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## Global Forum on Competition

### COMPETITION AND POVERTY REDUCTION

#### Contribution from the European Union

-- Session I --

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## COMPETITION AND POVERTY REDUCTION

### -- European Union --

#### 1. Introduction

1. The European Commission has as its main mission, to make markets deliver more benefits to consumers, businesses and the society as a whole, by protecting competition on the market and fostering a competition culture. This is achieved through the enforcement of competition rules and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests.

2. Therefore, competition is not an end in itself. It contributes to an efficient use of society's scarce resources, technological development and innovation, a better choice of products and services, lower prices, higher quality and greater productivity in the economy as a whole.

3. Fostering a competition culture in which consumers make informed choices between products and services offered, businesses refrain from anti-competitive agreements or behaviour and public administrations realise how competition can contribute to addressing wider economic problems, directly contributes to making markets work better for the benefit of consumers and business.

4. According to a 2009 Eurobarometer survey, more than 80% of EU citizens consider that competition between companies can lead to better prices and to more choice. Also, 70% of EU citizens are of the opinion that companies should not be allowed to make agreements on prices. Finally, two-thirds of EU citizens agree that companies that receive financial aid from governments might have an unfair advantage over their competitors, to the detriment of consumers.

5. As for many competition agencies, the reduction of poverty is not, as such, one of the explicitly stated objectives of European competition policy; still there are many ways in which the interests of the least well-off in society are actively taken into account by the European Commission's actions. The European Commission's competition policy is closely connected to and intertwined with the overall objectives and policy of the European Commission and in particular those that seek to curb the crisis, alleviate its impact on citizens, and promote a return to economic growth. Furthermore, the European Commission has also targeted in its competition enforcement activities those sectors of industry which are of critical importance to consumers, such as the energy, pharmaceutical, financial services, air transport, telecommunications and food sector. These sectors lay a claim on a significant part of the income of the least well-off consumers. Finally, the European Commission maintains its fight against price enhancing cartels as cornerstone of its competition policy enforcement.

#### 2. The contribution by competition policy to the improvement of citizen's livelihoods

6. There is a strong link between competition policy and all the other policy projects designed by the European Commission and the Member States to strengthen the European Single Market and to improve the livelihoods of citizens.

7. The general objectives pursued by the European Commission to protect competition on the market as a means to enhance consumer welfare, to support growth, jobs and competitiveness of the EU economy and foster a competition culture fully support its overall Europe 2020 Strategy, and in particular its three mutually reinforcing priorities: smart growth, sustainable growth and inclusive growth<sup>1</sup>.

8. Historical evidence suggests that the causal link between effective competition and economic growth is particularly important in times of economic crisis. A weakening of the competition framework may prolong a severe economic downturn by several years and significantly affect the situation of those in society who are least well-off.

9. Making markets work better requires, in the first place, a focus on those sectors which are the most important for the competitiveness of the EU economy and whose functioning has the greatest effect on consumers. Hence, tackling anti-competitive practices in key sectors such as ICT, energy, transport, pharmaceuticals and financial services aims at maximising the contribution of competition policy to achieving the EU's overall objectives. Moreover, making markets work better for consumers means that priority must be given to the most serious competition infringements such as collusion between competitors, which requires competition enforcement also in mature sectors, where firms may collude against their customers to protect their rents.

10. By keeping markets open, EU competition policy ensures that the benefits of globalisation are passed through to European consumers. At the same time, by targeting international cartels, mergers and abusive practices of firms of any nationality which harm European consumers, EU competition policy helps to protect European consumers against the potentially harmful aspects of globalisation.

11. Another key objective of EU competition policy is to ensure that competition on the market is protected against distortive State aid. Such aid not only harms consumers, but also the overall public interest. For example, State aid granted for the rescue of a firm in difficulty could delay the necessary restructuring of certain firms or give undue advantages to some firms over others. However, the European Commission not only acts against distortive aids, it also applies a framework helping Member States to spend better targeted aid by allowing "good aid", i.e. aid that addresses market failures and equity objectives in the interest of growth and jobs, such as regional investment aid, aid for research and development and innovation, training, environmental protection, risk capital or aid to small and medium-sized enterprises (SMEs). Such aid may contribute to enhanced consumer welfare and improve the situation of the least well-off in society.

