



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2014) 2075 final

- English language version of the French text which is authentic -

Strasbourg, 25 February 2014

TEXTE EN

MINUTES

of the 2075th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 12 February 2014

(morning)

PV(2014) 2075 final

- English language version of the French text which is authentic -

EN

TABLE OF CONTENTS

Attendance list	4-7
1. AGENDAS (OJ(2014) 2075/FINAL; SEC(2014) 98)	8
2. WEEKLY MEETING OF CHEFS DE CABINET (RCC(2014) 2075).....	8
3. MINUTES AND SPECIAL MINUTES OF 2074 TH MEETING (4 FEBRUARY) (PV(2014) 2074; PV(2014) 2074, PART II)	8
4. INTERINSTITUTIONAL RELATIONS.....	8
4.1. LEGISLATIVE MATTERS	8
4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL.....	10
4.3. RELATIONS WITH PARLIAMENT	10
5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS.....	11
5.1. WRITTEN PROCEDURES APPROVED (SEC(2014) 99 ET SEQ.).....	11
5.2. EMPOWERMENT (SEC(2014) 100 ET SEQ.).....	11
5.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2014) 137 ET SEQ.).....	11
5.4. SENSITIVE WRITTEN PROCEDURES (SEC(2014) 138 AND /2).....	12
6. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2014) 139/2)	12
6.1. DG AGRICULTURE AND RURAL DEVELOPMENT – APPOINTMENT OF AD15/16 DEPUTY DIRECTOR-GENERAL (PERS(2013) 133 TO /4)	12
6.2. DG AGRICULTURE AND RURAL DEVELOPMENT – APPOINTMENT OF AD15/16 DEPUTY DIRECTOR-GENERAL (PERS(2013) 134 TO /4)	13

6.3.	<i>DG COMMUNICATION – APPOINTMENT OF HEAD OF EUROPEAN COMMISSION REPRESENTATION OFFICE</i>	13
6.4.	<i>DG ECONOMIC AND FINANCIAL AFFAIRS – INTERNAL AND INTERINSTITUTIONAL (GRADE AD14/15) AND EXTERNAL (GRADE AD14 – EU-28) PUBLICATION OF THE VACANCY NOTICE FOR A PRINCIPAL ADVISER POST (PERS(2014) 27)</i>	14
6.5.	<i>DG HEALTH AND CONSUMERS – RENEWAL OF THE TERM OF OFFICE OF THE DIRECTOR OF THE CONSUMERS, HEALTH AND FOOD EXECUTIVE AGENCY</i>	14
6.6.	<i>DG JUSTICE – RENEWAL OF THE TERM OF OFFICE OF THE DIRECTOR OF THE EUROPEAN INSTITUTE FOR GENDER EQUALITY</i>	15
7.	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – INTERNET POLICY AND GOVERNANCE: EUROPE'S ROLE IN SHAPING THE FUTURE OF INTERNET GOVERNANCE (COM(2014) 72 TO /4; RCC(2014) 15)	15
8.	RELATIONS WITH NON-EU COUNTRIES.....	16
	<i>LATEST DEVELOPMENTS IN RELATIONS WITH THE SWISS CONFEDERATION</i>	16
9.	MONITORING THE APPLICATION OF EUROPEAN UNION LAW	18
9.1.	<i>STATE AID – HORIZONTAL CASES</i>	18
9.2.	<i>STATE AID AND OTHER COMPETITION RULES (SEC(2014) 149 AND /2; RCC(2014) 16)</i>	19
9.3.	<i>OTHER BUSINESS – COMPETITION CASES UNDER INVESTIGATION</i>	19

Single sitting: Wednesday 12 February 2014 (morning)

