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# Challenges to the integration of the European market: protectionism and effective competition policy



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Ladies and gentlemen,

It is a real privilege for me to have been invited by the Competition Law Association to deliver this year's Burrell lecture. It is my pleasure to address such a distinguished audience of experts in competition law here today.

## Why we need the Single Market

### The benefits so far

I would like to focus my comments on two of the challenges currently facing us as we complete the integration of the European market, and how we are working to tackle them. But before I begin to do that, I would like to reflect a little on *why* this is so important. Why do we need a Single Market? Why should we promote greater European economic integration?

I hope that you are all wondering "why is the Commissioner telling us this? Surely we all know?" After all, the Single Market and the four fundamental freedoms are at the heart of the EU's raison d'être. They are at the core of Europe's peaceful economic development over the past 50 years, and they are the foundation of the Treaties. So shouldn't it be obvious?

Historically, the EU is a radical and unique experiment in the creation of open and integrated markets. Any fair-minded assessment of its record would have to be overwhelmingly positive. It has clearly generated prosperity and a better standard of living in Europe. Over the past decades, removing tariffs and other trade barriers to the movement of goods, services, capital, and labour has required many economic adjustments. But few now question that this has been worthwhile. After all, every Member State has enjoyed remarkable economic growth since the signature of the Treaty of Rome in 1957, or their accession to the Community. Our consumers have also seen real benefits from gradual liberalisation – especially in the services sector. To take just two examples, the price of air fares and telecommunications has fallen dramatically. And people have an ever greater choice of suppliers and are able to buy essential products and services in a way which is better tailored to their own needs.

### Facing the challenge of globalisation

But, it is also true that all Member States in Europe are now undergoing a period of rapid and wide changes. Productivity is growing slowly, unemployment is high, and we lag behind our international competitors in innovation and labour productivity. Globalisation, environmental issues and demography are putting pressure on each and every Member State.

Why is this? Globalisation redistributes the playing cards at world level. It is no longer the case that the global surplus produced by the international division of work flows almost exclusively to western industrialised countries. Emerging economies are now challenging us at the very core of our business – such as state of the art research and information technology. Capital is flowing to those areas where the return is best because the growth rate is highest – and that increasingly means India, China and Far East Asia.

So it is not entirely surprising that our citizens are feeling insecure. Globalisation is portrayed – and perceived - as a purely negative process. A purely win-lose situation. A threat to our jobs, to our standard of life, and to social protection. Our natural environment and climate are also undergoing an unprecedented adjustments which require changes in attitude and in practice. And security issues including the terrorist threat are ever present.

### Globalisation as an opportunity: Lisbon

But nothing in life is black or white. Globalisation certainly does bring challenges which need proper governance. But it is not win-or-lose. Without a doubt, globalisation is also the biggest opportunity that Europe has had for a long time. By making the most of the global market place we can deliver sustained economic growth, and thus assure our citizens the standard of living they rightly expect.

Yes - some profound and painful transformations will be needed in order to meet - on a sustainable basis - the EU's needs for security, solidarity and prosperity. The renewed Lisbon agenda is about managing this change and accompanying people through it. And a fully open, Single European Market is vital to the Lisbon Strategy. It is open, competitive markets that generate wealth – not politicians. And it is that wealth which enables us to develop effective social policy, which in turn supports strong economic performance, creating stability and prosperity. Without a dynamic market economy, Europe is inevitably consigned to a lingering but irreversible economic and political decline.

Competition policy and enforcement of the EC competition rules play an essential role in delivering the Lisbon Agenda. They contribute to the integration of the European markets through ensuring a fair playing field where efficiency and innovation are encouraged to prosper, because competition is solely on merit. Policies on state aid, merger control and anti-trust ensure that everyone is playing by the same rules. In turn, enforcement of competition rules ensures those rules are observed.

The Commission is aware that there is more work to be done in order to deliver a completed Single Market and our Lisbon objectives. In the Commission's communication to the European Council of 10th May - a new Citizen's Agenda for Europe – we propose to launch a fundamental review of the single market to look at what more needs to be done, and how. In this context, there are also some new and substantial challenges coming over the horizon. Much has been said recently about energy markets – the need for secure and affordable energy supplies - and the deficiencies in the current European market. I would like to come back to this later in my comments. But firstly, I would like to say a little more about another perceived challenge to European market integration – protectionism.

## Cross-border mergers, and the dangers of protectionism

Businesses have been quick to take advantage of the opportunities of open markets and free trade. Normal business activities now take place on a European, if not global scale. Restructuring is one such activity – a tool by which businesses seek efficiencies and better matching of people, money and ideas. It is a tool which can help create strong groups able to face increasing competition at home and abroad. Mergers and acquisition are means by which companies develop in order to benefit from and harness the opportunities of globalisation and world markets. So, it is vital that industrial re-structuring can take place - not just within individual countries - but also across national borders.

Cross-border mergers are increasing in the EU, and particularly so in sectors which have recently been liberalised or are going through the process of liberalisation: this trend is most striking in the telecoms, transport, energy and banking industries. This is a welcome development, as cross-border mergers - and notably in sectors which had previously been characterised by the presence of large national incumbents - tend to be more pro-competitive than mergers between national players in the same sectors. Such mergers are also more likely to create strong European groups able to win on global markets and at the same time provide better choice and value to European industrial and domestic consumers.

Most of these cross-border mergers have also proceeded – or have been abandoned - without any interference from national governments. However, in a small number of well-publicised instances, which no doubt you are familiar with, direct or indirect steps have been taken by national governments or authorities to prevent or frustrate the takeover of important industrial players based in those Member States. You are all aware of the cases I have in mind, which have arisen in particular in the newly-liberalised energy and financial services sectors. These are of course areas where mergers would have been unthinkable 20 years ago. Now they are opening up.

