

# *Fordham International Law Journal*

---

*Volume 30, Issue 5*

2006

*Article 2*

---

## Industrial Policy and Competition Law and Policy

Neelie Kroes\*

\*

Copyright ©2006 by the authors. *Fordham International Law Journal* is produced by The Berkeley Electronic Press (bepress). <http://ir.lawnet.fordham.edu/ilj>

# Industrial Policy and Competition Law and Policy

Neelie Kroes

## **Abstract**

This afternoon - and it's nearly evening - I would like us to try to rethink industrial policy. I think it makes no sense to speak of industrial policy and competition policy as distinct, one from the other, let alone as antagonistic policies. I would rather define industrial policy as one which frames the structural conditions necessary to ensure economic success in a globalizing economy. I therefore have no qualms in saying that competition policy should form a central plank in any industrial policy. As a member of the European Commission, I will focus my comments on the interconnect between industrial and competition policy in the European Union. But these issues are not just relevant for Europe. Our challenges are not so different from those facing other economies in today's world. I will first explain why embracing open markets and renouncing protectionism, or what might be characterized as old-fashioned industrial policy, is not only desirable, but imperative. I will then go on to set out some essential ingredients of a modern industrial policy, at least as I see it, and explain why competition policy, in the widest sense, if you allow me, should play a central role in shaping this.

## SPEECH

### INDUSTRIAL POLICY AND COMPETITION LAW AND POLICY

*Neelie Kroes\**

Thank you very much for inviting me to address you today. It is an honor; it is a pleasure; and I am delighted to be in your midst. The theme of today's debate, the relation between industrial policy and competition law and policy, could not be more topical.

Industrial policy and competition policy: For Europeans, Mr. Chairman, just putting these two notions in one sentence still tends to conjure up a great ideological divide, a divide between Colbertian "dirigistes" and economic libertarians on the one hand—a faith in the ability of governments to successfully build, direct and protect the supply side of the economy<sup>1</sup>—and a belief on the other hand that markets should be subject only to rules to guarantee a level playing field, but that markets are otherwise best left to their own devices.<sup>2</sup>

This ideological divide has always been something of a caricature, but it has lasted because there is some truth underlying it. As a result, to put it bluntly, industrial policy has been rather bad-mouthed by the advocates of competition policy.

This afternoon—and it's nearly evening—I would like us to try to rethink industrial policy. I think it makes no sense to speak of industrial policy and competition policy as distinct, one from the other, let alone as antagonistic policies. I would rather define industrial policy as one which frames the structural condi-

---

\* Commissioner for Competition, European Commission, Brussels.

1. See Jim Chen, *The Decline of the Nation State and its Effect on Constitutional and International Economic Law: Contribution: Fugitives and Agrarians in a World Without Frontiers*, 18 CARDOZO L. REV. 1031, 1031 n.1 (1996) (quoting Jean-Baptiste Colbert (1619-1683) as saying, "There is nothing great without the state" ("*Rien de grand sans l'état*").

2. See Brenda Cossman, *Contesting Conservatism, Family Feuds, and the Privatization of Dependency*, 13 AM. U.J. GENDER SOC. POL'Y & L. 415, 438 (2005) ("*Libertarianism's project is to reduce the role of the state by promoting private choice.*"). Cossman explains that libertarianism derives from classic liberalism, which prizes individual liberty thriving on "the economic liberty of a free market, and the political liberty of a minimal state." *Id.* at 433.

tions necessary to ensure economic success in a globalizing economy. I therefore have no qualms in saying that competition policy should form a central plank in any industrial policy.

As a member of the European Commission, I will focus my comments on the interconnect between industrial and competition policy in the European Union. But these issues are not just relevant for Europe. Our challenges are not so different from those facing other economies in today's world. I will first explain why embracing open markets and renouncing protectionism, or what might be characterized as old-fashioned industrial policy, is not only desirable, but imperative. I will then go on to set out some essential ingredients of a modern industrial policy, at least as I see it, and explain why competition policy, in the widest sense, if you allow me, should play a central role in shaping this.

