consumers to prosper.

The take-home message from the European Council

I would like to begin by saying a few words on where Europe finds itself at this very particular moment in time.

The latest economic forecasts are not exactly rosy. The euro area will continue to go through a mild recession in the coming months, and real GDP in 2012 will remain roughly unchanged in the EU.

The most worrying news come from the labour market, especially concerning the young: almost five and a half million people under 25 are unemployed in the EU – which is over one young person in five.

Europe has to work hard to turn this around. And it has started to do so. We have received very promising news a week ago, when Europe's leaders met in the European Council.

After strings of meetings called to discuss emergency measures, this was the first occasion when leaders had the possibility to consider the future of our economy beyond austerity policies.

It is a good sign that the Council could concentrate on strategies to boost growth and jobs and to pursue the objectives set out in the different initiatives of the EU 2020 strategy.

Of course, this development did not happen out of the blue. I regard this progress as a measure of the success of the EU's strategy to reinforce stability, coordination and governance in the last months.

The time has therefore come to find a better balance between austerity policies and the promotion of growth and jobs.

In particular, I was happy to see that the completion of the Single Market is the main action to be pursued at EU level.

This is indeed the best approach. Because we need to fully tap the potential of a broader and deeper internal market and push forward EU 2020.

Such strategy is our best recipe for growth. Following that route, growth will be fostered by instilling knowledge and innovation in our companies and entrepreneurs, by encouraging them to become more competitive at home and abroad, and by pursuing objectives such as a greener economy.

I see our tasks as EU competition authorities exactly from this standpoint. I am convinced that competition policy can do a lot to help the EU complete the internal market, meet the Europe 2020 targets; and bring recovery closer.

Competition and growth in the Single Market

But how can we stimulate growth in times like these?

In almost all our countries the public coffers are quite empty. That is precisely an additional reason to foster competition enforcement, because it can effectively increase our potential for growth at no extra cost for the taxpayer.

Together with actions at European level on the regulatory side, competition policy can leverage the internal market, which is our most efficient – and underutilised - engine of growth.

Yes, I hear some voices recommending that we should go a bit softer on companies in these lean years. But I have a completely different opinion.

Anti-competitive behaviour imposes a hidden cost on consumers and on the companies that play by the rules and neither can afford this extra cost during a downturn.

We must strengthen our vigilance because when a company breaks competition law it undermines the efforts of regulators to build more efficient markets; it saps the energy of our economy and ultimately slows our progress towards the recovery.

Of course, competition and regulation are complementary in the policy mix to deepen the Single Market.

Through regulation, the EU legislators can eliminate the remaining barriers. However, this push would be ineffective if companies were *de facto* allowed to rebuild the obstacles removed by legislation. It is thus our responsibility as competition enforcers to make sure that it does not happen.

Take the energy sector for example. It has undergone a wave of liberalisations but our vigilance is still much needed to ensure that competition is not distorted on the ground and that markets are not artificially partitioned to the detriment of other operators and consumers.

In line with the EU 2020 flagship initiative for sustainable growth, the EU still has to make progress towards a more resource efficient, greener and more competitive economy. Translated into concrete action, this means that we aim to achieve an integrated European electricity wholesale market by 2014.

Such an integrated European electricity market would provide customers with more trading liquidity because transactions would cover electricity from more areas than is the case today. And this would optimise cross-border trade flows.

We must make sure that these efforts are not undermined by the anti-competitive practices of some market players.

In this line, we have recently conducted inspections at the premises of two major European power exchanges to investigate a suspected cartel in the form of geographic market sharing between them.

Another obvious example where our vigilance is needed is the financial sector. Without a sound financial sector it is unthinkable to talk about economic growth. This is why the Commission has given priority to issues such as making payments services a more open and modern tool.

This was the rationale behind the recent publication of a Green Paper to discuss what hampers the integration of payments markets on a European scale. We are consulting stakeholders and – to the extent possible – we will integrate their suggestions when we design the regulatory solutions to be proposed.

Our objective is to create the right conditions for innovative, pan-European payment services, to the benefit of all economic operators in Europe.

Creating the best conditions for business to produce growth

Fostering healthy competitive pressure

If we are to foster growth in Europe, then we need to create optimal conditions for businesses to operate. Competitive market structures ensure that business customers - not just end consumers - benefit from the best products and services at the lowest prices. This is critical for these businesses' competitiveness in a globalised economy.

It is because we wanted to preserve healthy competitive pressure that we prohibited the merger between Deutsche Börse and NYSE a few weeks ago.

The ensuing monopoly would have harmed customers and by preventing it, we ensured the survival of efficient players who need to hedge their risks at competitive prices.

It is for the same reason that we have launched an antitrust investigation in the Thomson Reuters case, involving one of the major financial information providers. We want to make sure that undue restrictions on the provision of financial information do not hamper the healthy development of financial services.

Indeed, the importance of the availability of financial market data has increased in recent years. The availability of accurate and timely financial data at reasonable costs provides transparency which is essential for market participants in assessing trading and investment opportunities.

