Competition aspects of EU securities trading and post trading

The Issues Paper

As you know, on 24 May DG Competition published an Issues Paper on the competition aspects of EU securities trading and post trading.

The Issues Paper aimed at promoting a discussion with market players as to the best means of preserving existing competition and of achieving more competition. We have received many interesting replies to the Issues Paper, the non-confidential versions of which are published in DG Competition’s webpage.

The paper focused on equities and bonds and looked only at the larger markets. Derivatives markets were not within scope and our conclusions cannot be simply extrapolated to those markets.

Trading

At the trading level, we certainly want to see more competition amongst exchanges, but also between exchanges and alternative trading platforms. Such competition relies on access to clearing and settlement. Whether within or outside a vertical silo structure, it is all too easy for exchanges to block such access today.

Competition also relies on rules that are the same for all. It is not logical that the incumbent exchange can impose rules on its members which limit their effective choice of trading platform. If such rules are required, this must be a matter for regulators, not for the incumbent to decide.

Access to the large vertical silos is a key issue. Access to the component parts of those silos may well be required by competition law - as indeed the Commission concluded in the Clearstream case. However, any effective enforcement of such a right of access would need, in practice, a clear and reliable separation of accounts.
Clearing

Clearing is not only a precondition of effective competition in trading; it should also be looked at as a market in its own right.

We have been encouraged to see the recent decision by the London Stock Exchange to admit a second clearinghouse in their main market. This shows that it is possible and that there is demand. Of course it remains a paradox that access to this market requires approval from the exchange. After all, the clearinghouse is not billing the exchange for any service - it provides its services to its customers, the banks and other market participants. Efficient operators should be assured of market access.

Settlement and custody

In the area of settlement, I think no-one argues that competition policy alone could solve the many inefficiencies that exist in cross-border operations. This is why the primary focus must remain the removal of the so-called “Giovannini barriers” so as to allow cross border competition on both price of the services and innovation in service provision.

Brokerage

Many market participants have seized on our observation that three-quarters or more of trading costs seen by the final investor arise in the broker-dealer layer, i.e. the market intermediaries.

The conclusion that some would like to draw from this is that there is no point in going after the direct infrastructures costs, which represent only 10% of trading costs. Such a conclusion is groundless: any reduction in trading costs has an enormous knock-on effect on the economy and improvements in the infrastructure area would reduce the costs of broker-dealers, too. That again is why it is so important that there is progress in dealing with the Giovannini barriers and that as Commissioner McCreevy has said we must look more closely at the relative contribution that different measures can make to reducing costs in the post trade area.

Even if there may be imperfect competition in brokerage markets, more competition amongst infrastructures may bring additional players into the broker-dealer market, breathing new air into national banking communities whilst at the same time driving down the cost of capital.
Next steps – Possibility for market players to bring about changes needed through a “Code of Practice”.

Overall the replies to the Issues Paper are very supportive of our analysis and conclusions. In a number of cases, respondents have provided further detailed evidence of what is going wrong in the market in practice.

A general theme in the replies is that action in respect of certain practices at the trading level might be premature, given the expected impact of the Markets in Financial Instruments Directive - MIFID - in opening markets. Some respondents, however, are sceptical that MIFID will solve all the problems.

Competition and internal market policies must go, more than ever, hand in hand in the area of capital markets. Achieving the right policy mix is therefore a priority both for Commissioner McCreevy and for me.

 Whilst there are a range of opinions on the need for a Directive on Clearing and Settlement, there is a wide consensus that competition rules alone will not suffice and that some further ex-ante steps are required. There is also a broadly held view – even if a far from unanimous one – that other steps need to be attempted before any directive is contemplated.

It is clear to me that competition policy does not have, by itself, all the tools necessary to address all the malfunctioning in the present market situation. Market players have the possibility to bring about many of the basic changes needed. An Industry Code of Practice should allow for more competition and also for more efficient enforcement of competition law if needed.

Account separation is a good example where voluntary action can make a difference. Such separation is not presently required by the legal framework. At present, market participants may have no incentive to request access to vertical silos in the first place, given how easy they know it would be to obstruct such access in practice.
I therefore endorse fully that market players are given a chance to take voluntary action to foster competition and therefore reduce cost regarding post-trading in the EU.

Our aim is that market players enhance the efficiency of the markets in which they operate. If they are successful, the economy as a whole will benefit. Of course, it goes without saying that competition law continues to apply, and that actions going in the opposite direction - leveraging market power or creating inefficiencies for example - shall be subject to strict competition law enforcement measures.

I strongly believe that to be successful, we need to continue working closely together, Charlie McCreevy, Joaquin Almunia and myself. But I equally strongly believe that we need to associate national financial regulators more closely with the drive for more competition. Obviously, financial regulators have a pre-eminent prudential duty to perform. In the past, it may not have been necessary for them to consider competition issues when it came to financial infrastructures, because of the monopoly or mutualised structures that prevailed. However, this is changing and all regulators need to ensure that competition considerations are given due weight in the exercise of their regulatory duties. This is no different from the developments in other regulated network industries.

Thank you for your attention.