

1st OECD Global Forum on Competition

Opening Speech by Commissioner Monti

OECD, Paris, 17 October 2001

Ladies and Gentlemen:

It is a great honour for me to participate in the opening of this 1st OECD Forum on Competition and to welcome here so many distinguished colleagues from competition authorities all over the world.

I would like first to praise this initiative of the OECD. It means reaching outside its circle of membership. It means establishing bridges with 3rd countries and agencies that are interested in competition law and enforcement and are keen to share with us their experiences and their views.

I would also like to stress that your presence in this groundbreaking event bears testimony to the growing international awareness surrounding competition policy. Today both governments as well as economic operators and the general public senses that competition policy has a key role to play in creating conditions of governance for the global market places. It is the best instrument available in order to ensure that globalisation remains a source of welfare for the citizens and the firms in our respective nations.

[Why competition policy is an important policy instrument ?]

Competition policy is indeed an important policy instrument both at the domestic and at the international level. But why is that so?

Whilst the philosophical arguments are many and varied, I think the answer is straightforward. Competition policy is there to help nations achieve economic prosperity and increase the welfare of society.

How does competition policy achieve this goal? By forcing companies to run themselves efficiently and ensuring a level playing field. Competition forces economic operators to adjust to changes and it forces them to innovate. Competition leads to lower prices and to higher quality for the consumer. It leads to greater dynamism in industry, and, perhaps, most importantly of all, to greater job creation.

I will say a few words on our experience in the European Union. I will then listen with the keenest of interests to your experiences. I know quite well that competition policy and antitrust enforcement can take a variety of forms and expressions.

I hope and I wish that out of this variety and wealth, we will be able in our future dialogue to reach consensus in selecting the best ways, the best methods and practices, those that work best in the various situations. And then I hope that we will agree to progressively put them into effect in our respective jurisdictions.

[What is the role of competition policy in the European Union?]

Let me now turn to our own experience with competition policy in the European Union. I can confidently say that, today, competition is considered a central element of our economic system. We have now abandoned the old fashioned policies of industrial intervention by governments and a belief in national champions.

Turning away from these outdated ideas has not meant that the 'market' goes unchallenged. On the contrary, we believe that competition policy is an essential element of an open market economy. Markets need to be protected against the creation of dominant positions, cartels and abuses of market power. That is why we believe in the importance of a strong competition authority. That is why we must apply the competition rules in a rigorous and transparent way. I can not stress enough the importance of a solid institutional system for antitrust enforcement. Such a system is based on an independent antitrust agency that enforces the rules under the control of the judiciary.

I should add here that, in the European Union, competition policy has another political and economic objective in addition to the traditional anti-trust purposes I've just outlined. It strives namely to achieve and maintain the integration of markets within the EU. An active competition policy is needed in order to discourage business practices which have the effect of restraining trade between Member States of the Community. In our experience this function of competition policy is crucial for regional integration systems. One level up, it could provide some solutions at the global level.

Another area where competition policy has been valuable for the European economy is the control of state subsidies given to firms. This is an integral part of our pursuit of a coherent competition policy (and indeed I believe

that state aid control should be a feature of any competition policy). It is obvious that competition between firms is distorted when public authorities confer an advantage (state aid) on an individual company or category of companies; firms not benefiting from the aid are placed at a competitive disadvantage vis à vis the aid beneficiary. It is true that certain forms of aid can produce general economic benefits. Such benefits may outweigh the damage to the economy caused by the distortion of competition between firms. It should be the task of competition authorities to carry out this balancing exercise.

But competition is not an end in itself; something useful only for our domestic economy. It is also a tool to help us react and cope with the changes we face at the international level: globalisation and technological innovation, trade liberalisation. These changes are a challenge, but they are also an opportunity. An opportunity to adapt our domestic rules to the new global environment.

[From a domestic competition policy to an international one]

You are all aware of the parameters of this new environment: a major expansion of market economy, markets integrated due to cross-border operations, deregulation and privatisation, global players adapting and devising new cross-border strategies to profit from all this, and finally an important increase in 'international' competition cases.

As policy makers and enforcers in the area of antitrust we have to face three challenges under this new environment.

- Firstly, we have to find ways to overcome the jurisdictional barriers inherent in the territorial nature of antitrust enforcement jurisdiction. When we are asked to apply our antitrust rules today, we increasingly observe that consumers whom we are mandated to protect are being adversely affected by anticompetitive behaviour taking place outside our jurisdiction. Often, we have to overcome a number of legal and practical obstacles to discover the necessary evidence and to impose sanctions on global cartels which are detrimental to the efficient conduct of business and harm consumers. The same applies to abuses or attempts at monopolisation by dominant players on the world market. Further, we need to take into account the issues arising in connection with multijurisdictional mergers. As a growing number of jurisdictions adopt merger control regimes, with differing notification requirements and substantive standards, we face an increased risk that we reach conflicting

decisions and impose on firms remedies which may be incompatible with each other.