We have concerns that Thomson Reuters has potentially abused a dominant market position by restricting the usage of its identification codes RICs (Reuters Instrument Codes), thereby limiting the ability of its customers to switch to competing data providers.

Recently, we have unsuccessfully market tested a solution offered by Thomson Reuters to facilitate switching. We have now reached a critical stage in this investigation. If no effective solution can be agreed upon, then we will have to draw the adequate conclusions.

Innovation

Competition policy is also a catalyst for innovation, one of the pillars of the EU 2020 strategy. We need to achieve a true "innovation union" where creative ideas can be turned into products and services that create growth and jobs.

When markets are competitive, companies naturally want to improve processes and diversify their goods and services from their competitors.

And undoubtedly, markets are most conducive to innovation when they are open and accessible to all. In industries – such as IT – where barriers can be erected using patents and technical standards, competition policy limits the establishment of closed gardens and fosters interoperability across products and services.

Let me give you an example. I have recently opened an investigation into the behaviour of the software company MathWorks. The company's software products are widely used for designing and simulating control systems that are deployed in many innovative industries such as in cruise control or anti-lock braking systems (ABS) for cars.

Allegedly, the company is refusing to provide competitors with end-user licences. This means that competitors cannot lawfully reverse-engineer MathWorks' software in order to achieve interoperability with its widely used products.

As in the *Microsoft* case, the issue of software interoperability is central to this fresh investigation. In *Microsoft* the Commission found that a dominant company limits innovation to the detriment of consumers if it does not provide interoperability information for its products.

If the investigation shows that MathWorks did refuse to licence, this might - depending on the other circumstances of the case - amount to an abuse of a dominant position.

Issues of access and interoperability are closely linked to the use – and abuse – of patents and intellectual property rights. I have been following with interest the patent wars among mobile-device firms.

I have said it before and will repeat it: I believe that both competition authorities and courts should intervene to ensure that standard-essential patents are not used to block competition.

This is at the core of the case we have opened against Samsung on concerns that it may have misused the standard-essential patents that it holds and failed to honour

its commitment to licence them at terms that are fair, reasonable and non-discriminatory.

Similar issues arise in the recent complaints of Apple and Microsoft against Motorola.

Indeed, standardised technology is the basis for the IT industry to function. Different devices can exchange information and work with each other only thanks to commonly agreed standards.

To build a smartphone one needs thousands of standard-essential patents. The holders of these patents have considerable market power and can effectively hold-up the entire industry with the threat of banning competitors' products from the market through injunctions for patent infringements.

By threatening to use injunctions, these companies can also make demands that their commercial partners would not accept under normal circumstances.

For example, fearing exclusion from the market, companies might be forced to share valuable patented inventions with a competitor or pay excessive royalties which are then passed on to consumers.

It is easy to see how this may distort competition and reduce the incentives of companies to invest in competing technologies.

For instance, one of the potential competition issues we investigated in the *Google/Motorola* merger was whether, post-merger, the threat of injunctions could be used by Google to extract patent cross-licences from competitors on terms they would otherwise not have agreed to.

We came to the conclusion that the market situation was not significantly changed by the transaction so the merger was cleared.

However, this merger clearance does not bless all actions by Motorola in the past or all future action by Google with regard to the use of these standard essential patents.

I am determined to use antitrust enforcement whenever necessary to prevent any anti-competitive conduct by holders of standard essential patents in the future.

A modern industrial policy

There is another danger for the Single Market and our companies in these difficult times: the growing temptation for individual countries to protect their own interests using taxpayers' money, domestic policies and – worst of all – the return of protectionism.

Taken together, these policies are a throwback to policies of the 60s and 70s, the so-called 'industrial policy' era when people believed that governments could pick winners.

It would be misguided and dangerous to go down this path; the way forward is in fact in the opposite direction. We need to take the road that leads to open markets and well-regulated competition.

In the modern and broader concept of industrial policy I have in mind, competition, regulation and public support, cooperate to foster a more efficient economic environment not for individual companies or sectors, but across the board.

In this context, competition policy must ensure that the functioning of markets is not distorted either by government measures or by the anti-competitive behaviour of private actors.

We need to establish the best framework conditions where companies can grow on their merit; innovation can flourish; and market failures are corrected so that we can give the people the goods they expect.

Conclusion

Many of the examples I have made today try to demonstrate that competition policy can deepen the Single Market and create the conditions for growth and employment across Europe.

If we are to get the recipe for recovery right, then of course competition starts at home and this is why competition control at national level remains crucial – as proven by the Danish Competition Authority in recent years.

Promoting strong competition enforcement in Europe –at every level- is a powerful energizer for the economy because its effects can be immediate.

Competition policy can also bring lasting effects. The power of deterrence of our sanctions, of our independence, and of the quality of our assessment - repeatedly confirmed by the European Courts – change the behaviour of firms and improve the business environment.

The action of EU and National Competition Authorities brings fairness to the market, because it protects consumers and firms regardless of the size and market power of the infringers. And this is important for smaller companies, which don't have the clout – and the legal departments – to defend themselves against anti-competitive practices

Finally, competition control is very efficient, because it costs European taxpayers nothing, and very effective, because it produces actual results.

Thank you.