

**9th United Nations Conference on Competition and Consumer Protection
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Geneva
7-11 July 2025**

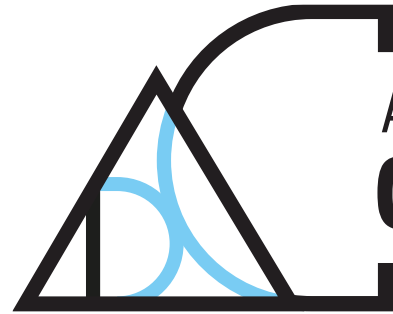
**Report on the Implementation of the Set of Multilaterally Agreed Equitable
Principles and Rules for the Control of Restrictive Business Practices, Including
a Brief Assessment of 20 Years of Voluntary Peer Reviews of Competition Law
and Policy**

Presentation

Speaking Points Included

*Mr. Nuno Cunha Rodrigues
President
Portuguese Competition Authority*

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Concorrência

9TH UNITED NATIONS CONFERENCE ON COMPETITION AND CONSUMER PROTECTION

***REPORT ON THE IMPLEMENTATION OF THE SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES
AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES, INCLUDING A BRIEF ASSESSMENT
OF 20 YEARS OF VOLUNTARY PEER REVIEWS OF COMPETITION LAW AND POLICY***

Nuno Cunha Rodrigues

President, Portuguese Competition Authority

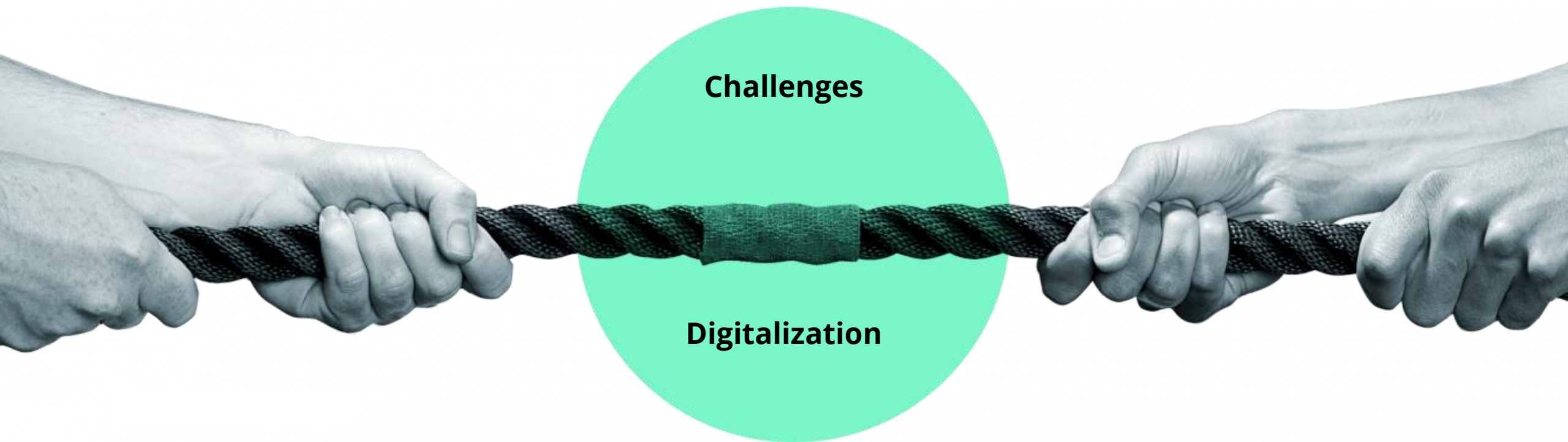
01 Key challenges in the field of competition law and policy

External

Internal

Challenges

Digitalization



Digital Markets

Characteristics:

- Scaling advantages
- Network effects
- Challenges in multi-homing

Competition concerns:

- High market concentration
- Risk of self-preferencing
- Creation of barriers to entry or expansion