12. Knowledge of the benefits of competition is essential for citizens to exploit their opportunities as consumers, for businesses to compete on the merits and for policy makers to bring initiatives that support smart, sustainable and inclusive growth. Fostering a competition culture in which consumers make informed choices between products and services offered, businesses refrain from anti-competitive agreements or behaviour and public administrations realise how competition can contribute to addressing wider economic problems, directly contributes to making markets work better for the benefit of consumers and business.

13. The European Commission has devised a general benchmarking methodology to quantify the results achieved in protecting and increasing competition. Based on this benchmarking exercise, the observable customer benefits from cartel decisions adopted in 2011 are in the range of €2.8 billion to €4.2 billion. As for the benchmarking of the observable customer benefits derived from the European

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<sup>1</sup> See DG Competition's Annual management Plan 2012 for more details: [http://ec.europa.eu/atwork/synthesis/amp/doc/comp\\_mp.pdf](http://ec.europa.eu/atwork/synthesis/amp/doc/comp_mp.pdf)

Commission's intervention in the form of a decision prohibiting a horizontal merger or clearing such a merger subject to remedies, the range is of €4.0 billion to €5.8 billion for 2011.

14. It is important to stress that these estimates cover only a part of the European Commission's actions and therefore underestimate the actual impact of its enforcement activities. Significant customer benefits also arise from the European Commission's enforcement action against abuses of a dominant position, anti-competitive vertical agreements and distortive State aids.

15. Furthermore, it is stressed that the above benchmark cannot account for: (i) customer benefits in terms of better quality or wider choice, as only customer benefits that can be quantified in monetary terms are captured; (ii) other effects of competition policy, such as productivity gains or impact on jobs; or (iii) the pass-on to final consumers, or the poor as such, as this would require a very comprehensive assessment of market dynamics throughout the value chain downstream of the markets concerned by the Commission's decision. There is however little doubt that a significant part of these benefits also directly or indirectly benefit the poor.

16. In the following sections, a number of examples will be given of how the European Commission has used the competition tool to directly or indirectly address and improve the situation of consumers and the least well-off in society.

### **3. Liberalisation**

17. Services such as transport, energy, postal services and telecommunications have not always been as open to competition as they are today in the EU. The European Commission has been instrumental in opening up these markets to competition (also known as liberalisation).

18. In the EU Member States, services like these were previously the domain of national organisations with exclusive rights to provide a given service. Opening up these markets to international competition has allowed consumers to choose from a number of alternative service providers and products. They also benefit from lower prices and new services which are usually more efficient and consumer-friendly than before.

19. In the railway, electricity and gas industries, the network operators are now required to give competitors fair access to their networks. In these industries, monitoring fair network access by all suppliers is essential to allow the consumer to choose the supplier offering the best conditions. In the two markets which were first opened up to competition (air transport and telecommunications), average prices have dropped substantially.

20. When markets are liberalised, the European Commission's State aid control should prevent Member States from granting aid which would effectively reverse the market opening. This is a challenge for example in the postal sector where markets have been gradually liberalised up to complete opening through the 3rd Postal Directive.

### **4. Telecom**

21. European citizens and businesses rely more and more on convenient, reliable and high quality telecom networks and services. Today there are more than 250 million daily internet users in Europe, and virtually every European owns a mobile phone. The competition rules work side by side with regulation specific to the telecoms sector to bring innovative, affordable services to European consumers.

22. The European Commission completely opened the telecommunications sector to competition on 1 January 1998, with marked results. Price developments give a good indication of the extensive impact

which liberalisation of the telecommunications market has had on the sector. In 2006, consumers in the EU15 spent around 27 % less for the same telecoms services than 10 years ago - in real terms this represents a 40% decrease<sup>2</sup>.

23. Mobile has become the lowest cost method of providing consumers with access to basic telephone services throughout the European Union. This is mainly due to the cost advantage of mobile telephony networks which results from the low marginal cost of adding a new subscriber (the access radio network is shared between subscribers, whereas a fixed line connecting a subscriber offers less possibility for shared access costs, especially if the subscriber is located in a rural area).