The proliferation and integration of markets worldwide provide unparalleled opportunity for economic development and prosperity. Removing barriers to trade and competition opens up new markets for the goods and services we all produce. It also provides new opportunities for investing capital overseas and for attracting investment into our own economies. Economic growth is not a zero-sum game. The creation of jobs in one part of the world does not imply long-term job losses elsewhere. Economic growth, both inside and outside domestic or regional markets, stimulates the demand for the products and services we produce, thereby generating a virtuous circle of growth and investment.<sup>3</sup>

The good news, ladies and gentlemen, is that European industry has clearly understood the opportunities that are out there. In a way, globalization is nothing new for Europe. The European Union is, in historical terms, a radical experiment in the creation of open markets, and its record in generating wealth and a better standard of living in Europe speaks for it-

---

3. See Joaquín Almunia, European Commissioner for Economic and Monetary Policy, Address at the 9th Annual CFO European Summit, *Globalizing Europe: An Internal Market for the 21st Century* (Mar. 14, 2007), available at <http://www.europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/07/145&format=HTML&aged=0&language=EN&guiLanguage=EN> (assessing the benefits of the European Union's ("EU") open economic model and finding that, in 2006, EU GDP growth was at 2.9 percent due to increases in domestic demand, investment, and net exports; unemployment levels fell to 7.6 percent; and growth trends were expected to continue).

self.<sup>4</sup> The removal of barriers to the free movement of goods, services, capital, and labor has required many economic adjustments over the past few decades; but few now question that this has been worthwhile.<sup>5</sup> Every Member State has the feeling and has the knowledge that it is an excellent route we are going on. The single market is a unique success story and very much a reality for business.

In this context, I am not at all surprised by the growth in the number of cross-border mergers.<sup>6</sup> If anything, I'm pleased. I'm really pleased. It shows that industries in our internal market are able to restructure as they see fit, including through changes in corporate ownership, to meet global challenges.

In Europe, the merger wave is particularly marked in sectors which have recently been open to competition or which are going through the process of liberalization. Previously national companies are becoming, in reality, European or even global ones. Concerning what was said before during your panel discussion, I'm not interested in the nationality of the partners of a merger; and I'm not interested in the size of the partners. I'm interested in whether it conforms to the rules and regulations

4. See Treaty Establishing the European Economic Community, art. 2, Mar. 25, 1957, 298 U.N.T.S. 11 ("The Community shall have as its task, by establishing a common market and an economic and monetary union . . . to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States."); see also EUROPEAN COMMISSION DIRECTORATE-GENERAL FOR PRESS AND COMMUNICATION, KEY FACTS AND FIGURES ABOUT THE EUROPEAN UNION (2004), available at [www.europa.eu.int/comm/publications/](http://www.europa.eu.int/comm/publications/) (stating that: "Over half a century, the Union has raised its citizens' standard of living to unprecedented levels. It has created a frontier-free single market and a single currency, the euro. It is a major economic power and the world leader in development aid.").

5. But see Robin Niblett, *Europe Inside Out*, WASH. Q., Winter 2006, at 41, 44-45 (2005) (arguing that the current EU economic model is deficient and that integration is failing to help Member States remain competitive); Irene Kyriakopoulos, *After Expansion: Europe toward Dis-Union?*, MEDITERRANEAN Q., Winter 2004, at 17, 22, 32 (2004) (arguing that although European integration has succeeded in improving standards of living and wealth, the EU will become dangerously unstable if certain problems, such as increasing unemployment, debt crises, and low economic growth, are not effectively addressed); *Is the EU Good for Economic Health?*, BBC NEWS, Mar. 23, 2007, available at <http://news.bbc.co.uk/2/hi/business/6470513.stm> (stating that EU States, especially those that founded the EEC, are currently plagued by "sluggish economic growth and high rates of unemployment").

6. See Xavier Vives, *Airbus and the Damage Done by Economic Patriotism*, FIN. TIMES (London), Mar. 2, 2007 (noting the rise of European cross-border mergers).

that we all have underlined in the Merger Regulation.<sup>7</sup>

In 1997, over fifty percent of the revenues of Europe's largest companies were generated within their home markets—that is to say, in the countries where they were headquartered.<sup>8</sup> By 2005, only six years later, that figure fell to less than forty percent.<sup>9</sup> This development is all the more welcome given that cross-border mergers, and notably those in sectors previously characterized by the presence of large national incumbents, tend to be more likely to enhance competition than mergers between national players in the same sectors.