Addressing the challenges

Ex-ante approach

- EU Digital Markets Act (DMA) - Regulation (EU) 2022/1925
- UK Digital Markets, Competition and Consumers Act 2024
- Among others

Fine-tuning enforcement

- Abuse of dominance investigations – e.g. EU Guidelines on exclusionary abuses of dominance
- Interim measures - renewed relevance

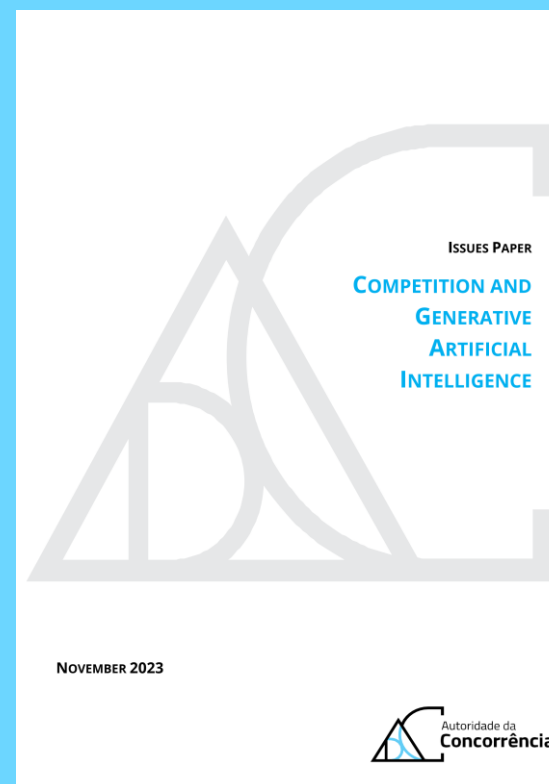
Addressing the Challenges

Advocacy initiatives

- knowledge-building and sharing
- understanding risks and anticompetitive strategies
- steering towards more competition-friendly behavior
- effective vigilance

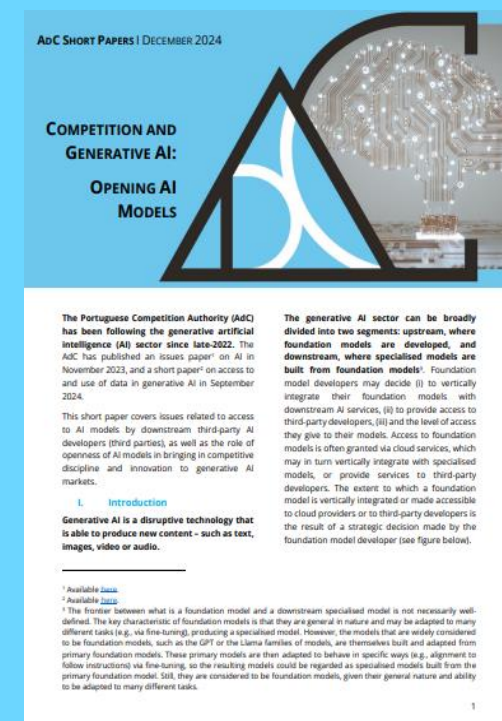
The AdC published:

- The **Issues Paper** on competition issues raised by Generative Artificial Intelligence (Generative AI) in 2023
- The AdC's **Short Paper Series** on the access and use of data and the degree of openness of AI models in 2024



<https://www.concorrenca.pt/site/s/default/files/documentos/Issue%20Paper%20-%20Competition%20and%20Generative%20Artificial%20Intelligence.pdf>

<https://www.concorrenca.pt/site/s/default/files/processos/epr/AI%20short%20paper%20-%20Opening%20AI%20models%20-%20EN.pdf>



Addressing the challenges

Merger control

- Ensure the review of potentially harmful merger
- Market share based notification thresholds
- Value of the transaction notification thresholds
- Call-in powers

Internal challenges and Achievements

Adjustment of legal frameworks

- Powers of the Competition Authorities
- Effective investigative and decision-making toolbox

Digital tools:

- Proactive detection mechanisms
- Efficiency and effectiveness of investigations
- Specialized teams



