

# The Perfect Storm: A Time of Truth for Europe?

Absent Without Leave? How Does Competition Policy Fit the “Competitiveness” Mission? Is Digital Regulation Over?

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30 January, Brussels

## *Introduction - Competitiveness Compass*

Thank you for the invitation to speak here today, Cristina. I am particularly grateful to join my colleagues in this panel.

Just yesterday, the Commission issued its resolutions through the **Competitiveness Compass**; perhaps under the auspices of the Chinese New Year – it is the **year of the Snake**, which symbolises wisdom, transformation and strategic thinking.

This seems a **good omen for Europe!**

In this document, the Commission defines its “**guiding star**”: “the renewal of Europe’s **competitive strength**”.

In the wake of the Letta and Draghi Reports, the Commission is setting the tone for action, claiming, among other, the need to fill the innovation gap and to fully exploit the **benefits offered by our vast Single Market by removing barriers to its functioning**.

By doing so, Europe’s compass aims to **unleash the EU potential**, namely supporting companies scaling up in European and global markets, while **ensuring a level playing field**.

I think that the **limits of scaling up** can be found precisely at this point: the **level playing field**.

So, does scale actually live up to the promise of growth? Or does it **create new barriers?**

## *Competition potential*

This is exactly where **competition policy steps into the spotlight!**

Indeed, competition policy is a powerful economic tool.

Still, the truth is that the merits of competition are often **underestimated**. Let me be clear: competition has much more to offer to other policies than meets the eye.

We need to **infuse competition in our industrial strategy** as these two **are not antagonistic**.

Embedding competition in **public policy design**, in particular in times in which industrial policy plays a central role, becomes a relevant contribute to the **advancement of the Single Market**.

One of competition's key contribution to industrial policy is, indeed, **contestability**, which ill-designed regulation hinders too often.

Knowing that as competition agencies we have the mission of promoting the single market, we need to persist in identifying the **bottlenecks and barriers to entry**.

## *Generate AI*

Let me start with a concrete example: Generative AI.

Here, the AdC, among others, has already identified the bottlenecks to competition along the **Generative AI stack**.

This must inform industrial policy, which should target these bottlenecks and tackle barriers to switching.

I see here a lot of **room for cross policy dialogue** where competition must sit at the table and play a role in good industrial policy design.

If Europe does its part in gearing regulation and wider public policies towards AI contestability; if Europe succeeds in promoting competition in the sector, the gains will span at a wider, global level.

However, if we fail to foster contestability in AI, tomorrow we will drag into a modern economy, whose gates are controlled by yesterday's **wardens**.

And we must not forget that we will do so under very different premises and world order, that looks nothing like what we have experienced until now.

Looking at recent news of platforms abandoning fact-checking, we may face the emergence of a kind of “**Washington effect**” towards deregulation.

Just think about the week-old Executive Order from President Trump on removing barriers to AI.

As Draghi pointed out, Europe needs regulation and a market environment that is startup friendly, ensuring the reduction of competition bottlenecks and fostering innovation.

### *Merger Assessment*

Now turning to mergers, **Draghi advocates for an assessment that increases the ability and incentives to innovate.**

The EU compass highlights that innovation, and the intensity of competition in certain strategic sectors should be taken into account in merger assessment.

Here, we need to **propel the learning curve**, with theories of harm that are well calibrated to market dynamics and innovation.

And we must **deepen an innovation-centric approach** to merger control.

At the same time, while we must refine the current standards, we must not throw the baby away with the bathwater.

Sometimes we do things right!

### *Vodafone/Nowo merger and Digi/Nowo Merger*

Let me give you an example.

In Portugal, we recently prohibited a telecom merger: the acquisition by Vodafone of Nowo.

The target – which Vodafone claimed to be doomed to failure - ended up being acquired by a disruptive entrant – **Digi**.

The market reacted, and prices for consumers went down.

### *Telecoms*

So, when it comes to telecoms, the truth is that we know – from theory, from empirics, from our accumulated experience, that consumers, business, the economy, are best served with a competitive market environment.

**We must keep steady in preventing harmful mergers in telecoms – like in other sectors of the economy.**

And we must be effective in conveying this message to society at large: that merger policy is not an obstacle to cross-border mergers, and that effective merger control is superior in all angles to a lenient approach.

There might be different readings on the Draghi Report's stance regarding telecom mergers.

Maybe here, the messages and recommendations it seeks to convey could benefit from clarification.

**Regardless, we must keep our resolve in ensuring effective merger control in telecom markets, to the benefit of consumers, and the economy as a whole.**

### *Conclusion*

Now, just to conclude, as once the President of the General Court, Marc van der Woude, said, the **competition circle has expanded**<sup>1</sup>.

As competition enforcers, we must reach out to other policy stakeholders and materialize what I have been calling **Competition 2.0**. or a **new legal ecosystem of competition**.

As agencies we need to be stronger actors in good policy design to leverage the role of competition in promoting better public policies more widely.

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<sup>1</sup> Marc van der Woude, «The metamorphosis of competition law», may 2022, Concurrences N° 2-2022, Art. N° 106135, available at: <https://www.concurrences.com/en/review/issues/no-2-2022/articles/the-metamorphosis-of-competition-law>

*[Follow up]*

### *Citizens' focused policy*

We are in an era where the **competition pendulum** shifted to a **competition roller coaster**. But rather than being afraid of the highs, we can take advantage of this new perspective.

In fact, it's up to us to define our priorities.

I do believe that we need to **focus our battles on what actually matters for citizens**, aligning competition goals with societal challenges and making the lives of real people better.

This year, in Portugal, the AdC is launching a new cycle of outreach initiatives with key economic sectors and public in general, listening to their concerns and frustrations, taking these back to our daily work.

### *Labour markets*

**Labour markets** are one such example:

Anticompetitive practices in labour markets contribute to low wages and restrict workers' mobility.

Wage suppression due to antitrust behaviour could further slow down economic growth.

Empirical studies have pointed to a trend of labour market concentration and **decreasing labour share in GDP<sup>2</sup>**.

By prioritizing these markets, we **resonate with the concerns of citizens**. In Portugal, the AdC has done this both through **advocacy and enforcement efforts**.

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<sup>2</sup> De Loecker, Eeckhout & Unger (2020); Autor et al. (2020) and Barkai (2020), amongst others.

As such, we will continue to pay close attention to labour markets, as these are some of the most harmful anticompetitive practices to the economy and consumer welfare.

### *Abuse of dominance*

Also, the AdC prioritises the detection and investigation of abuses of a dominant position in sectors with greater economic relevance and impact for the consumers welfare.

To ensure a robust enforcement of Article 102 TFEU, we need to strike the right balance between future proofing and legal certainty.

This approach should be deeply rooted in economic thinking and in what is detrimental to consumer welfare, which should be defined in a comprehensive and dynamic way.

### *Conclusion*

To conclude, to avoid free fall, we need to keep in mind that competition is a strong ally of economic growth, investment, innovation and, may I add, democracy.

We need to be **more ambitious** to unleash the full potential of competition as an engine for **shared prosperity** within a **citizens-oriented agenda**.