The sitting opened at 9.11 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Baroness ASHTON	High Representative/ Vice-President	Items 1 to 9 (in part)
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	
Ms KROES	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr POTOČNIK	Member	
Mr BARNIER	Member	
Mr ŠEMETA	Member	
Mr LEWANDOWSKI	Member	
Ms DAMANAKI	Member	
Mr OETTINGER	Member	
Mr HAHN	Member	
Ms HEDEGAARD	Member	Items 1 to 9 (in part)
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	
Mr BORG	Member	Items 8 (in part) and 9 (in part)
Mr MIMICA	Member	

Absent:

Mr KALLAS	Vice-President
Mr TAJANI	Vice-President
Mr REHN	Vice-President
Mr PIEBALGS	Member
Ms VASSILIOU	Member
Mr DE GUCHT	Member
Ms GEOGHEGAN-QUINN	Member
Ms GEORGIEVA	Member
Mr FÜLE	Member
Mr CIOLOŞ	Member

- English language version of the French text which is authentic -

The following sat in to represent absent Members of the Commission:

Ms OEN	Deputy Chef de cabinet to Mr KALLAS	
Ms BENINI	A member of Mr TAJANI's staff	
Mr ALTAF AJ TARDIO	Deputy Chef de cabinet to Mr REHN	
Mr ROSA	A member of Mr PIEBALGS's staff	
Mr HILL	Deputy Chef de cabinet to Ms VASSILIOU	
Mr HOFFMEISTER	Deputy Chef de cabinet to Mr DE GUCHT	
Mr KÜTT	Chef de cabinet to Ms GEOGHEGAN-QUINN	Items 1 to 9 (in part)
Mr FORBES	Deputy Chef de cabinet to Ms GEOGHEGAN-QUINN	Item 9 (in part)
Ms HRISTCHEVA	Chef de cabinet to Ms GEORGIEVA	Items 1 to 8 (in part)
Ms KABAKTCHIEVA	A member of Ms GEORGIEVA's staff	Items 8 (in part) and 9
Mr BRUNET	A member of Mr FÜLE's staff	Items 1 to 9 (in part)
Mr BOUDA	A member of Mr FÜLE's staff	Item 9 (in part)
Mr HAEUSLER	Chef de cabinet to Mr CIOLOŞ	

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Ms VANNINI	Adviser in the PRESIDENT's Office	
Mr KARNITSCHNIG	A member of the PRESIDENT's staff	Item 8
Mr CEBALLOS BARÓN	A member of Baroness ASHTON's staff	Item 9 (in part)
Mr MARTÍNEZ MONGAY	Chef de cabinet to Mr ALMUNIA	

PV(2014) 2075 final

- English language version of the French text which is authentic -

EN

- English language version of the French text which is authentic -

Mr VAN ORANJE-NASSAU

Chef de cabinet to Ms KROES

Item 9 (in part)

Mr KANDOLF

Deputy Chef de cabinet to Mr BORG

Items 1 to 8 (in part)

Secretary: Ms DAY, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

1. AGENDAS

(OJ(2014) 2075/FINAL; SEC(2014) 98)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2014) 2075)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 10 February.

3. MINUTES AND SPECIAL MINUTES OF 2074TH MEETING (4 FEBRUARY)

(PV(2014) 2074; PV(2014) 2074, PART II)

The Commission approved the minutes of its 2074th meeting.

4. INTERINSTITUTIONAL RELATIONS

4.1. LEGISLATIVE MATTERS

- i) Amendment of Council Regulation (EC) 2012/2002 establishing the European Union Solidarity Fund (Regulation) – ESTARÀS FERRAGUT report – 2013/0248 (COD)**
(SI(2014) 37 and /2)

The Commission approved the line set out in SI(2014) 37/2.

- ii) Comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (Directive) – KLUTE report – 2013/0139 (COD)**
(SI(2014) 39 and /2)

The Commission approved the line set out in SI(2014) 39/2.

- iii) Conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (Directive) – IACOLINO report – 2010/0209 (COD)**
(SI(2014) 55 and /2)

The Commission approved the line set out in SI(2014) 55/2.

- iv) Recommendation for a Council Decision authorising the opening of negotiations on an agreement between the European Union and the Swiss Confederation on an institutional framework governing bilateral relations (Council Decision)**
(SI(2014) 57)

The Commission approved the line set out in SI(2014) 57.

