

Neelie Kroes

European Commissioner for Competition Policy

Developments in competition policy

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

Meeting with the European Economic and Social Committee,
Internal Market Section

Brussels, 9th September 2009

Mr President,

Honourable Members,

Thank you for inviting me to join you today. I am pleased to be back here – it has been a while. In the meantime the economy has faced many challenges, as has competition policy, and the world is looking very different from the time of the previous Annual Competition Report. I am looking forward to our exchange of views, as I know you have a breadth and depth of experience which is invaluable.

Before presenting to you some of the highlights of 2008, I would like to thank you for your Opinion on the 2007 Annual Competition Report. Mr Barros Vale's report already took account of the growing financial and economic crisis, and the need to strengthen the fundamentals of our economy, the small and medium sized enterprises which drive growth and jobs, placing the European economy within its global context.

As I look back over 2008, and the first half of this year, there are a number of key points that I'd like to make. First, competition policy serves consumers and businesses in the internal market.

Annual Competition Report 2008

The European Commission's Report on Competition Policy 2008 gives an overview of the main developments in EU competition policy and major enforcement actions during the year. It was an unusual and difficult year, which confronted Europe with unprecedented economic challenges.

I believe that the Commission's actions in the field of competition were a determining factor in preserving the single market and the benefits of competition for the European economy and consumers, while ensuring stability in the financial system.

Given the financial and economic crisis, state aid enforcement was more than ever at the core of competition policy in 2008. Although there has been political pressure to water down the state aid rules, I firmly believe that it is essential that we stand firm. We can be flexible on the procedure – responding quickly when needed – but we must remain strong on the principles.

Strong cooperation between partners at European and national levels allowed us to tackle the crisis in an efficient and timely manner. From the outbreak of the crisis in October 2008 until the end of the year, the Commission adopted around 40 decisions on support for banks and the real economy, sometimes in less than 24 hours. We also approved general aid schemes to support financial stability (guarantee, recapitalisation, purchase and/or holistic schemes) in 15 Member States.

Following the suggestions by the European Parliament, the 2008 Report contains detailed information on the assessment of rescue and restructuring measures approved during the year.

As well as examining individual aid measures, the Commission published guidelines last year and this year on Banking, Recapitalisation, Impaired Assets, Restructuring – and on the Temporary Framework, which is for measures to help the real economy. These communications are based on Article 87(3)b of the Treaty – an exceptional category of aid which is limited in time, to respond to particularly difficult situations.

State aid policy in its wider framework

2008 also witnessed a overhaul of our methodology by moving towards a more economic effects-based analysis of the support measures notified by Member States, notably through the introduction a balancing test. In addition, we have continued to reshape our State-aid review framework to deliver quicker and better decisions through the new General Block Exemption Regulation identifying some 26 types of aid which do not need to be notified. This has allowed us to focus our work on the review of schemes or aid fostering a competitive and environment friendly economy. By focusing on key sectors with high potential for the future, state aid control matches the goals of the Lisbon strategy.

Competition enforcement

But there has been no let up in other competition enforcement: the competition rules are even more vital to the economy in times of crisis, and the Commission's enforcement record remains extremely strong.

In the field of merger review, the level of merger notifications continued at record levels in 2008, with a total of 347 transactions being notified to the Commission. Although this is lower than the record level reached the previous year, it is still the third highest level on record. We adopted the revised Notice on Remedies in October 2008.

The Commission's fight against cartels continues to be a top priority, since the harm to the European economy and consumers is huge. This year the Commission had a special focus on consumers – you know too well how badly they are hit by the current economic situation. This is why the very first Annual Report "special chapter" was devoted to "Cartels and consumers". The report also details various actions and measures targeted against cartels.

First of all, the Commission fined 34 undertakings in seven cartel decisions. The company Saint Gobain was given the highest fine (€ 896 million) for a single undertaking for a cartel violation, in the Car Glass cartel. The total fine imposed on this cartel was also the highest so far by a cartel decision, amounting to €1,383 million.

The Commission has also introduced a mechanism to settle cartel cases with the agreement of the parties involved, through a simplified procedure, which will allow cases to be dealt with more quickly, and will free up resources to pursue other cartel cases and open new investigations. The Commission continued to police dominant firms in 2008, as evidenced by the E.ON and Microsoft cases.

Damages Actions

Not only that, but the Commission adopted its White Paper on damages actions for breach of the EU antitrust rules, which I know the Economic and Social Committee examined in some detail. I am very grateful for the almost unanimous support for the Commission's policy initiative in this area.

Let me also say that this is an example of good cooperation between the Commission and the Committee that I hope to see continue in the future.

I am glad to share the Committee's recognition of the need to foster effectiveness of the fundamental right of compensation for victims of competition law infringements. The stakeholders represented within the EESC are exactly those consumers, workers and enterprises that are harmed by competition law infringements, and that every year lose up to 20 billion euros in foregone compensation.

The objective of more effective compensation for victims of antitrust infringements remains a priority for me. Of course our investigations and high fines get more and more attention, and help to detect and prevent infringements. But those who have suffered the consequences of cartel activities still go uncompensated. It is time to put an end to this.

I have been engaged in the publication of the Green and the White Paper on damages actions, and I am honoured to have had a positive response from the EESC on both occasions. Let us now finish our work, and deliver on our promise of redress for the victims of antitrust infringements. I hope your constant support and useful suggestions will continue to assist us in this final step towards justice.

Looking back on this mandate

In five years of this Commission, we have had a number of achievements in competition policy. Throughout this time I have worked hard to make markets work better for consumers and to ensure that companies can compete on their merits on a truly level playing field. This is the foundation for more growth and jobs and a stronger European economy.

Since 2004, in all fields of competition policy, efforts have been made to move away from very rigid legal frameworks and try to assess the economic effects of certain practices in the market, notably through the introduction of Sector inquiries in sectors such as pharmaceuticals, financial services or energy. At the same time, we have improved the clarity of the rules and ensured predictability for companies, as evidenced by the General Block Exemption Regulation or the revised Notice on Remedies in the merger field in 2008. Finally, much red tape has been cut from state aid rules. Notably through the 2004 State Aid Action Plan, they have been made simpler to understand and quicker to implement in order to better ensure fair competition between firms in different Member states.

But competition rules needed to be firmly enforced. From day one I have therefore taken a strong and consistent line in thousands of cases, regardless of the companies' size, origin or sector of activity.

In merger control, the Commission has strived to ensure a competitive future, even in small or emerging markets. In the last years, the Commission had to stop Member States' government from preventing cross border mergers on unjustified grounds favouring national champions to the detriment of internal market principles.

This determination has also paid off in the fight against cartels, notably through tougher fines and the new leniency programme. Since the end of November 2004, the Commission has adopted 31 cartel decisions addressed to 187 undertakings imposing over €9 billion in fines. The damage to the economy caused by cartels is undisputed. For instance, according to a study carried out by the Commission services, the harm to the economy caused by those cartels that were the subject of a Commission decision between 2005 and 2007 can, according to very conservative estimates, be roughly evaluated at €7.6 billion.

From the outset of the financial and economic crisis, I have been working day and night with my team to make sure that competition policy plays a constructive and stabilising role in our financial system and our economy.

Mr President, members, our objective is to deliver for consumers. The experience of 2008 shows, competition policy is neither static nor rigid but capable of taking account of changing economic realities. Competition policy continues to work well for Europe. It is efficient and helps to improve the day-to-day lives of all European citizens, whether as consumers, as taxpayers or in business.