Most of these cross-border mergers have gone ahead without any interference from national governments, but in some recent cases direct or indirect steps have been taken by national European governments or authorities to frustrate the takeover of important industrial concerns based in those Member States. You all read about them.

Last year, there were two widely published cases in which the Bank of Italy sought to limit the ambitions of non-Italian banks to take over their Italian counterparts.<sup>10</sup> Since then, we have seen a number of other examples of more or less direct interference. I have heard a lot about the strategic importance of the yogurt sector, but I won't milk that point.

By the way, regarding the discussion of whether it's taking too long when something is rotten in the State, I think that we also have to take into account that in those cases, quite often, companies are taking their advantage and are not in line with what we should appreciate, that we could stick to our line and to our policy. So don't blame only Europe and Brussels and the competition authorities, but also blame the business world itself. I have some information about that.

7. Council Regulation No. 139/2004, O.J. L 24/1 (2004).

8. See *Un Rapport Critique la Défense des Champions Nationaux*, LE MONDE (Paris), July 4, 2006 (citing a 2005 study finding that in 1997, the national market of Europe's 100 largest companies accounted for half of sales).

9. *Id.* (reporting that by 2005, the national market of Europe's 100 largest companies had been reduced to 36.9 percent).

10. See Xavier Vives, *Barriers Need to be Lifted for an Integrated Market*, FIN. TIMES (London), Sept. 15, 2006 (stating that when Spain's BBVA and the Netherlands' ABN-Amro attempted to take over the Italian banks BNL and Antonveneta, respectively, the Bank of Italy's governor opposed the deal); *Buy, buy, buy*, ECONOMIST (London), Feb. 10, 2007 (noting that, following accusations of improper conduct in protecting the Italian banks from these takeover bids, the governor of the Bank of Italy resigned in 2005).

But more recently, we have had to express our concern about the conditions imposed by the Spanish energy regulator in relation to German energy company E.ON's bid for the Spanish giant, Endesa.<sup>11</sup>

The rhetoric is always the same: Economic patriotism, or the need to retain national ownership of strategic assets. Then sometimes you are surprised about what all is in the word "strategic." But this is outdated. The language and the mindset are those of yesterday's people, not of these who have the guts to look forward with ambitious realism.

I would not overstate the significance of the development I have just described, but I am concerned, to be open to you. As an economist, I am concerned that these actions will prove ill-judged in the long term. As a European Commissioner, I am concerned that they are contrary to the spirit and the letter of the laws underpinning the European Union. That is why the European Commission has taken action where needed: First, under the single market rules contained in the Treaty of Rome, which safeguards the free movement of capital and the right of establishment;<sup>12</sup> and second, under a provision of the EC Merger Regulation which only allows national governments to intervene against mergers approved by the Commission if such an intervention is compatible with Community Law.<sup>13</sup>

---

11. See *EU Says Received Spain's Response to Concerns Over E.ON/Endesa*, AFX INT'L FOCUS, Mar. 16, 2007 (mentioning European Community ("EC") concerns in relation to receipt of Spain's response); see also Sally Bogle, *Endesa Mulls Lifting Restriction on Gas Natural's Bid, Deadline Passes for Spain's Response to EC*, GLOBAL INSIGHT, Oct. 26, 2006; Andrew Bulkeley, *E.ON Closes in on Endesa*, DAILY DEAL, Sept. 15, 2006 (reporting that European regulators had written to Spain regarding their concerns); *Bruselas Advierte Del Caos Que Provocaria un Pacto Bilateral Sobre la Opa de Eon [Brussels Concerned About Bilateral Agreement Between Spanish and German Governments]*, FIN. TIMES (abstracted from *El Pais* article originally authored by Andreu Misse), Sept. 9, 2006 (stating that EC has expressed concerns).

