

European Competition Day

Competition law - Thinking Outside the Box

24. September 2018, 09:40 Uhr

Austria Center Vienna

Closing Remarks

- Ladies and gentleman I have the privilege to address the closing remarks to you. Thank you all very much for your interest and contributions to today's fruitful discussions. During this competition day we tried to think of competition law outside the box (in the last session we looked also into the box). It was our aim to have a very broad discussion and according to my impression we managed to do so. Let me just briefly highlight the three key issues of this European Competition Day:

- FIRST:** We need to keep the aims of competition law in mind, which is ultimately to increase welfare of citizens (which is not always identical to the welfare of consumers) sustainable- Competition law is not an end in itself
- SECOND:** Europe is competitive in innovation and quality; only focusing on short term effects like low prices could destroy long term functioning of markets; related to that global supply chains are a challenge in competition law
- THIRD:** Regulatory burden is a big issue and usually more harmful to SMEs, regulation needs to be critically evaluated, maybe nudging could be the right instrument.

- In Panel I we heard answers to fundamental questions of competition policy but also new issues have been raised. For example we heard from Prof. Gerbrandy about "Modern Bigness" in the current Digital World and the following discussion linked to that: the challenge of new big global players situated outside the European Union.
- We have been reminded today that currently technological change takes place in an breathtaking speed *and extent* – and that consequently there is the need to adapt competition regulation to changing market conditions. In the final panel we have learned about the impact of e-commerce on the trading practices of actors. We have also been reminded that classical supply chain is no longer the rule in modern trade, but that we face very often hybrid agreements.
- New phenomenons arise that pose risks to market functioning and needs to be adequately addressed. More attention has to be paid to market structure, long term developments, fairness and the supply chain needs to be incorporated in competition law design and enforcement. Also how to adequately deal with the market power of online platforms is still an open issue.

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- Prof. Baudenbach pointed out that in order to optimally design and implement competition policy we need to make an assumption about the way economic actors make their decisions.
 - In this respect we are grateful to Prof. Kocher who presented very helpful insights into the current conventional wisdom of behavioural economics.
 - He also introduced Nudging as a very interesting concept in behavioral economics which proposes positive reinforcement and indirect suggestions as ways to influence the behavior and decision making of us all. The link to competition enforcement has to be discussed further.
 - We have discussed today the question whether competition policy has focused over proportionately on short term effects on one end of the supply chain (consumer side) ;
 - and has forgotten about the other elements of the supply chain (which means the suppliers) and thus endangered the long run competition effects. We need to look at competition in a comprehensive and complete way; looking on low prices might give an incomplete basis for decisions, rather non-monetary welfare effects have to be respected
 - Regarding Competition and Health Care markets (Financing, medical services i.e hospitals, pharmacies, production of pharmaceuticals) we can take from today's discussion that it is important to develop health care fairly. In every member state the health sector is of high and growing importance for value added and welfare, at the same time the influence of the public sector is very prominent and competition is often limited or even non-existent.
 - As market failure is of high relevance in this sector the adequate regulation of competition is an even more demanding task compared to other areas. The issue of patent protection is a very good example of the need to balance consumer interests via low prices compared to safeguard sufficient research investments of enterprises via sufficient patent duration periods.
 - I want to remind you that the proposal of the European Commission on SPC (supplementary protection certificates) manufacturing waiver is currently negotiated in the European Council.
 - Healthy and fair competition has been advocated by Mr. Becker from the European Commission in very diplomatic way. The discussion pointed to the potential of careful and modestly intensifying competition could increase overall welfare.
 - The discussion will go on for sure.
 - Panel III offered us an in depth discussion of the vertical issues of competition policy. Global supply chains have changed fundamentally in the last decades. Europe can not compete with

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lowest prices or lowest wages. I see here also a link to our new approach for European Industrial Policy.

- We working during the Austrian presidency with large effort for strengthening Industry in Europe having in mind worldwide competition. Europe is committed to a new industrial policy, which is aimed at strengthening the production sector in Europe and ensuring jobs. Competition policy can contribute at securing welfare with a view to long term effects of regulations.
- In conclusion, I recognise we have an ongoing challenge to ensure fair competition.

We are committed to working with you on this matter.

Many thanks to our keynote speakers and panelists for the highly interesting presentations!

Thanks to the organisation team that made the comfortable and smooth evolution of todays event possible

And thank you all for your attention and the lively discussions!

With this I want to close this session and todays Competition Day

