



MARCHFELD COMPETITION FORUM

COMMON POSITION OF THE MARCHFELD COMPETITION FORUM ON THE ROLE OF COMPETITION POLICY AND ENFORCEMENT IN TIMES OF ECONOMIC CRISIS

After having discussed this topic and after having exchanged several viewpoints on it, we, members of the Marchfeld Competition Forum, agreed on the following guiding principles:

1. Confronted with public and political pressure to abandon strict enforcement of competition rules, driven by policy interests other than the protection of competition, such as the protection of jobs and location of industry, competition authorities may face difficulties in performing their tasks.
2. However, in times of economic and financial turmoil the role of competition authorities has not become obsolete but is even gaining importance: During the crisis the occurrence of anticompetitive conducts may increase since companies may try to eliminate the pressure they face on prices through anticompetitive agreements. Also, there may be an increase in merger activities as a result of market consolidation with the risk of increased market concentration.
3. In responding to the new challenges is essential not to lose sight of the objectives and benefits of competition law. Competition law does not protect individual competitors but competition as a phenomenon. Competition policy actively protects consumer welfare by ensuring a competitive environment in the markets through low prices, high quality and innovative products.
4. Competition authorities must firmly stand up to all interventions, whatever their source, which may harm or even irreversibly distort basic market principles based on effective competition, be it in national or global markets. In this regard, an efficient and permanent communication between the antitrust authorities and national public bodies must be maintained in order to avoid adoption of measures containing provisions that may affect competition (regulatory impact analysis).
5. The maintenance of a competitive environment is a necessary precondition for the improvement of the existing economic situation. To overcome the current crisis it is very important to develop a business environment which allows new undertakings to enter the market and investments without non-adequate administrative and regulatory barriers. The society and the markets need clear and transparent conditions which are crucial for confidence recovery.
6. Competition regimes shall therefore be equipped for timely, effective and proportionate action. Competition authorities shall be reliable partners, applying

competition rules in a transparent way, offering guidance to business communities, e.g. on the (strict) conditions where the failing firm defence may apply.

7. It is essential to ensure that markets are not distorted through state intervention creating new barriers to entry. Therefore selective aid for particular firms, sectors or technologies shall not distort competition. State aid shall be targeted, proportionate, time-limited and subject to continuous reassessment in order not to distort competition in a disproportionate manner.
8. Finally, there is an enhanced need for coherent, coordinated approach through international cooperation in the different member states in order to avoid distortions of the competitive conditions in different countries. Now and in the future, the European Commission has to play the key role in preventing any such distortions of competition within the internal market and to safeguard the value of competition even in a situation of economic and financial turmoil.

Marchfeld Competition Forum

The Marchfeld Competition Forum (MCF) has been created in July 2008, when representatives of the national competition authorities from Austria, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, Switzerland and from the European Commission, Directorate General Competition, met in Schloss Hof, Marchfeld/Austria, on a joint invitation by the Director General of the Austrian Federal Competition Authority Theodor Thanner and the Chairman of the Czech Office for the Protection of Competition Martin Pecina. In the course of this meeting a joint declaration, the so-called Marchfeld Declaration (Memorandum of Understanding) has been signed. The initiative is aimed at the strengthening of regional cooperation and coordination between national competition authorities from EU Member States as well as non-members, in particular with regard to cross-border issues of common concern. In February 2009, high-level representatives of the MCF-Group met again on the occasion of the FIW-Symposium in Innsbruck to discuss the topical issue of "Financial Crisis and Competition Policy".