International Cooperation

Cross-cutting experiences:

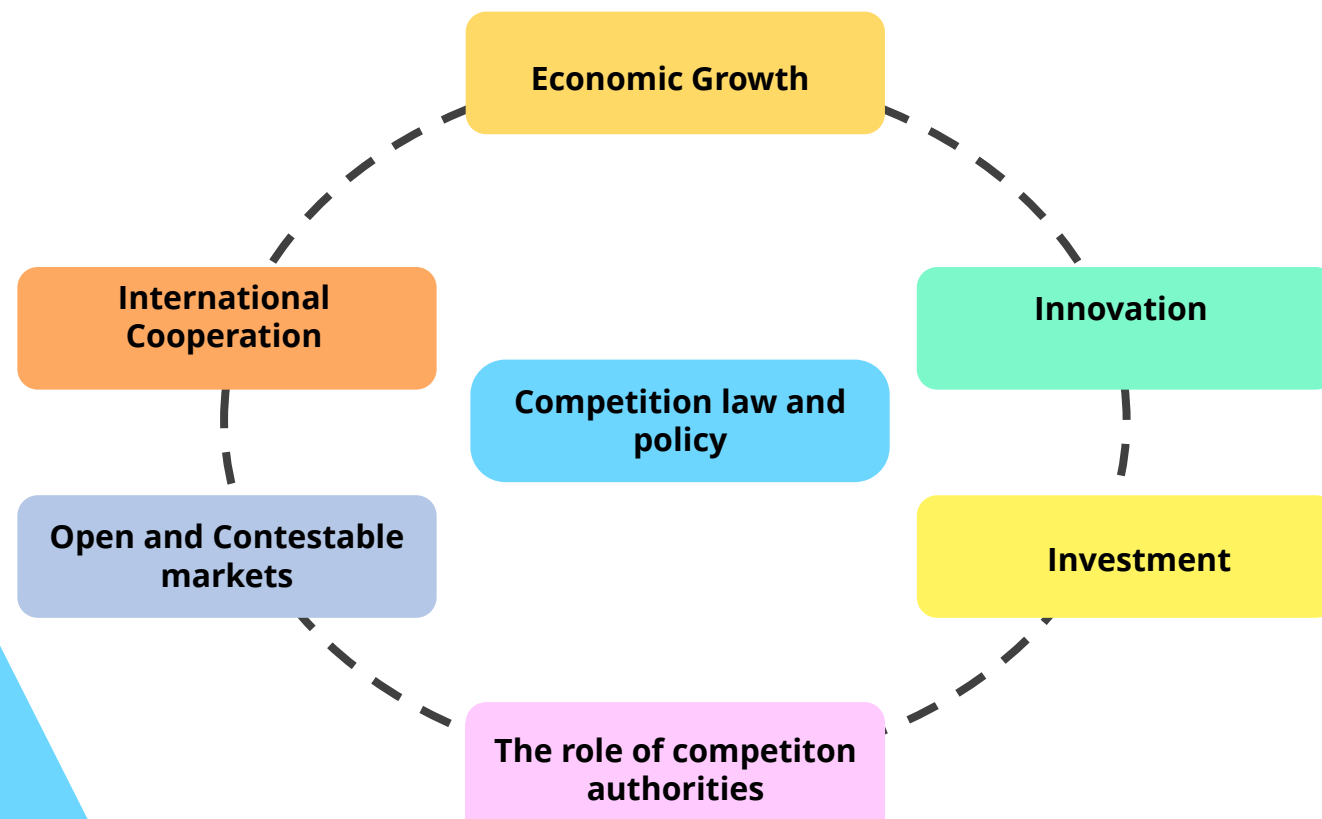
- Building robust competition policies
- Exchange of best practices
- Foster mutual trust
- Capacity Building
- Stronger Deterrence



Conclusion

Competition authorities:

- Address market failures and the reduction of barriers to entry, expansion and innovation;
- Integrated use of the competition protection mechanisms;
- Well-equipped with the necessary resources;
- Ensure the level playing field.