24. Although affordability must be seen in the light of specific national conditions, it can be observed that since 2006, the EU average price of a low usage basket of mobile services decreased by 30% to €9.09 in 2010<sup>3</sup>. The Commission's Flagship Initiative on a Digital Agenda for Europe, launched in August 2010, aims amongst others to bring **the difference between roaming and national tariffs near to zero by 2015**.

25. The European Commission has worked successfully to increase competition in the telecoms area, bringing new entrants into the sector throughout Europe, forcing incumbent providers to raise their standards of service and reduce their prices, and applying the competition rules to maintain competition between telecom operators.

## 5. Energy

26. Another sector which is close to the consumer and the least well-off in particular, is the energy sector. Energy bills are a significant item of household expenditure, particularly for low-income households.

27. The European Commission's first electricity and gas directives were adopted in the late 1990s, with the objective of opening up the electricity and gas markets by gradually introducing competition. The European Commission has consistently argued that liberalisation increases the efficiency of the energy sector and the competitiveness of the European economy as a whole.

28. A second round of liberalisation directives was adopted in 2003. These provided that markets for all non-household gas and electricity customers were to be liberalised by July 2004. For private households, the deadline was July 2007. After these dates, businesses and private customers were to be able to choose their power and gas suppliers freely in a competitive marketplace.

29. However, a sector enquiry in the gas and electricity markets undertaken by the European Commission in 2005, published in January 2007, revealed that there remained serious obstacles to competition in the market. The energy inquiry responded to concerns voiced by consumers and new entrants in the sector about the development of wholesale gas and electricity markets and limited choice for consumers. Contributions to the sector inquiry came from energy companies, both incumbents and new entrants, from national regulators, competition authorities, consultancies, law firms, energy traders, grid operators, customers, industry associations and government agencies.

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<sup>2</sup> See the European Commission Staff Working Paper on the Evaluation of the performance of network industries providing services of general economic interest, SEC(2007) 1024: [http://ec.europa.eu/internal\\_market/economic-reports/index\\_en.htm](http://ec.europa.eu/internal_market/economic-reports/index_en.htm).

<sup>3</sup> See the European Commission Staff Working Document SEC(2010) 630: [http://ec.europa.eu/information\\_society/policy/ecomms/library/communications\\_reports/annualreports/15th/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecomms/library/communications_reports/annualreports/15th/index_en.htm)

30. The inquiry brought to light that more than a decade after having launched the drive for liberalisation and despite two waves of European liberalisation directives, market concentration still reflected the 'old' market structure, characterised by national or regional monopolies - usually dominated by vertically integrated companies - which controlled electricity prices in the wholesale market and blocked new entrants to the market. In the gas sector, incumbents tended to control imports and/or domestic production. To enter a market, and provide real competition, new players need access to energy supplies, to the network and to customers.

31. To tackle the problems identified in the course of the inquiry, the European Commission has notably taken action under the competition rules (anti-trust, merger control and state aids). Ten major antitrust decisions concerning the energy sector have been adopted since the conclusion of the energy sector competition inquiry in 2007.

32. The competition sector inquiry also had a spill over effect outside the immediate field of competition policy; its findings fed into the preparation of the third package of directives to liberalise gas and electricity markets adopted in 2009, with a view to ensuring that consumers benefit fully from liberalisation in terms of secure, competitively priced and sustainable energy. For instance, the need to strengthen the existing rules on separation of supply and network companies was a clear message that had come out from the inquiry, along with the need to remove obstacles to cross-border competition in energy markets.

33. Although energy prices have continued to rise in the EU, increased competition in energy markets has kept those prices in check. Indeed, in recent years consumer energy prices have increased much less than the price of energy inputs such as oil, gas and coal<sup>4</sup>.

## **6. Pharmaceuticals**

34. Without doubt the pharmaceutical sector is of great importance to consumers and the least well-off in society. There are tens of thousands of prescription and non-prescription medicines on the market, and more people are taking more medicines as our population ages. On average about € 390 were spent on medicines in 2010 for each European. This figure is expected to rise in the future, particularly in view of the Europe's aging populations.