- v) Multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and to marine pollution caused by oil and gas installations (Regulation) – TAYLOR report – 2013/0092 (COD)**
(SI(2014) 58)

The Commission approved the line set out in SI(2014) 58.

- vi) **Fees payable to the European Medicines Agency for the conduct of pharmacovigilance activities in respect of medicinal products for human use (Regulation) – McAVAN report – 2013/0222 (COD)**
(SI(2014) 60)

The Commission approved the line set out in SI(2014) 60.

- vii) **Amendment of Council Directive 2001/110/EC relating to honey (Directive) – GIRLING report – 2012/0260 (COD)**
(SI(2014) 61 and /2)

The Commission approved the line set out in SI(2014) 61/2.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

- viii) **Programming of Council business**
(SI(2014) 59)

The Commission took note of the information in SI(2014) 59 on the Council meetings between 13 and 26 February.

4.3. RELATIONS WITH PARLIAMENT

- ix) **Results of Parliament's February I part-session**
(SP(2014) 105; SP(2014) 106)

The Commission took note of the information in SP(2014) 105 and SP(2014) 106 on the proceedings of the part-session of Parliament held in Strasbourg from 3 to 6 February.

- x) **Action to be taken on Parliament's legislative resolutions and other resolutions of a legal nature**
(SP(2014) 116)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2014) 116, drawn up following the February I part-session of Parliament, the contents of which were noted.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED *(SEC(2014) 99 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 February.

5.2. EMPOWERMENT *(SEC(2014) 100 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 February.

5.3. DELEGATION AND SUBDELEGATION OF POWERS *(SEC(2014) 137 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 3 and 7 February, as archived in e-Greffe.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2014) 138 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 10 and 14 February and of the finalisation written procedure initiated following the weekly meeting of Chefs de cabinet on 3 February.

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2014) 139/2)

ADMINISTRATIVE MATTERS

(PERS(2014) 26/2)

6.1. DG AGRICULTURE AND RURAL DEVELOPMENT – APPOINTMENT OF AD15/16 DEPUTY DIRECTOR-GENERAL

(PERS(2013) 133 TO /4)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General with responsibility for Directorates A and B (AGRI.DDG1) in DG Agriculture and Rural Development (PERS(2013) 133 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 22 and 28 January 2014 (PERS(2013) 133/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOȘ, it then decided to appoint Ms Monique PARIAT to the post.

This decision would take effect on 1 April 2014.

**6.2. DG AGRICULTURE AND RURAL DEVELOPMENT – APPOINTMENT
OF AD15/16 DEPUTY DIRECTOR-GENERAL
(PERS(2013) 134 TO /4)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General with responsibility for Directorates F, G and H (AGRI.DDG3) in DG Agriculture and Rural Development (PERS(2013) 134 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 22 and 28 January 2014 (PERS(2013) 134/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOŞ, it then decided to appoint Mr Mihail DUMITRU to the post.

This decision would take effect on 16 February 2014.

**6.3. DG COMMUNICATION – APPOINTMENT OF HEAD OF EUROPEAN
COMMISSION REPRESENTATION OFFICE**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Ms REDING, the Commission decided to fill the post of Head of the European Commission Representation Office in Denmark by transferring in the interest of the service, under Article 7 of the Staff Regulations, Mr Laurs NØRLUND, an AD15 official and currently Director, 'Government finance statistics (GFS) and quality', in Eurostat.

By way of derogation from Commission decision C(2008) 5028 on middle-management staff, the Commission also decided to upgrade to director level (grade AD14/15) the post of Head of the European Commission

Representation Office in Denmark for the duration of Mr Laurs NØRLUND's posting.

These decisions would take effect on 1 July 2014.

