

Commitments

made at the hearing of

MARGRETHE VESTAGER

Commissioner for Competition



In her answers to the questionnaire and during the hearing on 2 October 2014 before the Committee on Economic and Monetary Affairs, the Danish commissioner-designate Margrethe Vestager made a number of commitments. The most relevant are highlighted in this document.¹

Note: the application of competition law is based on Art. 101 ff. TFEU (special legislative procedure, EP consultative powers); thus legislative initiatives in competition policy are limited.

Special legislative procedure for Competition

"Competition area is of course special, because Article 103 of the Treaty has a very limited sort of eyesight for the ordinary legislative procedure.' I will do my best to promote a balanced view of when we should regulate and when we should use other means in order to reach the goals that we are all pursuing."

State aid modernisation

Ensure the follow up of this process and increase transparency and openness for the use of scarce public resources

'In the field of state aid, I will build on the state aid modernisation agenda. This is the modernisation which will enable Member States to take more and more responsibility for state aid. And even more important: it will increase transparency and thereby allow the public to see how we use very scarce public resources. Citizens will have a much clearer picture of how scarce public resources are being used, so it can be a bigger part of our democratic debate. [...] The recent state aid modernisation has put us on the right track, and it will help us focus where our interventions are mostly needed, while relying on Member States to do what they do best. [...] The modernisation of state aid in the general bloc exemption regulation gives Member States much bigger scope for dealing with not only minor cases but actually a number of cases when it comes to state aid, which will make sure that we have, here in the Commission and in Parliament, the resources to focus on the bigger schemes, on state aid where it has to be notified, where there are due questions to be asked.'

Enforcing competition law

Ms Vestager's values are neutrality, impartiality and rigour

'I believe that the defence of the common interest is a hallmark for competition policy. [...] Neutrality,

impartiality, rigour: to ensure the rule of law. Neutrality, impartiality and rigour: on the facts, on the economics, on the law – that will be the basis for my actions. I will listen to everyone, from the largest multinationals to the representatives of small firms; from states to citizens. But the analysis of my staff and my own judgement will not be swayed by anyone. The authoritativeness of EU competition enforcement rests in large measure on our independence, impartiality and respect also of the confidentiality in the handling of individual cases. [...] Investigations will be conducted and decisions proposed to the College regardless of a company's nationality, prominence or size; and, in case of state aids, regardless of the countries involved.'

Complementarity to other EU policies

Energy Union

'We are moving forward extremely slowly and I think it is timely and important to call for energy union to give us sustainable secure, cost-efficient energy. Because I do not think that this can be solved on a country-by-country approach. One of the issues when it comes to the debate about where we need investment is, of course, in the energy sector, both in the grid and in the capacity mechanisms, in order to make sure that we can diversify our energy production. [...] I think it will be very important [...] to investigate if somebody is misusing a dominant position and thereby making it extremely difficult for smaller suppliers to come in and supply at the lower price for customers.'

Digital Economy

'Therefore, the new regulations we are putting in place are very important because in terms of the provision of Internet we find there are market failures. If, in addition, we can implement thorough investigations, and take decisions on competition, among those who provide services on the Internet, we can do good for consumers. This is another of the things that listeners will take note of from this

debate – that the Parliament insists that [...] the Competition Commissioner should strongly prioritise the entire digital market. She should do so in combination with fellow Commissioners who have direct responsibility for data protection and for safeguarding the ownership of private data that is not to be exploited. [...] However, I think the message that people will take from this hearing is one of the possibilities and the promise of competition policy in terms of enhancing growth, jobs and investment. I also think people will have taken in the fact that everybody here realises how much the digital economy means to everyday citizens, and how important it is that there is free competition and no misuse of dominant positions. This means the world to the consumer – and to the computer as well!

Bring competition concerns to EU trade negotiations and to WTO

'[...] it is important that these [transport] sectors too should follow competition rules. It is important that, if there is suspicion about other jurisdictions taking this more lightly than we do, we should take up these debates in trade negotiations or in the World Trade Organisation. [...] What is important is, of course, that, whenever a business operates in Europe, it is the same rules. No matter who is the owner, who is the shareholder, who is in charge; when you operate in Europe, it is European rules. Second, I think it is very important to take some of the considerations by the front door: to say when we negotiate trade, when we work in the WTO, that we put this on the table. [...] And I think it is very important to keep also the international competition work at speed. I have found out that what we do here in the European Union is a five-star operation. That should not only be kept; it should, of course, be enhanced, and we should work with others to enhance their operation and to make competition rules also the rule globally. But I think that we should continue this debate, because I think there are a number of nuances in this; also because some of the sectors are crucial; also when it comes to the handling of patents, intellectual property rights, and how things are

managed with fellow Commissioners and fellow committees in these questions.'