35. As there were strong indications that competition in this sector remained insufficient, the European Commission decided in 2008 to launch an in-depth sector inquiry, with a view to determining whether Europe is maximising innovation and affordability in this sector. This matters greatly because more innovation and more affordable medicines would mean better quality of life and savings for patients and governments. The final report of 2009 provides an in-depth description of the sector. It analyses how companies behave in the patent and other regulatory systems and the mechanisms by which medicines reach consumers. A number of conclusions could be drawn from the inquiry.

36. The most important conclusion was that it takes too long for generic medicines to reach the market. On average, consumers wait 7 months for cheaper generic medicines to become available once patents for brand-name (also called originator) medicines expire. One reason is that drug companies use a variety of techniques to extend the commercial life of their medicines. When brand-name medicines are forced to compete with generics, prices go down. Furthermore more patients may be treated as in some instances they will only get access to generic versions of a medicine, e.g. in poorer Member States. The price decreases can be quite substantial. For a sample of medicines it was calculated that additional savings

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<sup>4</sup> See the European Commission 2012 Communication on Making the internal energy market work, COM (2012) 663 final, footnote 7: [http://ec.europa.eu/energy/gas\\_electricity/doc/20121115\\_iem\\_0663\\_en.pdf](http://ec.europa.eu/energy/gas_electricity/doc/20121115_iem_0663_en.pdf)

of 20% would have been possible if the generic version had become available immediately after the original patent expired. In a small number of cases prices could drop as much as 80-90%. Using a sample of medicines across 17 Member States that faced loss of exclusivity in the period 2000 to 2007, the European Commission found that the entrance of generics produced €14 billion in savings, while delays to entry cost consumers around € 3 billion.

37. The inquiry also found that originator companies engage in so called defensive patenting strategies to block or delay competition from other originator companies.

38. Following the inquiry, the European Commission decided to scrutinise the sector more closely a.o. by carrying out patent settlement monitoring exercises and where appropriate prosecute specific companies for alleged violation of competition law. In July 2012 the Commission's third monitoring exercise on agreements regarding patent settlements in the pharmaceutical sector showed a stabilisation of settlements that were potentially problematic under EU antitrust rules at low numbers. This suggests that the closer antitrust scrutiny since the sector inquiry report of 2009 has created an increased awareness of originator and generic companies of which types of settlements can give rise to antitrust scrutiny – generally the so-called pay-for-delay settlements. This is good news for consumers who will benefit from cheaper pharmaceuticals.

39. Complementary measures beyond the remit of competition law have also been developed. EU countries have been urged to take action against misleading campaigns questioning the quality of generic medicines, to introduce mechanisms to significantly accelerate approval procedures for generic medicines such as immediate/automatic pricing, to streamline trials that test the added value of medicines and to introduce measures supporting speedy uptake of generic medicines and improved price competition.

40. All these actions should benefit consumers and provide them with quicker access to safe, innovative and affordable medicines.

## **7. Financial services**

41. In 2005, the European Commission conducted a sector inquiry in the financial sector. The inquiry focused on the markets for payment cards and for core retail banking services in the EU, including current accounts and related services. The outcome of the inquiry provided clear evidence of fragmented markets and of areas where markets are not working as well as they should, unnecessarily raising the cost of retail banking services for European firms and consumers alike.

42. The European payment cards industry is large and provides the means for consumer payments with an overall value of €1 350 billion per year. Such payments generate an estimated €25 billion in fees annually for banks. For consumers this is a sector of considerable importance, although as the fees are hidden, and only passed on indirectly by merchants as higher prices, most consumers are not aware of the impact on them.

43. The sector inquiry confirmed the existence of significant entry barriers. At international level there appeared to be an effective duopoly for cross-border card payments. At national level it was found that the payment cards networks set a range of discriminatory rules. There also appeared to be huge variations in payment card fees across the Member States. Retailers in some countries paid fees that were up to four times more than in other countries for accepting the same major credit card. The inquiry also strengthened the European Commission's concerns about the levels of multilateral interchange fees in some card schemes. As customers already pay the cost of interchange fees - since retailers pass them on in higher retail prices, paid not only by card users but also by customers paying cash - reducing these fees would, on balance, benefit consumers.