6.4. DG ECONOMIC AND FINANCIAL AFFAIRS – INTERNAL AND INTERINSTITUTIONAL (GRADE AD14/15) AND EXTERNAL (GRADE AD14 – EU-28) PUBLICATION OF THE VACANCY NOTICE FOR A PRINCIPAL ADVISER POST (PERS(2014) 27)

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr REHN, the Commission decided to authorise the internal and interinstitutional (grade AD14/15) and external (grade AD14 – EU-28) publication, under Article 29(1)(a)(i) and (iii), Article 29(1)(b) and Article 29(2) of the Staff Regulations, of the vacancy notice in PERS(2014) 27 concerning a principal adviser post in DG Economic and Financial Affairs for the appointment of a Director for the European Union at the European Bank for Reconstruction and Development.

This decision would take effect immediately.

6.5. DG HEALTH AND CONSUMERS – RENEWAL OF THE TERM OF OFFICE OF THE DIRECTOR OF THE CONSUMERS, HEALTH AND FOOD EXECUTIVE AGENCY

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr BORG, the Commission decided:

- to renew from 16 February 2014 to 28 February 2015 the term of office of Mr Luc BRIOL as Director of the Consumers, Health and Food Executive Agency (CHAFAEA) in Luxembourg;

- English language version of the French text which is authentic -

- to second Mr Luc BRIOL in the interests of the service, under Articles 37 and 38 of the Staff Regulations, to the Consumers, Health and Food Executive Agency (CHAFEA) in Luxembourg for the duration of the renewal of his term of office with a view to exercising these functions as a member of the temporary staff.

These decisions would take effect immediately.

6.6. DG JUSTICE – RENEWAL OF THE TERM OF OFFICE OF THE DIRECTOR OF THE EUROPEAN INSTITUTE FOR GENDER EQUALITY

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Ms REDING, the Commission decided:

- to propose the renewal for a period of five years from 16 April 2014 of the term of office of Ms Virginija LANGBAKK as Director of the European Insitutute for Gender Equality in Vilnius;
- to ask Ms REDING to communicate this decision to the Management Board of the European Institute for Gender Equality.

These decisions would take effect immediately.

**7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – INTERNET POLICY AND GOVERNANCE: EUROPE'S ROLE IN SHAPING THE FUTURE OF INTERNET GOVERNANCE
(COM(2014) 72 TO /4; RCC(2014) 15)**

The Commission approved the communication in COM(2014) 72/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

8. RELATIONS WITH NON-EU COUNTRIES

LATEST DEVELOPMENTS IN RELATIONS WITH THE SWISS CONFEDERATION

The PRESIDENT asked Baroness ASHTON to report on the outcome of the referendum in Switzerland on Sunday 9 February, held as a result of the federal popular initiative 'Against mass immigration', and on the implications for bilateral relations between the European Union and the Swiss Confederation.

First, Baroness ASHTON recalled that the initiative in question, which had been approved by a slight majority of 50.3% of the votes cast, was intended to cap annual immigration and set quotas for residence permits in Switzerland. Looking at the outcome in the context of Swiss domestic policy, she explained that all the Swiss political parties had been against the initiative, with the exception of the Democratic Union of the Centre (UDC), a conservative populist party. The Swiss authorities were currently examining the situation to see what action should be taken following the outcome of the referendum. Nevertheless, the current agreements between the Union and Switzerland would remain in force for up to three years. She reiterated the Commission's concerns, already made clear by the PRESIDENT, and those of the Union in general as borne out in the conclusions of the Foreign Affairs Council of 10 February and the Foreign Affairs Council's conclusions that day. The European External Action Service would be holding talks very shortly with the Swiss authorities.