12. See Council Regulation No. 139/2004, art. 1(2), O.J. L 24/1, at 1 (2004); see also Global News Wire, *Expediente de Bruselas a Italia por la Fusion Avertis-Autostrade [Brussels Begins Proceedings Against Italy]*, FIN. TIMES (abstracted from EXPANSION), Nov. 13, 2006 (reporting the initiation of infringement proceedings "on the grounds that [the concession] represents an unjustified restriction to the free movement of capital"); Adrian Michaels & Mark Mulligan, *Rome Tests the Patience of Abertis AUTOSTRADE Merger*, FIN. TIMES, Nov. 9, 2006 (discussing commissioners' reservations about Italian decree with regard to Autostrade merger and its restriction of free movement of capital); *European Commission Suing Spain Over E.ON Bid Conditions*, DATAMONITOR NEWS WIRE, Oct. 19, 2006 (reporting on the violation of the Merger Requirements).

13. See Council Regulation No. 139/2004, arts. 18-19, O.J. L 24/1, at 3 (2004).

I can assure you that we will not hesitate to enforce these rules objectively, wherever that is appropriate, under the control of our Community courts. Why? Because a failure to embrace market integration within Europe or economic globalization—"Fortress Europe," if you like—is not sustainable over the longer term. The bitter experience of history has demonstrated that engineering the creation or protection of national champions, yielding to temptation for governments to pick winners, is not the way to succeed in the global economy.

There may be short-term benefits to shareholders or employees who are given a stay of execution. But, again, experience has also shown that even some of the short-term benefits from protecting industry can be illusory. Firms not facing competitive pressures may have an incentive to reduce output and to cut jobs. Consumers and taxpayers are likely to pay the price for what, in the longer term, risks resulting in a downward spiral of decreasing competitiveness. In short, the answer to the challenges faced by industry in today's globalizing economy is not to seek to shield industry from the forces of competition, but to put in place the conditions which will allow industry to flourish in an increasingly competitive environment.

Ladies and gentlemen, it is time to put old-fashioned industrial protectionism to bed and, instead, to develop a modern, proactive industrial policy which embraces change and paves the way for our future competitiveness. It goes without saying that, if the European Union is to derive the full benefits of globalization, our industry needs to be able to compete in global markets. An effective industrial policy is one which is designed to ensure that the conditions are in place for industry to prosper in a global economy and for citizens to enjoy the rewards of such prosperity.

The governments of all twenty-five EU Member States have signed up with the European Commission to this vision of a modern industrial policy in committing and recommitting to the Lisbon Agenda, a partnership for delivering long-term growth and jobs and the competitiveness of the European economy.<sup>14</sup>

---

14. See LISBON EUROPEAN COUNCIL, PRESIDENCY CONCLUSIONS, Mar. 23-24, 2000, available at [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/ec/00100-r1.en0.htm](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm); see also Achilles Skordas, *Is Europe an "Aging Power" with Global Vision? A Tale on Constitutionalism and Restoration*, 12 COLUM. J. EUR. L. 241, 278-80 (2005-06) (discussing Lisbon Agenda).



What do I mean by a modern industrial policy? I mean a policy which addresses the structural shortcomings of the European economy, a policy which equips firms to compete effectively in the global economy, a policy which builds on our comparative advantages. Concretely, this means shaping a policy which allows European industry to specialize in what it does best, not only adapting to technological changes, but really driving them. This policy must prioritize investment in research and development, so facilitating the ability of European industry to constantly innovate. It must put resources into education, into training and retraining, so as to equip our labor force with skills that match up to our ambitions. It must facilitate investments in the constant upgrading of the infrastructure. I am talking about transport, communication, financial, etc., which are the lifelines of efficient commerce. Last, but certainly not least, this policy must ensure that unnecessary red tape is cut so that the regulatory environment in Europe is more conducive to doing business.

Such a broadly based and enlightened industrial policy will not only enable European companies to compete more effectively in the global market, it will also make Europe a more attractive place in which to invest.

