

Welcome Address

Mr. Chairman,
Colleagues, Ladies and Gentlemen:

I thank you all for having accepted the invitation to participate in this conference on the Application of EC Competition Law in Malta.

In our economy competition is regarded – at least so we are told and taught – not only as an essential element of capitalist efficiency but also as a safeguard against the abuse of economic power. The theory is that a healthy rivalry between firms is good for the economy as a whole and, more importantly, for the consumer. It is for this reason that one of the aims of the European Community is the establishment of a system intended to ensure that competition in the internal market is not distorted, or in the words of the European Court of Justice, that there is an “effective” competition.

Competition law is concerned with both the structure of the market and the behaviour of undertakings. However, while it is relatively easy to distinguish between conduct that favours competition and economic efficiency and conduct that does not, the maintenance of a satisfactory market structure appear to be, at least to me, a complex issue. It depends upon a correct assessment

of a variety of factors which are subject to considerable change, such as whether the market for a particular product or group of products is in a stage of development, or has reached maturity, or is stagnating or is in decline, and the extent to which the market is accessible to new participants.

Apart from maintaining a system of effective competition, the European Union rules on competition have two other main concerns: (1) the creation of a single market out of the different national markets of the Member States; and (2) the protection of fair competition.

There is no doubt that competition law is a very complex branch of law, much more so for those, like me, who have never formally studied the subject at university. As Prof. Richard Whish has rightly pointed out in his introduction to the book by Magistrate Dr Silvio Meli “Judgements of the Malta Commission for Fair Trading”, one of the factors for a successful competition law regime is the state’s ability to provide the physical, financial and intellectual resources needed to make the law work and its ability to provide also robust, independent institutions that are capable of reaching decisions in a timely fashion that are intellectually sustainable.

As I have already hinted, some of us may not be very familiar with this branch of law, and especially with the relatively recent amendments introduced by Council Regulation 1/2003, and its

implementation in Maltese law. However, one of our duties as judges and magistrates is to keep abreast of such developments. We can achieve this in part by studying on our own and in part by attending courses or seminars, such as this conference, where some particular aspect or aspects of the topic is discussed. And this is where the Judicial Studies Committee comes in – to assist members of the Judiciary in their ongoing professional development. It goes without saying that Judicial Assistants also have the same duty of keeping themselves up-to-date with legal developments, for otherwise they would not be able to carry out their functions properly. That is the reason why the Judicial Studies Committee has on several occasions invited also Judicial Assistants to attend the conferences and seminars it organises. I am very pleased to notice that eighteen Judicial Assistants are attending this two day conference.

Naturally, in the legal field, no ongoing professional development would be complete, without a comparative perspective, that is without a comparison at least on broad lines, of the way other states have dealt with, or are dealing with, the same subject. Although this is applicable to any branch of law, it is particularly essential in the field of EU law, since the 27 Member States have one and an identical source of law.

For this reason, I would like to thank the Malta-EU Steering and Action Committee (MEUSAC), our Judicial Studies Committee

and the United Kingdom Competition Appeal Tribunal for organising this conference. Of course this conference would not have been held without the co-financing of the Directorate General on Competition within the European Commission to whom I also extend my sincere thanks.

Finally I would like to thank all the speakers, both from Malta and from the United Kingdom, who have kindly accepted the invitation to take part in this conference and to share with us their knowledge, views and expertise on the EC Competition law regime.

I wish you all *buon proseguimento*.

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