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Herr Vorsitzender, dear Ingo,
meine Damen und Herren,

Viel Dank für ihrer Einladung zu dieser iconischen Gremium. Und ich meine ihrer Vereinigung und nicht der Concert Noble.

But, with my apologies, I think that it will be more efficient if I continue in English.

And reflecting on my experiences in the BCA, the search for a balance between efficiency, requiring timely decisions in order to remain relevant, and the quality expected by review courts, was and continuous to be our main challenge.

The second key lesson I learned from looking back is that you have to look forward, trying to predict the future.

This is most obviously necessary in merger control.

But also in infringement cases:

- Competition authorities are policy makers in the implementation, enforcement of legal provisions. They are judged by our review courts, but they are not judges.
- They must try to anticipate the impact on markets of case decisions, and not only on parties.
- This is illustrated by your reading of decisions. Whenever there is new turn of phrase compared to previous decisions, your collective brainpower not only focusses from the parties' perspective on what was decided. It is at least as much on how that is likely to affect future decisions.

Competition authorities have in my experience seldom faced more existential challenges.

- The ever accelerating technological revolution creates wonderful opportunities.
- But we can not be blind for the fact that there is, especially for the most vulnerable, only so much change they can live with. Societies risk disintegration by multiple forms of destructive behaviour, and I am afraid we start to see that already, when they feel at the mercy of developments. Protectionism, militant nationalism and extremism at either end of the political spectrum are logical defence strategies in societies that hope to restore or preserve what little control they can retain over their cultural, socio-economic and political environment.

This puts to the test the legitimacy of all involved in competition policy making and competition law enforcement, and of course especially of competition authorities.

- It is difficult to be effective if not seen to be legitimate .
- Difficult to be legitimate if not seen to be fair.
- It is and remains our mission to convince all stakeholders that, as it is forcefully put by Margrethe Verstager, it is not fair to be inefficient.
- We must and can show that healthy competition on the merits empowers stakeholders, all stakeholders.

These are fascinating times. Especially for academics, practitioners and authorities. Less I am afraid for companies, preferring mostly total predictability to regulatory experiments.

Facing our challenges, knowing that proper enforcement procedures are unlikely to produce final decisions in a time frame allowing them to offer relevant guidance to some markets, competition authorities are forced out of their comfort zone, and all of you are challenged to participate in the search for adequate responses.

Some thoughts, and this is not the time and place to go into details:

- I can understand the reluctance of the Commission and eg. the Bundeskartelamt, to offer guidance in formal guidelines that have the impact of quasi hard law when there is no established case law. But that means that we must be willing to offer more tentative tailor made guidance, that protects the companies that are willing to come forward (eg. as offered by the Bundeskartellamt and by the Dutch authority on sustainability issues), and that remains sufficiently flexible in order to take into account future developments without undue delay.
- We must use all available tools to bring forward the useful effect of enforcement cases. We must see what signals can be given to the markets at large (having in mind that the so called indirect useful effect of enforcement is said to be a multiple of the direct effect of a change of behaviour of the parties in a case), with due respect for defendants: prudent press releases, effective interim measures procedures, etc. again have to search a balance between
- We must continue to explore *ex ante* tools such as the DMA and the German article 19A.
- We must, as we did in respect of telecom when competition law was first a laboratory for regulation and later an enforcement tool, use regulation and competition law enforcement as complementary tools, as illustrated by the German Facebook case, each used with respect for their specific characteristics.
- And, I guess more controversial, we need to use all available, if perhaps less obvious instruments to deal with truly exceptionally challenging cases, and define them as well as we can in order to limit the threat to a sufficiently foreseeable impact of competition law enforcement.
- I think eg., as you probably guessed, of the use of article 22 of the Merger Regulation: personally (and I now only have a personal voice), I continue to support the Court and the Commission, with a few suggestions:
    - To be be very prudent when assessing what might be killing acquisitions. My links with the University of Leuven, one of the worlds' most innovative according to the Financial Times, keep me aware of the facts that few start ups will make it to the market on their own, and that young entrepreneurs often do what it takes in the perspective of selling, and then often start again.
    - In this world we must exceptionally be able to address exceptional cases that do not meet the thresholds in relevant jurisdictions, while as the Executive Vice President said this morning, catching such cases by modifying the thresholds would on balance have a more negative impact. But in order to preserve an acceptable level of predictability, we must try to define as well as we can what are exceptional cases.
    - I also share the concern that an undisciplined proliferation of cases by authorities without adequate nexus can be very disruptive on cross border markets. But there the answer is comity, as also suggested by Margrethe

Vestager, and in line with the OECD/ICN Report. And ideally a parallel enforcement effort in the jurisdictions that are most directly concerned.

- Also the Towercast case law: my key question is wether the Court defined when article 102 TFEU can be applied, or whether it only gave an example. Belgian competition law has by the way no equivalent of article 22 Merger regulation and established case law on the application of art. 102 TFEU.
- and the provision on merger control in the DMA, etc.

Ladies and gentlemen, again my thanks for the opportunity to be with you, and again, it takes assemblies like yours to search for balanced responses to the challenges we all face together.