Which brings me to competition policy: What place should competition policy occupy in a modern industrial policy of the kind I just described? By stimulating efficiency in production and innovation and allocation of resources, competition in the provision of products and services ensures sustainable economic growth, employment, and economic welfare generally. As the Organization for Economic Co-operation and Development ("OECD") has put it, "competition has pervasive and long-lasting effects on economic performance by affecting actors' incentive structure, by encouraging their innovative activities and by selecting more efficient ones from less efficient ones."<sup>15</sup>

Indeed, there is considerable empirical evidence of a clear and strong link between competition and productivity growth and, hence, of an important link between competition and com-

---

15. See Sanghoon Ahn, *Competition, Innovation and Productivity Growth: A Review of Theory and Evidence* 6 (OECD Econ. Dep't Working Paper No. 317) (2002).

petitiveness.<sup>16</sup> Competition policy which above all else is designed to ensure the maintenance of competitive markets is, therefore, central to an industrial policy aimed at enhancing the competitiveness of industry.

The European Union has a unique combination of competition policy instruments at its disposal. Each contributes to the pursuit of what are ultimately industrial policy goals, in the broadest sense. Let's take a look at how they contribute concretely to the realization of a modern industrial policy.

The basic antitrust rules, Articles 81 and 82, outlaw collusion and abuse of market power.<sup>17</sup> The challenge for the Commission in applying these rules is to prioritize its enforcement resources, to focus on remedying the most serious impediments to the functioning of markets. Targeted enforcement of this kind, centered on sectors which are key to competitiveness and behaviors which produce the most harmful economic effects, helps to deliver clear benefits for European industry.

In our many dealings with Microsoft, for example, central to the Commission's rationale for intervention has been the importance of preserving the incentives for firms to innovate.<sup>18</sup> In this

16. See *id.* at 16-19 (discussing empirical data and conclusions regarding the connection between competition and productivity).

17. See Consolidated Version of the Treaty Establishing the European Community, arts. 81-82, Dec. 24, 2002, O.J. C 325/33, at 64-65 (2002) [hereinafter EC Treaty]; see also Patrick S. Ryan, *European Competition Law, Joint Dominance, and the Wireless Oligopoly Problem*, 11 COLUM. J. EUR. L. 355, 361 (2005) (stating that collusion is required under Article 81); Maurits Dolmans, *Standards for Standards*, 26 FORDHAM INT'L L.J. 163, 190 (2002) (discussing the requirement of collusion for EC antitrust causes of action); Damien Geradin, *Competition Between Rules and Rules of Competition: A Legal and Economic Analysis of the Proposed Modernization of the Enforcement of EC Competitive Law*, 9 COLUM. J. EUR. L. 1, 8 (2002) (explaining Articles 81 and 82); Valentine Korah, *Intellectual Property Law in the Context of Competition Law: 'Consent' in Relation to Curbs of Parallel Trade in Europe*, 25 FORDHAM INT'L L.J. 972, 975 (2002) (mentioning collusion requirement under EC Treaty); Koen Lenaerts & Ignance Maselis, *European Community Competition Law: Procedural Rights and Issues in the Enforcement of Articles 81 and 82 of the EC Treaty*, 24 FORDHAM INT'L L.J. 1615, 1615 (2001) (discussing articles 81 and 82).

18. See *Microsoft Corp. v. Commission of the European Communities*, Case T-201/04 R, [2004] E.C.R. II-04463, ¶¶ 24, 106 (discussing Commission's rationale to create incentives to innovate); see also Christina Ahlborn et al., *The Logic & Limits of the "Exceptional Circumstances Test" in Magill and IMS Health*, 28 FORDHAM INT'L L.J. 1109, 1127 (2005) (discussing the balancing test between incentives of the dominant firm to innovate and the level of innovation of the entire industry); Ian S. Forrester, *Article 82: Remedies in Search of Theories*, 28 FORDHAM INT'L L.J. 919, 950 (2005) (mentioning the balancing test and weighing Microsoft's incentives against the industry incentives); Donna M. Gitter, *Strong Medicine for Competition Ills: The Judgment of the European Court of Justice in*

regard, an artificial interoperability advantage for a super-dominant player actually dampens the market's incentives to innovate, since companies know that, however good their products are, they cannot compete on the merits of these products. Similarly, tying to a super-dominant platform can send signals which limit available venture capital and deter innovation in adjacent product markets, by large and small companies alike.