In the ensuing exchange of views, the Commission emphasised in particular the apprehension aroused by the outcome of the 9 February referendum, which was contrary to a fundamental, non-negotiable principle of the Union: free movement of people; while the views of Swiss citizens had to be taken into account, it should be made clear that Switzerland's relations with the Union formed a whole, consisting of rights and obligations, based on a series of agreements, each of which was subordinated to the other by 'guillotine' clauses; it must be pointed out that this set of rights and obligations had been accepted in the context of a sovereign political decision, twice endorsed by the Swiss population, and based on approved principles such as free movement of people, which implied compliance with specific rules and could not be challenged on the basis of a single referendum; a firm reaction was needed setting out the possible response by the Union, and a clear message should be conveyed about the specific complications that would arise in bilateral relations as a result of the initiative approved by the Swiss; it would be a good idea to recall in an unbiased way the very important concrete economic benefits Switzerland enjoyed as a result of freedom of movement of goods, people, services and capital, freedom that was linked to access to the European single market, to explain the measures taken by the Union to ensure that immigration would not be a burden on social budgets, and to use statistics to present more clearly the advantages of increased mobility of workers; a warning was issued against the impact which the result of this referendum and extremist populist parties in general could have on the European debate commencing in the context of the European Parliament elections in May.

The PRESIDENT said that the main question facing Switzerland in the immediate future was the extension of freedom of movement to citizens of the latest EU Member State, Croatia. He reiterated the Union's regret about the previous Sunday's referendum result, adding that it must make it unequivocally clear that free movement of people was a non-negotiable question of principle, otherwise it could suspend cooperation with Switzerland. Finding appropriate means of complying

with the commitments undertaken by Switzerland in order to avoid serious repercussions now lay in the hands of the Swiss authorities. He therefore considered that it would be advisable to throw some light on the situation by unambiguously presenting the economic impact that restricting free movement of people would have on both European and Swiss companies.

The Commission took note of this information.

9. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

9.1. STATE AID – HORIZONTAL CASES

i) Draft Commission Regulation declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on Functioning of the European Union and repealing Commission Regulation (EC) 1857/2006

(C(2014) 660)

ii) Draft Union Guidelines for state aid in the agriculture and forestry sector and in rural areas 2014-2020

(C(2014) 663)

The Commission:

- approved the Draft Commission Regulation declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market, together with the Draft Union Guidelines for state aid in the agriculture and forestry sector and in rural areas 2014-2020, set out in C(2014) 660 and C(2014) 663 respectively;

- authorised the Commission Member responsible for agriculture and fisheries to follow the steps and complete the procedural formalities set out in Articles 6 and 8 of Council Regulation (EC) 994/98.

9.2. STATE AID AND OTHER COMPETITION RULES

(SEC(2014) 149 AND /2; RCC(2014) 16)

The Commission's decision on this item is recorded in the special minutes.

9.3. OTHER BUSINESS – COMPETITION CASES UNDER INVESTIGATION

As agreed at the Commission's meeting on 4 February in Strasbourg, the PRESIDENT asked Mr ALMUNIA to give the Commission Members a more detailed report on the state of play of the procedure and the way in which he planned to tackle the next steps of the investigation into Google for abuse of a dominant market position launched in 2010.

Mr ALMUNIA began by reminding the meeting that in March 2013, the Commission sent Google its preliminary conclusions identifying four types of commercial practice by the company that could infringe European Union rules on abuse of a dominant position in the internal market laid down in Article 102 of the Treaty on the Functioning of the European Union (TFEU). These practices were: (i) in the results obtained using Google's search engine, more visible display of its own specialised search services compared with those of its competitors; (ii) the unauthorised use by Google of original content from third-party websites ('publishers') in its own specialised search services; (iii) the agreements obliging third-party websites to obtain all or most of their online search advertisements from Google; and (iv) the contractual restrictions imposed on the transferability of online search advertising campaigns to rival search engine advertising platforms.

He went on to explain that in January, following long and difficult negotiations, Google had sent the Commission an improved commitments proposal regarding the use of original content and specialised search services, while maintaining the commitments it had already submitted concerning the conditions applicable to online search advertisements. Mr ALMUNIA's departments had analysed this last proposal in depth and he considered that the proposals were likely to address the four harmful practices identified by the Commission. He explained the content of the remedies proposed with the help of a PowerPoint presentation.