- Secondly, we must address the broader challenge raised by globalisation in terms of world governance. Recognising that consumers and companies alike are increasingly citizens of a globalised economy, we have the difficult mission of ensuring that international integration of markets leads to maintained competitive outcomes, thus making the globalisation process both economically more efficient and socially more acceptable. Competition policy – and specifically international co-operation on competition policy - has an important role to play, if we are to avoid resentment against globalisation and a protectionist backlash.
- Thirdly, developing countries and countries in transition are restructuring their economies in an effort to integrate them fully to the world economy and be able to exploit new opportunities to compete. In order to claim their share in the benefits of globalisation, more developing countries adopt economic reform packages, which liberalise entire sectors, privatise state owned enterprises and introduce competition laws and policies. They naturally look to established competition authorities for support and technical assistance.

I believe all of us are increasingly aware of these challenges and are convinced that we need to provide a pragmatic and effective response of international governance to the integration of markets.

[How can we work towards better governance at the global level?]

The term ‘governance’ appeared in recent years in various contexts. A United Nations report focusing on ‘Global Governance’ stresses the need for building an international consensus around certain rules and then applying them effectively all over the world even in the absence of a ‘global government’. As regards competition, it is important that we do not allow the interdependence and interaction of economic operators to grow without submitting it to some instance of regulation and surveillance. Since our competition systems are essentially domestic, we must seek to ensure a maximum of convergence and coordination between them. This task is made more difficult by the day, in view of the ever growing number of competition enforcement systems and the variety of economic and political considerations that underpin them.

There are, in my view, two ways to incorporate governance mechanisms into the system of international competition policy. They are

complementary and mutually supportive. All of them are designed to intensify cooperation between antitrust authorities worldwide and build a convergence spin into the system:

⇒ **Reinforcing bilateral cooperation**

First, we should continue to develop our bilateral cooperation instruments. Cooperation in competition matters is provided for in international agreements which the European Union has concluded with many of our trading partners; in the case of the US and Canada we have concluded dedicated cooperation agreements. In other cases cooperation of this kind is provided for in broader trade-related agreements (for instance our Customs Union accord with Turkey) or in rules drawn up for their implementation (for example, the Europe Agreements with the countries of Central and Eastern Europe. The desirability of such cooperation is also reflected in the OECD Recommendations on cooperation in antitrust matters and on the fight against hard core cartels. With more than a decade of experience we have come to recognise that there are important benefits to be gained from effective bilateral cooperation. Indeed, in many instances, it is on balance more beneficial to cooperate than exercise unilateral extra-territorial jurisdiction. Often coordination of enforcement in more than one jurisdiction is the most appropriate course of action. Much has been achieved through bilateral cooperation and it is fair to say that we have now at our disposal a formidable range of cooperative tools.

⇒ **Creating a global network of competition authorities**

Second, we should work towards the creation of a global network of competition authorities. This should be an inclusive venue where those responsible for the development and management of competition policy worldwide could meet, engage in constructive dialogue and exchange their experiences on enforcement policy and practice. It should be open to all countries which have a competition law enforcement regime, i.e. a basic legislative framework of competition rules, an administrative and/or judicial enforcement capacity, and an enforcement record. Developing countries which are in the process of putting in place a competition regime and building the requisite institutional capacity should be encouraged to join this effort. It should also be possible to associate in the work of this network, in an advisory role, non-government bodies. This would enable the legal profession, the business community, consumer representatives, antitrust academics and other experts to contribute. Network members should strive to achieve a maximum of convergence and consensus on fundamental issues such as the substance and economics of competition policy, and the enforcement priorities of competition authorities. Such consensus should result from a common understanding about the best

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approach to solving the problems. This project would foster and develop a common worldwide "competition culture" and encourage developed and developing countries world-wide to introduce and enforce sound competition policies.

Let me conclude by repeating that, in my view, in the globalised world, effective competition authorities are increasingly seen as the trustee, if not of good governance then certainly of the possibility of good governance ! In the coming work sessions we will have the opportunity to compare notes on our respective practices in areas such as merger control, the fight against cartels and international cooperation. I am certain that this will be highly beneficial for all of us.

Ladies and Gentlemen, thank you very much for your attention !

Prof. Mario Monti,

Member of the European Commission with responsibility for competition policy