Our enforcement policy has therefore been guided by these principles, and our actions are designed to maximize the level of innovation in the market. This will result in benefits in terms of industrial competitiveness and will ultimately, I believe, translate into more consumer choice and lower prices.

Another example is in our enforcement activity against cartels, which I have made a priority of my mandate as commissioner. Defeating cartels lowers prices for consumers, individuals as well as business customers. We are using a mixture of tastier carrots and tougher sticks. Cartels are hard to detect, so we are improving our leniency program, in particular, by looking at a one-stop shop solution to make it easier for applicants to come forward. On the stick side, our new fines guidelines are designed to deliver an effective deterrence and are likely to result in an overall increase in the level of fines, particularly where there are aggravating circumstances such as repeat offenses.<sup>19</sup>

Over the last couple of decades, the Commission has also spearheaded the liberalization of certain industrial sectors that were previously either closed altogether to competition or characterized by pervasive restrictions or impediments, whether public or private, to competition. Opening these sectors, notably through the use of Article 86 of the Treaty, has created a virtuous circle of increased growth and employment, lower costs for industry, and a better choice for consumers. The most obvious examples are the telecoms and airline sectors, in both of which prices have come down significantly, and the range of services

---

*the IMS Health Action and its Implications for Microsoft Corporation*, 15 DUKE J. COMP. & INT'L L. 153, 190 (2004) (examining the incentive balancing test).

19. See Guidelines On the Method of Setting Fines Imposed Pursuant to Article 23(2)(a) of Regulation No 1/2003, O.J. C 210/2 (2006); see also Patricia Carmona Botana, *Prevention and Deterrence of Collusive Behavior: The Role of Leniency Programs*, 13 COLUM. J. EUR. L. 47, 62-63 (2006-07) (discussing the three main novelties of new guidelines and how they represent "toughening" of prior policy). See generally Vanessa Turner et al., *New EU Antitrust Fines Policy: How Much Will a Violation Now Cost?*, 21 ANTITRUST ABA 53 (2006) (assessing the new guidelines and their effects).

has increased significantly, as a result of the EU liberalization, with direct benefits for European consumers and for European industry.<sup>20</sup> Reduced import costs and a better choice of services have had clear cost-benefits across the European industry.

As a result of liberalization, there has therefore been economic growth and increased employment, not just in the liberalized sectors themselves but across all industrial sectors which consume these essential inputs.

In the telecom sector, liberalization has led to the emergence of a multitude of competitors for fixed-line and mobile voice services, as well as the Internet connectors. Research by the OECD indicates that mobile subscriber growth rates are positively correlated with the number of competing networks in a market.<sup>21</sup> So competition not only gives more customers access to mobile services, faster and at lower prices, but it also grows existing markets and creates new ones, provides market entry opportunities for new firms and lowers the input costs of telecommunication services.

---

20. See Commission Directive No. 90/388, O.J. L 1922/1 (1990), *amended by* O.J. L 256/49 (1995), *amended by* O.J. L 20/59 (1996), *amended by* O.J. L 74/13 (1996) (regulating the competition in markets for telecommunications services with 1995 amendment abolishing the restrictions on use of cable television networks, the first 1996 amendment affecting mobile and personal communications, and second 1996 amendment affecting implementation of full competition in telecommunications markets); Commission Directive No. 88/301, O.J. L 131/73 (1988) (regulating competition in markets in telecommunications terminal equipment); Commission Imposition of Dec. 10, 2004. O.J. C 306/3 (2004) (imposition of public service obligations on airline services within Italy); Commission of the European Communities, Communication from Commission to European Parliament, COM(04)7 Final (Jan. 9, 2004) (concerning common position of Council on adoption of Regulation of European Parliament and of Council on protection against subsidization and unfair pricing practices in supply of airline services from countries not members of the European Community); Commission of European Communities, Amended Proposal for a Regulation of the European Parliament and of Council, COM(03) 228 Final (May 7, 2003) (concerning protection against subsidization and unfair practices causing injury to Community air carriers in supply of airline services from countries not members of European Community); see also Lars Gorton, *Air Transport and EC Competition Law*, 21 *FORDHAM INT'L L.J.* 602 (1998) (discussing EC action in airline sector, specifically relating to competition); Mark Thatcher, *The EU Commission and National Governments as Partners: EC Regulatory Expansion in Telecommunications 1979-2000*, 8 *J. OF EUROPEAN PUB. POL'Y* 558 (2001) (explaining history of Commission regulation of telecommunications industry from 1979 to 2000).