Mr ALMUNIA also felt that converting this last commitments proposal into a legally binding obligation for Google would enable conditions for healthy competition to be rapidly restored and ensure that they were maintained in coming years. This was why he was proposing to draw up the future decision on these commitments under the procedure laid down in Article 9 of Regulation (EC) 1/2003 on restrictive practices and abuse of dominant positions. The advantage of this procedure from the point of view of European consumers was that it made it possible to maintain competitive conditions over time in the rapidly and constantly evolving online search sector.

He noted that the alternative, laid down in Article 7 of Regulation (EC) 1/2003 in the event of an established abuse of competition rules, would be to adopt a decision on the basis of an adversarial procedure, which would have two disadvantages in this specific case. It would significantly delay implementation of the remedies without producing any immediate effect on the markets in question, and would not impose any binding commitment concerning the future behaviour of the company in question.

He also pointed out that under the procedure laid down in Article 9, an independent trustee would monitor Google's compliance with its

commitments and would keep the Commission informed. Lastly, he added that the Commission would be entitled at all times to impose a fine on Google should it fail to comply with its commitments.

Although the objections examined during the investigation for abuse of a dominant position at present related only to Google's behaviour in the fields of online search and advertising, Mr ALMUNIA noted that a number of its other practices were also being examined under other procedures.

As regards the next steps of the procedure, he proposed that the Commission inform the complainants soon of the reasons why it considered that Google's proposal was likely to address the infringements of competition law identified by the Commission. The complainants would then be given the opportunity to make their views known to the Commission, which would take these into account before adopting its final position. Since the letters to be drafted under this procedure would involve a more detailed analysis than would be required by a new market test, Mr ALMUNIA felt that this was an additional reason for not carrying out a third consultation at this stage.

The Commission then held an in-depth exchange of views during which the following main points were raised:

- overall support for the line set out by the Commissioner in charge of this politically and economically sensitive case that was attracting a lot of media coverage. This approach, using negotiated remedies, would facilitate a quicker, more effective resolution of the case, which was all the more appropriate given the very rapid pace of technological developments in the online search sector; a reminder of the real advantages which Google's dominant market position gave it over its competitors, and the need for better protection of consumers' freedom of choice;

- the need for a solution that would restore fair and equitable competition in the long term. For some Members, this objective would be met by Google's proposed commitment to ensure that, when promoting its own specialised search services on its web page, it would prominently display the services of three competitors, selected using an objective method and presented in a way comparable to that used for its own services; the case for making this a legally binding requirement for Google in order to ensure that this solution was maintained in the years to come; the importance of enabling innovative small and medium-sized enterprises (SMEs) to enter the market in this way;
- calls for clarification to ensure that the remedies proposed by Google to the problem of market access in this case, in terms of both the use of content and e-commerce, were robust and balanced; particular questions about the commitment to display competitors visibly on Google's web page and the objectivity of the ranking criteria that would be used;
- questions about how much room for manoeuvre and negotiation the Commission still had to secure from Google a further improvement in the commitments proposed, if necessary; according to some, it was important not to prejudge the final decision which the Commission would adopt with reference to Google in July or September by opting for one procedure rather than another;
- requests for clarification of how the system of online advertising auctions worked; from the point of view of consumers, the desire to avoid a system that depended not on the natural or organic results of online searches but on the financial capacity of the providers, which would penalise innovative SMEs; a call to investigate the viability of a system of fixed, transparent and public prices;

- a request to know the reasons behind the proposal not to hold a third market test after examining the third series of proposed commitments by Google; a suggestion by some Members that such a market test should be conducted in the interests of transparency, even if the Commission was not obliged to do so under the current rules;
- the need for the Commission to examine possible initiatives to adapt the Union's legislation to the new digital economy in order to tackle all the aspects linked to the consequences of Google's dominant position in the search engine sector, including ways of promoting a commercial model in the supply of online content that would take into account dimensions other than those relating to competition law, such as intellectual property rights, consumer rights and taxation;
- an insistence on the quasi-judicial power of the Commission in competition law matters and on the need to preserve the institution's authority in this field;
- the need for clear public communication on the conduct of the procedure and an appeal to all those involved in this field to shoulder their responsibilities, given what was at stake.