On-going cases

Continue the current Google investigation

'I am absolutely certain that there will be next steps, because this is basically a very classical situation. We have a business with a huge, huge, huge market here and we have complaints from a number of competitors of different sizes. I think that, as late as yesterday, new issues came into the public debate in Germany, with more dimensions as to how these things are managed by Google. I think it is very important not to go into the concrete investigation today, but to make sure that we have the tools and the willingness to keep investigating, also when it comes to these new areas. As I said in my opening remarks, competition rules are as old as the Treaty; and that is good. But to enforce them we need to be as sharp as the businesses in the new markets which are developing at a speed which is completely different from what it would have been five or ten years ago. I hope very much that we do not have to prolong this investigation with another investigation, and yet another investigation, because I think that not only consumers, but also competitors would like this to be a competitive open market and to be able to have their services available to consumers. So there will be next steps, but it is too early for me to say what kind they will be.'

Continue to investigate tax benefits

'I am going to continue the work that Almunia started in order to throw light on some of these [tax] arrangements if possible. [...] This is not a way of putting tax policies through the back door, but if it amounts to state aid, directly or indirectly, it is an issue also for the competition portfolio, and therefore I think it is very important to keep investigating what actually goes on, what are the revenues, and how it can be stopped. [...] we will continue the investigations that are running. [...] we

will also make sure that we can have a structured approach to this in the future too.'

Financial sector

Continue the monitoring of state aid provision

'I hope that the way state aid issues will be handled will be in the spirit of the BRRD, making sure that they are bailed-in first before state aid will be required. [...] The Banking Union will provide a lot of the remedies that we need. The single supervision will do some of that. There will also be an issue for state aid enforcement, because Banking Union is not necessarily for everyone, though it is open for also non-euro countries. There will be an issue to make sure that 'ins' and 'outs' are treated equally, and that will be an issue also when it comes to state aid and how things are pursued.' [...] The challenge is to get off the aid and get back to a healthy – and, as I said, maybe more boring – financial sector. It is very important to insist that there are still state aid issues, also when the BRRD and Banking Union are in effect, just as there will be state aid issues now when the total result of the asset quality review and stress tests are published. Probably there will be banks which will need more capital in order to be viable and to meet the demands which will allow them to come into the banking union. There, there is an issue for state aid, because there [...] are new rules.'

Cooperation with the European Parliament

Discuss early new initiatives, also non-legislative, in formal and informal ways

'I think it is very important to also have concrete discussions when we are going to propose things which could be considered as soft law and to have

these debates before we put pen on paper. I think that the reports that Parliament has made previously have been extremely helpful for the Commission to find the right balance, and just talking about whether regulation is always the measure to take, if market regulation or transparency could be used. I think also, on this issue, it is very important to make sure that, there may not be legislation, there may not be ordinary procedures, but there may just the same be a very strong influence and a very strong holding the Commission up to its promises by the European Parliament, both in formal and in informal gatherings. [...] I find that it is also important that we have not only the formal, but also the informal talks about how the enforcement actually plays out, not on a case-by-case incidence, because that would be confidential, but to make sure that we actually enforce. [...] One of the things that help me is to realise how promising our cooperation could be. The question asked about the limits to competition, and the limits to legislation and regulation, also highlighted how much can be achieved if Parliament and Commissioner work together, both formally and informally, in this field. As I have said a number of times, I will promise to play my part in doing that.'

¹ Quotes are either taken from the commissioner-designate's answers to the questionnaire or from the hearing held on 2 October 2014. In case of multiple quotes on the same issue, only one is reported here to enhance legibility. Some quotes may be free translations of the original language spoken.

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This document is available on the Internet at: <http://www.europarl.europa.eu/studies>

ISBN: QA-04-14-949-EN-C (paper) Catalogue number: 978-92-823-6191-7 (paper)

ISBN: QA-04-14-949-EN-N (pdf) Catalogue number: 978-92-823-6190-0 (pdf)

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