44. The EU retail banking industry generates €250-275 billion per year in gross income, equivalent to 2% of EU GDP. Markets are generally fragmented along national lines, divided by factors including competition barriers and regulatory, legal and cultural differences.

45. The sector inquiry found indications of competition problems in several areas which directly affect consumers. For instance, a majority of banks in most Member States force their customers to purchase extra products – such as current accounts or insurance – when taking out a mortgage or a loan. In many countries, there is effectively no choice: all the big banks tie the same sets of products together. Where such banks are in a position to be able to set prices on these product markets, this raises competition concerns.

46. Further, the inquiry identified a range of unnecessary obstacles for consumers to switching bank accounts which weaken competition. Low price transparency and high fees for maintaining and closing accounts discourage switching behaviour. The inquiry showed that consumers generally hold their personal current account with the same bank for around 10 years on average, compared to nearly 8 years on average for SMEs. The enquiry also showed that on average banks are more profitable in markets where customer mobility is low.

47. Following the publication of the sector inquiry report, several market players have taken voluntary action to address the most serious problems identified. Where barriers remain, the European Commission's follow-up actions focus on competition law enforcement. For instance, the European Commission has opened several cases in the field of Payment cards, with the aim of reducing the costs for the retailers and the consumers. In the Visa/Morgan Stanley case, Visa prevented a bank from becoming an acquirer, thus limiting competition on this market. In the Carte Bancaire case, big banks prevented smaller banks from issuing less expensive cards, to the detriment of all cardholders. Finally, in the MasterCard case, the Commission considered that the fees paid between banks for each card payment were too high. Similar proceedings are currently pending with regard to Visa. In the meantime, both card schemes have accepted to lower their prices for cross-border transactions.

48. Outside the direct realm of competition policy, the European Commission has recently addressed the important issue of access to banking services. Access to a bank account has become a pre-condition for participating fully in modern economic and social life, in which the use of cash is rapidly decreasing. According to recent studies, around 30 million consumers over the age of 18 in the European Union do not have a bank account. Out of these 30 million 'unbanked' citizens, it is estimated that between 6 and 7 million do not have a bank account because they have been denied access to one. In view hereof the European Commission has issued in 2011 a Recommendation aiming to improve this situation<sup>5</sup>.

## **8. Food**

49. In response to mounting concerns regarding the functioning of the food-supply chain the European Commission launched its own internal Food Task Force within the Directorate-General of Competition at the beginning of 2012. The Food Task Force operates for an initial two-year period and its creation coincides with a growing political focus upon the sustainability of farming and transformation industries as well as concerns about the impact of rising food prices on the reduced budgets of households in the current economic environment.

50. In 2011 and 2012, the European Parliament asked the European Commission and national competition authorities (NCAs) to cooperate more closely so as to ensure effective competition within the food sector, and also urged the European Commission to conduct a sector-specific inquiry into the food

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<sup>5</sup> See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:190:0087:0091:EN:PDF>

supply chain within the EU. As a follow-up, the European Commission launched a fact-finding exercise involving stakeholders and National Competition Authorities (NCA's) with a view to better understanding the competitive structure, interplay of actors and degree of competition in food markets. It held meetings with relevant European associations of producers, processors, traders, wholesalers and retailers representing several food sub-sectors, so as to obtain insights into recent economic developments and specific factors influencing competition at all levels within different food supply chains.

51. Secondly, given the national or regional scope of food retail markets, the European Commission strengthened its dialogue with NCAs on food related issues in the framework of the European Competition Network (ECN). In particular, ECN members exchanged information on recent enforcement, monitoring and advocacy initiatives undertaken at national and EU level, as well as on policy issues raised by recurrent commercial practices which may affect the functioning of food supply chains.

52. The European Commission has also been active in the investigation of suspected infringements involving the food sector (see the next section). For their part, NCAs across the EU have been increasingly active in recent years in investigating food markets at a domestic level, with a particular investigative emphasis placed upon suspected infringements arising from activities within supply chains.