But, the outdated political rhetoric of economic patriotism in Europe is not a threat to the foundations of the Single Market, but in some ways a testament to it. It is a testament to the fact that the Single Market in Europe is more of a success than it has ever been.

If these isolated incidents were indicators of a more general trend, it would be a cause of great concern. But I do not believe that they are. Whilst dealing with this seriously, I do not believe we should overstate the situation.

The EU's single market rules, and the EC Merger Regulation (Article 21), clearly forbid unjustified measures taken by national governments to prevent the realisation of cross-border mergers of a European dimension. The Commission, as guardian of the Treaty, and as the body entrusted with the enforcement of the Merger Regulation is determined to ensure that these rules are abided by. And, looking at the statistics, most merger operations that are notified to the Commission are approved in one form or another. Most mergers either have no negative effects on competition, or can be approved on the basis of appropriate remedies to remove the risk of negative effects. And that applies whether companies are big or small, whether they are owned or managed from within the Union or outside.

The Commission will not hesitate to continue enforcing the legal instruments at its disposal should a Member State unjustifiably oppose free movement of capital or mergers of a Community dimension between companies based in different Member States. The Commission's role as referee is key to guaranteeing that companies can effectively benefit from the internal market and from a level playing field in the assessment of mergers and acquisitions. The enforcement of these provisions will remain one of our major priorities, to ensure that corporate restructuring in Europe can take place without undue interference and, by enhancing competitiveness, can play an important part in delivering economic growth and jobs in Europe.

We should not exaggerate the dangers, of course - the trend toward cross-border consolidation still remains a positive one. But we should be vigilant - because if a protectionist trend continues or intensifies, one thing is certain: all of us here in Europe will suffer. That is why it is so important to speak out against it and – where we can – to oppose it. I am doing that in Europe, and Europe is doing that in the WTO.

## Sector enquiry into the energy markets

As promised, I would now like to come back to the question of competition in European energy markets. The European energy sector only underwent liberalisation relatively recently. It is “work in progress” as concerns the completion of our Single Market.

The liberalisation Directives adopted since the mid-1990s opened the way for competition, with the aim of increasing efficiency in the production, transmission and distribution of energy. However, over the last years it has become clear that a fully competitive single European energy market is not yet a reality. Competitive forces are still not functioning at their optimum level. Considering the vital role of a single energy market for the Lisbon process, when I came into office I considered it essential to move quickly to identify and remedy the problems.

So, last year, I launched an inquiry into competition conditions in the energy sector, with the aim of identifying the ongoing barriers and working out how to remove them. I was particularly concerned that energy prices were somewhat higher than one would expect in a liberalised market.

The initial findings of that inquiry confirm that there are serious malfunctions in Europe’s energy markets. In particular, we have found evidence that:

- Wholesale markets still a very high level of concentration, creating scope for incumbents to raise prices.
- Consumers are denied choice due to the difficulties faced by new suppliers trying to enter the markets. Insufficient separation of infrastructure and supply functions prevents new entrants from reaching the final consumer.
- There is no significant cross-border competition – for gas, it is difficult to secure transit capacity on key routes and for electricity there are long-term capacity reservations and not enough inter-connector capacity.
- A severe lack of transparency prevents new entrants from competing effectively.
- Finally, prices often are not determined on the basis of effective competition.

This is quite a damning list of problems! So what role will competition policy play in solving these issues, completing the single market in energy, and ensuring secure supplies at affordable prices? We have consulted widely on the preliminary results of our inquiry and are carefully analysing the responses we received from stakeholders and the public. The final report should be available by the end of the year – but I can already commit to some of the ways forward:

- First of all, I will apply the Merger Regulation vigorously in the energy sector. The sector inquiry has helped us to identify suitable assessment criteria and some of the most efficient remedies for this type of case.
- Secondly, I will pursue investigations into possible violations of EC Treaty rules on restrictive business practices and abuses of dominant positions (Articles 81 and 82). This is essential to ensure that the positive effects of removing the legislative barriers to integration are not be neutralised by anti-competitive practices that deny customers, both domestic and industrial, the full benefits of a single market in energy.

And when the final report comes out, it will sit in parallel with my colleague Andris Piebalgs’ report on progress on liberalisation of the energy markets – including the question of the possible need for new regulation in this area.

You are all aware of the Commission's Green Paper on an European Strategy for Sustainable, Competitive and Secure energy and the European Council's resolve to adopt a clear, comprehensive Action Plan to tackle the current challenges. We will ensure that competition policy and rigorous, effective enforcement of the rules contributes fully to that agenda.

## Conclusion

European integration can turn the threat of globalisation into an opportunity by providing a meaningful, collective answer to the challenges of globalisation, when no Member State alone would be able to do so. There is urgency here. We cannot remain for much longer the only economic area in the world with no plan, no project, no strategy. The Lisbon Strategy is clearly the right one, but for Europe to deliver, it needs to be collectively adhered to by our Member States. The integration of the European single market is a reality. In some areas – like energy – there is still more to do. But the single market is already working, and we should not over-exaggerate these few incidents in newly-liberated areas – which are themselves proof that the markets are opening-up.

Teaming up together is difficult; it is demanding. It is of course easier to surrender to the temptation of nationalistic postures and protectionism. But if we are not able to make our collective long term interests prevail over short term individual interests, we will for long remain at the place that geography gives us in the world - a small cape of Eurasia.