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Competition Enforcement In Times Of Economic Crisis

Need For A Sector-Specific Approach?

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Industrial Policy Considerations?

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Vice-President Almunia has been very consistent and outspoken on the need for continued strong competition policy in times of crisis

- No protectionism
- No relaxation of competition rules or their enforcement

Competition enforcement as motor for growth

Need for Sector-Specific Approach?

- Probably wrong question
- Competition rules should never be applied in a vacuum
- Markets and market conditions should always be the starting point for the Commission's analysis in all fields of competition law
- Every Commission decision should be sector-specific and case-specific

Current Market Conditions

- Sector- and case-specific review requires accurate assessment of current market conditions
- Current economic crisis and poor growth prospects need to be integral part of Commission's analysis of company behaviour

Analysis of Perceived Company Behaviour

- Economic crisis may result in changes in companies' incentives
 - Examples
 - Decline in demand may increase incentives to collude BUT may also increase incentives to cheat
 - Lower prices can be response to lower demand even if, under normal market conditions, they could only be explained by exclusionary intent
- Larger efficiencies of certain practices as a result of crisis
 - Information exchanges
 - Standard-setting
 - Specialization agreements or even crisis cartels

Other Necessary Considerations

- Correct assessment of current and future economic parameters
- Counterfactuals
- Efficiencies
- Remedies / Settlements

Conclusions

- Commission's policy choice of continued strong competition enforcement
- Need for sector-specific focus? No.
- Need for sector-specific and case-specific analysis
- Take account of changes in market conditions and their impact on companies' behaviour