21. See COMMITTEE FOR INFORMATION, COMPUTER, AND COMMUNICATIONS POLICY, ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, *OECD REFLECTIONS ON THE BENEFITS OF MOBILE CELLULAR TELECOMMUNICATIONS INFRASTRUCTURE COMPETITION*, OCDE/GD(96)42, 1996.

So I think it's evident from the European Union's experience that a carefully planned and executed liberalization policy is a central piece of comprehensive modern industrial policy.

Of course, I am not naïve. I have already mentioned how some in Europe have been and continue to be less keen to put liberalization into practice when they perceive it as bad news for their own national players. But that won't stop me from continuing to explain why the facts prove that it is the best route for European industry and for the consumer. I think the arguments also carry the same weight outside Europe, and I will not hesitate to export them.

Last but by no means least, I would like to address an aspect of EU competition policy which is crucial to the modern industrial policy which the European Union is pursuing: The control of State subsidies to industry. My top priority as Competition Commissioner has been a comprehensive reform of our State aid rules. Our objective is to help Member States to spend only as much of the taxpayers' money on subsidies as is absolutely necessary and to target that expenditure as effectively as possible. Our motto is, less aid and better targeted State aid.

We look first to the markets to deliver, and only where there are clear gaps does State aid play a role. It's true that there can be a gap. Properly targeted State aid can serve to complement structural policies of the kind I mentioned earlier, by tackling genuine market failures to enable firms and workers to adapt to a rapidly changing economic environment. For example, state aid which is designed to support training or the employability of the workforce can fall into this category. New rules are being developed for aid where this really is needed to promote the emergence of young innovative enterprises. In this respect, we have learned a lot from the U.S. Small Business Act.

But in all of this, one thing has to be made crystal clear: grant too much State aid and, quite simply, the private money, which is the real long-term driver of our economy, will be crowded out.

To finish, let me add that while far-reaching State aid control, beyond WTO discipline, may be unique to the European Union, I do believe that other economies would benefit from seeking greater discipline for the manner in which the State supports industry. I don't think it's just in Europe that we believe in

markets. I know for a fact that it is not just in Europe that State money is sometimes wasted on lame ducks. If you believe in the market, then you should trust in the market first and foremost. We should all respect WTO discipline, but, if possible, we should actually all go beyond it.

I have said it before, and I shall say it again: Competition policy is not an end to itself, not even for a Competition Commissioner. It is a means to reach a goal. I am not interested in having competition for the sake of it. I am not interested in taking ideological stances concerning policy agendas. My priority is policy measures that are sound, that are pragmatic and really work in real life—modern solutions which match up to the challenges of today's marketplace.

With this in mind, Mr. Chairman, I have been trying for almost two years to focus European competition policy on what really matters for the competitiveness of European industry, for the benefits of European consumers. This is why I have strengthened our fight against cartels; this is why I have undertaken a wide-ranging revision of our State aid policy; this is why I have launched competition sector inquiries in sectors that I regard as crucial to the overall competitiveness of our industry; and this is why I have launched, here at Fordham a year ago,<sup>22</sup> an ambitious review of our enforcement policy against unilateral conduct. I think the results are starting to speak for themselves.

Is this an industrial policy? I suppose it is. Call it what you like, but, personally, I think it is the only modern and realistic policy approach to today's environment, which is why, whether I am on the Forbes list or not, I still continue to be an ambassador for competition in Europe and throughout the world.

---

22. See Neelie Kroes, *Tackling Exclusionary Practices to Avoid Exploitation of Market Power: Some Preliminary Thoughts on the Policy Review of Article 82*, 29 FORDHAM INT'L L.J. 593 (2006).