Mr ALMUNIA replied to these comments by noting that, given that the investigation had been launched in 2010, the main aim now was to reach a conclusion that would make it possible to restore the conditions for healthy competition in the areas of searches and online advertising as soon as possible, in order to ensure more freedom of choice for consumers. The decision to opt for a negotiated settlement in the final stages of the procedure had been taken in the light of the results of the in-depth investigation, but also of an assessment of the quality of the remedies proposed and their ability to deliver the most advantageous solution for consumers and internet users in

Europe. He explained that the alternative of an adversarial procedure would not make it possible to remedy market conditions in the short term, and furthermore that any measures imposed at the end of the procedure might no longer be appropriate to this rapidly evolving market.

He then pointed out that consultation of the complainants through an exchange of letters was the next formal step in the negotiated settlement procedure provided for by Regulation (EC) 1/2003. He therefore announced his intention to draw up detailed letters explaining how the remedies proposed by Google addressed the concerns of the complainants, who would be given a certain amount of time to respond to the Commission's assessment and whose comments would then be taken into account by the Commission.

In reply to a question, Mr ALMUNIA explained that, if the complainants raised any additional objections in the exchange of letters, this could result in further investigations being opened. He noted that a number of Google's other commercial practices were already been examined by the Commission, citing as examples the preliminary investigations into the Android operating system and the standard-essential patents case involving Motorola, which was now part of Google. The same approach would be applied if the future independent trustee were to flag up other anomalies to the Commission.

Mr ALMUNIA then came back to the point raised in the discussion that it might be worth holding a third market test. He noted that, under the current rules, there was no obligation to repeat such an exercise unless there were a substantial change in the offer submitted. However, the most recent commitments proposed did not constitute a significant change to the previous offer, but merely made a number of improvements. He also pointed out that a great deal of relevant material had already been obtained as a result of the two previous market tests. The exchange of letters with the complainants would in itself give the main interested parties an opportunity to conduct a broad and

detailed assessment of the remedies proposed by Google. Lastly, he considered that the commitments set out in Google's latest offer met all the objections raised by the publishers in relation to competition law.

As regards the importance of ensuring that SMEs could enter specialised online search markets, Mr ALMUNIA cited a number of technical parameters of the auction system which would ensure that this type of company would have access on non-disadvantageous terms and that the same arrangements, with or without fees, would be applied to both Google's services and those of its competitors. He also offered to supply any individual Members of the Commission with more detailed technical explanations if they so wished.

On the subject of the media coverage of the Google case, he warned that, since this case risked upsetting a number of vested interests, some market players might make tendentious statements even though the exact terms of the offer proposed by Google, which were subject to strict confidentiality in the ongoing proceedings, were not yet known.

The PRESIDENT thanked Mr ALMUNIA for having brought the College of Commissioners up to date with developments in this very important case. He also thanked the Commissioners themselves for having contributed to a in-depth and fruitful discussion. From the legal point of view, the procedure and preparations for the Commission's final decision would continue along the lines indicated and in accordance with the rules in force. The Commission would exercise its political discretion and take a final decision on the case in a few months' time, before the end of its current term of office. He suggested that any Commissioners who wanted more detailed information on any aspect of the case should contact Mr ALMUNIA in order to arrange bilateral meetings, so that the necessary discretion could be maintained.

The PRESIDENT ended by calling on the Members of the Commission to

take the utmost care in communicating on the Google case until the current proceedings had been concluded in order to maintain the Commission's authority, credibility and scope for taking autonomous decisions when exercising its quasi-judicial powers in the field of competition law.

The Commission took note of this information.

*

* *

The Commission's other discussions on certain agenda items are recorded in the special minutes.

*

* *

The meeting closed at 12.36.