Good morning to my distinguished fellow panelists, competition experts joining us today, ladies and gentlemen in every time zone.

It is a great honor to take part in this true Rhapsody of Nations/ with Representatives from different parts of the world.

UNCTAD has been playing a crucial role in the promotion of competition and I am delighted to join you in this important meeting. Thank you very much for the invitation.

While we have a very **diverse** profile of countries here today, we face a **common** problem, of course, beside covid-19. That is:

How to **protect** competition in digital markets?

Let me then answer your question by sharing a bit of Brazil’s approach to handling competition cases in digital markets.

When we face this non-trivial challenge, three main questions guide our analysis:

When to intervene?

How to intervene?

And who should intervene.

Let me elaborate on that.

The when question points to correctly distinguishing the cases that call for intervention, from those that don’t. That is, how can we identify the cases when there was **indeed** an infringement to competition law?

This encompasses:

Adequately identifying the competition problem under analysis, the **theory of harm,** and the **evidence** that points to the effective occurrence of harm to competition, of course, having taken into account efficiency claims.

While this is common for every competition enforcement case, it comes with more **complexities** when we are dealing with digital markets.

This is because they usually encompass multi-sided markets, network effects, data matters, and so on.

For example, how to define relevant market where market boundaries are blurry, rapidly changing and with different sides involved?

How to amass the adequate probes, when the most crucial data are often in the hands of the Party under investigation?

In helping answer the “When to intervene” question, we rely a lot on international cooperation. Let me explain: these are challenges that all jurisdictions are facing and we can save valuable resources by learning from each other.

In this regard, Cade has worked on a “Review of Expert Reports/ on Competition in Digital Markets”, which consolidates the knowledge of twenty-two reports and studies/ issued by eighteen different authorities and expert panels around the world, and which is available in our website.

While we have learnt a lot from these reports, we hope that this review can be useful for other jurisdictions as well.

At the same time, pick-up the phone cooperation and other technical cooperation are very useful in making the most of our collective knowledge. They help diminish information asymmetries and also aid in the development and sharing of methodologies and tools to assess harm to competition. Similarly, international fora such as our event today at the UNCTAD play an important role in promoting the flow and access to all available knowledge.

These are some of the ways, Cade tries to keep up with the developments of competition enforcement in digital markets to correctly identify “WHEN to intervene”.

But then comes the HOW TO INTERVENE question.

If harm to competition has indeed been identified, how to design the appropriate remedy?

This is probably one of the most important questions we face and one in which there seems to be a lot of room for we, Competition Authorities, to advance.

From Cade’s experience, three important aspects ought to be considered while designing remedies:

First: is the MONITORING of the remedies feasible? That is, will the Competition Authority have the resources and ability to adequately and timely monitor the remedies?

Second: Are these remedies in harmony with what other jurisdictions are applying? While, of course, each jurisdiction will come to its own conclusion regarding its cases, it find it beneficial to reduce the risk of unnecessary contradictions among remedies. For this, international cooperation is particularly useful.

Third and most important: does the remedy adequately address the competition concern? While it is harder to guarantee this effectiveness prior to the adoption of the remedy, ex-post evaluation of its effect certainly helps authorities in continuously improving their remedies, and is among our priorities.

Since these questions seem especially hard for digital cases, given for instance, the high information asymmetry involved, we sometimes consider **negotiated agreements** an interesting policy choice. One of the benefits is that they might help solve a competition problem more rapidly. For example, in Brazil we negotiated a Cease-and-Desist Agreement with Bradesco, one of the largest Brazilian retail bank, which has preventing its clients from sharing their financial data with fintech Guiabolso, thus hindering its development.

For digital markets, carefully designed **interim measures** also prove useful in giving rapid responses in rapidly changing markets. In Brazil, we had the iFood case, for example. iFood is a food delivery service app, which is being investigated for abuse of dominance by use of exclusive agreements. We issued a carefully drafted interim measure, which among others prohibits the signing of further exclusive agreements. This helped to buy some time for adequate analysis, speed up the case, while at the same time favoring competition.

I should emphasize, though, we think interim measures should be used with a lot of scrutiny, as they can cause significant legal uncertainty, harming the business environment.

Finally, we come to the 'who should intervene question'.

Is the Competition Authority the best agency to intervene?

Or is an ex-ante regulation by a Regulatory Authority more suitable?

While this question certainly does NOT have a one-solution-fits-all answer, I can enumerate some guiding principles.

The first relates to the need of cooperation between the Competition Authority and the Regulatory Agencies. We consider this crucial to guarantee **coherence** among different policies, which is itself **essential** for a **sound** business environment.

This cooperation is also helpful to tackle the first When and How questions. We believe the conjunction between the horizontal competition knowledge from the competition authority with the vertical sector/theme-specialized knowledge from Regulatory Agencies provides the best **basis and technical expertise** to handle the "when" and "how to intervene" questions.

In this regard, Cade recently signed a **Cooperation agreement** with our newborn Data Protection Authority. As a way to inform how the interplay between Competition Defense and Data Protection will evolve in Brazil, we conducted a thorough benchmark of 13 jurisdictions, which is also available in Portuguese in our website. In digital markets, cooperation has also proved crucial with the Central Bank, given that many digital cases involve the financial sector.

As you have seen, our **common** problem is not a simple one to solve. However, we can take advantage of our very **diversity** to find solutions.

International cooperation can promote the flow of knowledge and information, so that each jurisdiction's decisions are adequately informed. And in case decisions diverge, different approaches might help identify those that bear the best results. For that, as I mentioned ex-post analysis of interventions is crucial.

I am confident that with the notes and efforts of every jurisdiction, our Rhapsody of Nations can be a harmonious one. One composed cooperatively by multiple hands, and to the sound of which competition, companies and consumers can thrive.