

## INTRODUCTORY COMMENTS

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Chairman of the Competition Committee*

Ladies and Gentleman,

I would like to welcome you to this third meeting of the OECD Global Forum on Competition.

The presence of 75 delegations, the very large number of contributions received from both OECD Members and non-Members and the quality of these contributions are a testimony of the high level of interest for the dialogue between OECD countries and non-Members which is the hallmark of this forum.

This dialogue is all the more necessary since competition law has become a very widely used instrument throughout the world and national economies become more interdependent.

There are three important tasks in this context for the antitrust community:

- to understand our differences;
- to promote convergence whenever possible;
- to develop cooperation instruments between national competition law systems.

To a large extent, this Forum is focused on understanding our differences which is, of course, a prerequisite to promoting convergence on developing cooperation protocols and instruments.

We have chosen to address three difficult questions:

- What are the goals of competition law and policy?
- What are the optimal designs of competition agencies?
- What are the differences between small and large countries from the stand point of competition law?

In addition, we will review South African competition law and enforcement, which will give us the opportunity to go from theory to practice on several topics.

On the first topic --what are the goals of competition law and policy-- sharply different views are expressed in the written contributions.

On the one hand, Ireland writes that “the overriding goal of competition policy is or should be to support and encourage economic efficiency”. The United States contribution quotes Areeda and Hovenkamp: “Antitrust’s purpose is to see to it that competition is promoted whatever its collateral consequences, not to make legislative judgements about when relief from the excesses of competition is appropriate”.

On the other hand, the contributions of South Africa, Jamaica, Mexico and a number of others raise the issue of trade offs between static and dynamic efficiencies, ask what the right mix is between industrial policy and competition policy and consider public interest criteria .

The question we should clarify is whether these views are contradictory or whether both are appropriate but apply to different levels of development. For example, the contributions from the Czech Republic explicitly mentions that the goal of its competition policy has evolved over time.

On the second topic --the optimal design of competition agencies-- it appears from a number of contributions that there may not be a unique optimal design and that the design of a competition authority may not be directly related to the underlying goal of the law.

Two lines of thought may be worth investigating in this respect:

- It seems that the design of a competition agency depends on local economic and legal circumstances. There may be a link with the level of development of legal institutions (see the contribution from Bulgaria, for example).
- In a number of countries, the design of competition agency is being modified or at least the subject of investigations (Japan, Australia, Brazil) and it may be useful to learn in some detail what has prompted the desire to review the institutional design of competition law enforcement and agencies and what is the nature of the debate in these countries.

Finally, the third topic --competition law in small economies-- may be the most difficult one. A number of contributions try to define the various relevant features of "smallness" and there may not be a unique definition of smallness. The difficulty is, of course, to distinguish between smallness and underdevelopment. In the course of the discussions, we will no doubt have to review a number of criteria, such as:

- degree of market/economic power (social/economy);
- dependence on foreign trade/uneasy relationship with transnationals;
- concentration of the business/political elite;
- lack of expertise in law and/or economics;
- role of the state; etc...

Defining the implications of the goals and design of competition policy is an interesting question. We can therefore look forward to two interesting days of discussion.