53. In May 2012 the European Competition Network (ECN) published a report providing an extensive overview of all competition law enforcement (antitrust cases and mergers) and market monitoring actions undertaken by the NCAs and the Commission over the period 2004-2011<sup>6</sup>. This report includes more than 180 antitrust cases, close to 1,300 merger decisions and more than 100 monitoring actions undertaken by NCAs in enforcing competition law and monitor markets in the food sector since 2004. These cases dealt with a wide range of sectors, with a particular emphasis on cereals and cereal-based products, milk and dairy, fruits and vegetables, and retail sales of daily consumer goods, covering all levels of the food supply chain. With respect to sector inquiries and market studies, NCAs have either focused on specific stages of the food supply chain, in particular on retail (including relations between retailers and their suppliers), or on specific product sectors (in particular, milk and dairy products, fruits and vegetables, and cereals) and often assessed price formation.

54. In view of these continued investigative efforts by NCAs at a national level, the launch of the European Commission's Food Task Force represents an intensified and complementary effort to root out and sanction competition law breaches within the food sector across the EU. This could see the Food Task Force combining the dual roles of heading the enforcement vanguard, and acting as an effective mission control, disseminating information to NCAs to enable effective national enforcement in domestic or local markets.

55. In addition the Food Task Force has been following and contributing to the on-going discussions on the CAP reform: one of the key elements being discussed in the reform is the application and possible modification of competition rules in the sector.

56. Finally the Food Task Force launched in December 2012 a call for tender for an economic study on the food retail sector. The purpose of this study is to gather quantitative evidence on the evolution of

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<sup>6</sup> The low usage basket refers to typical low usage consumption patterns of national services: voice calls and SMSs. See the EU Staff Working Document SEC(2010) 630: [http://ec.europa.eu/information\\_society/policy/ecomms/library/communications\\_reports/annualreports/15th/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecomms/library/communications_reports/annualreports/15th/index_en.htm)

<sup>7</sup> ECN Subgroup Food (May 2012), "ECN Activities in the Food Sector – Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector", Available at <http://ec.europa.eu/competition/ecn/documents.html#reports>.

choice and innovation at this level of the food supply chain, as well as to analyse the factors (ranging from concentration of retailers and suppliers to shop and socio-demographic characteristics) which influence most the evolution of choice and innovation in the food retail sector. This study was launched in response to various claims from stakeholders in the industry as well as policymakers that retailers' business practices may hamper investment in innovation and reduce choice for the end consumer. The study is also expected to shed further light on the competitive situation of local retail markets in different EU member States.

## **9. Recent Efforts in sanctioning cartels in consumer sensitive sectors**

57. The European Commission's enforcement practice in the food and other consumer sensitive sectors has primarily focused on tackling hard core cartels. In the context of the economic crisis, rising food prices and serious constraints on the incomes of the least well-off in society, detecting and sanctioning collusive behaviour in these sectors has become more important than ever. Some illustrations hereof are set out below:

### **9.1 *Banana cartels***

58. Bananas are bought all year around by a large proportion of EU consumers, and the EU is the largest consumer and importer of bananas in the world. According to EUROSTAT in 2010 the EU consumption of bananas was approximately 5 million tonnes, of which 12 % were domestically produced.

59. As imports dominate the EU banana market, it is not surprising that marketing and trade are at the forefront of competition enforcement in the sector. The banana market is highly concentrated with five major multinationals (Dole, Del Monte, Chiquita, Fyffes and Noboa/Pacific Fruit/Bonita) controlling more than 80% of all internationally traded bananas, and at least 50 % in the EU fresh banana markets. Furthermore, the trade in bananas during the period of the infringements was characterised by significant trade flows between Member States. For instance, bananas imported into a few ports located along either the Northern or Southern European shipping routes could be distributed throughout the region or transported elsewhere.

60. In its decision of 12 October 2011 the European Commission concluded an investigation on the banana market which had started in 2005, following an immunity application by Chiquita, and sanctioned a cartel operated by this company and Pacific Fruit (case COMP/39482 - Exotic fruit). Both companies are major importers and sellers of bananas in the EU. From at least July 2004 to April 2005, the companies fixed weekly sales prices for bananas and exchanged price information in relation to their respective brands in Italy, Greece and Portugal. The European Commission imposed a fine of € 8, 9 million on Pacific Fruit while Chiquita, as the immunity applicant, was granted immunity from fines.

61. In October 2008, the European Commission also fined Dole and Weichert/Del Monte € 60 million for price fixing in Northern Europe (case COMP/39188 – Bananas). It found that in the period 2000-2002 the companies had engaged in bilateral pre-pricing communications during which they discussed banana price-setting concerning Austria, Belgium, Denmark, Finland, Germany, Luxembourg, the Netherlands and Sweden.

### **9.2 *Dutch Beer cartel***

62. Beer is one of the most important beverage items in EU household expenditure and it is particularly important for HoReCa services. In 2010 approximately 343 million hectolitres of beer worth were sold in the EU. Most beer (ca 63 %) was sold in retail outlets, but about 70 % of expenditure on beer occurred in the HoReCa.

63. In its decision of 18 April 2007 (Case COMP/B/37.766 - Dutch beer market), the European Commission fined Dutch brewers Heineken, Grolsch and Bavaria with a total of € 273 million for operating a price-fixing cartel in the beer market in the Netherlands. The InBev group was granted immunity under the European Commission's leniency programme. The four brewers coordinated prices and price increases of beer in the Netherlands, both in the on-trade segment of the market (where consumption is on the premises) and the off-trade market segment (consumption off the premises, mainly sold through supermarkets), including private label beer. The European Commission also found that in both segments the brewers had coordinated commercial conditions offered to individual customers and allocated customers, while in the on-trade market segment the companies had coordinated the rebates granted to pubs and bars.

64. The companies concerned subsequently appealed the decision before the General Court, seeking annulment of the European Commission's decision or a reduction in their fines. The General Court largely upheld the fines for Bavaria and Heineken.

### **9.3 *Refrigeration compressors***

65. The European Commission has settled a cartel with producers of household and commercial refrigeration compressors, used in fridges, freezers, vending machines and ice-cream coolers. ACC, Danfoss, Embraco and Panasonic were fined a total of € 161 million for operating together with Tecumseh a cartel that covered the whole European Economic Area (EEA) for a period of three years. Tecumseh was not fined as it benefited from immunity under the 2006 Leniency Notice for revealing the existence of the cartel to the Commission.

66. ACC, Danfoss, Embraco, Panasonic and Tecumseh aimed at coordinating European pricing policies and keeping market shares stable in an attempt to recover cost increases. To this end, the cartel members held bilateral, trilateral and multilateral meetings at which they discussed prices, among other things, and engaged in an exchange of sensitive market information.

### **9.4 *Consumer detergents***

67. The European Commission fined Procter & Gamble and Unilever a total of € 315.2 million for operating a cartel together with Henkel in the market for household laundry powder detergents in eight European Union countries. Henkel got immunity for revealing the cartel to the European Commission. The three companies are the leading producers of washing powder in Europe. The cartel lasted some three years and aimed at stabilising market positions and at coordinating prices.

68. The cartel started when the companies implemented an initiative through their trade association to improve the environmental performance of detergent products. The environmental objective, however, did not require them to coordinate prices or other anti-competitive practices to the detriment of consumers.

## **10. Conclusion**

69. The European Commission is of the opinion that there is a clear link between competition and poverty reduction. Although it may be difficult to quantify and indicate precisely how strong, or how direct the link is, the European Commission considers that competition policy can make a strong contribution to the position of the weakest in society.

70. The contribution by competition policy consists of lower consumer prices for goods or services of particular importance to the poor, as the result of the opening up of markets to competition, the breaking up of cartels, or the prohibition of anti-competitive mergers. It is also brought about by the prohibition

of "bad" State aids which distorts competition and the stimulation of "good" aid which contributes to economic growth and the creation of jobs and innovation.

71. In the whole debate on the relationship between competition policy and poverty reduction it should be reminded that European competition policy is not an isolated policy, but is part of and contributes to the overall policy objectives of the European Commission, which seek to get Europe out of the economic crisis by stimulating economic growth and improving employment opportunities to the benefit of the weakest.