Thank you



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Report on the implementation of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, including a brief assessment of 20 years of voluntary peer reviews of competition law and policy

7 July 2025 (16:00 – 17:00)

Nuno Cunha Rodrigues

Question - *From the perspective of Portugal and considering the broader European Union framework, what have been the **key challenges including digitalisation in the field of competition law and policy**, and what **achievements or progress has been made at national and regional levels in addressing them?***

- **Introduction**

Distinguished colleagues and dear guests,

Thank you for the introduction and for the question. And thank you, Teresa, for your unwavering dedication and commitment to this cause, as well as for the kind invitation to speak here today.

It is an honour to join this big celebration of the 45 Years of the UN Set and to participate in this panel – looking back forward to the developments in competition law and policy.

Indeed, the UN Set [of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices] shall be celebrated, while it has been proving its relevance through time.

Our goals continue focused on the **protection of competition** and **encouraging of innovation**, preserving the **level playing field**.

[Slide 2]

Allow me to take you on a brief walk down memory lane.

We have paved a *long and winding road* since 1980.

Let me remind you that the UN Set arrived at a time when there was no ICN or ECN – European Competition Network - and not even an institution dealing with competition matters in Portugal.

In fact, in Portugal, the Directorate-General for Competition and Prices was created in 1982 and the Competition Authority, as such, in 2003.

The same year the application of the European competition rules became decentralized, with the adoption of the so-called Reg. 1 (Regulation 1/2003).

As the implementation report highlights, *“when the Set was established, only 24 countries had competition laws, (...) at present, around 140 countries have adopted competition laws”*.

[Slide 3]

But this path has been crafted both with **external and internal challenges**.

In my address I will focus on the challenges brought by digitalization on competition policy.

Let me begin with an **outward look**:

- **Digital Markets**

Evolving market dynamics are **driving global changes** and call for continuous adaptation of our policies.

[Slide 4]

Indeed, these new market realities, significantly led by the digital sector and AI development, are poised to shape competition policy.

As the UN Set implementation report underlines, digital markets have grown and are reshaping the world economy.

It is crucial to maintain proper incentives to **compete on the merits** and to innovate.

As we are aware, **competition policy** is key to ensuring that markets evolve and **deliver innovation** and **consumer welfare**.

We recognize that these markets impose demanding challenges on competition authorities.

These markets have characteristics typical of a regulated sector, that make them **prone to high levels of concentration**.

In this context, the main competition concerns relate to the **existence of strong scale** and **network effects**, as well as potential obstacles to **interoperability** and **multihoming**.

As a result, **winner-takes-all dynamics** are likely to determine market outcomes.

In these fast-moving markets there is a high risk of tipping. Initial dominance can swiftly evolve into monopolization.

Leading digital players and first movers may accumulate competitive advantages that can lead to entrenched market positions and foster behaviors that could be detrimental to competition.

Indeed, such players have incentives to foreclose markets and restrict entry into their ecosystems.

- *Ex-ante* approach

[Slide 5]

It is, therefore, not surprising that **many jurisdictions** are opting for new responses, in particular *ex-ante* approaches to deal with competition issues in the sector, such as the DMA in the EU, the DMCC

Act in the UK, and others, as Professor Frederic Jenny has just pointed out.

The DMA aims to ensure **contestability** and **fairness** in the digital sector, namely by reducing the risk of self-preferencing and promoting interoperability.

The DMA applies specifically to multi-sided markets and to cases where our combined experience in the EU tells us they are likely to generate harm for consumers.

The DMA and antitrust enforcement complement each other and encourage a close coordination between the NCAs and the European Commission.

- Enforcement

In fact, the answer does not rest solely with the *ex-ante* instruments.

Indeed, antitrust enforcement by NCAs plays a crucial role.

In digital markets, abuse of dominance investigations continue to be at the forefront of defending the contestability of the markets, either based on exclusionary or exploitative theories of harm.

Nonetheless, these can be lengthy procedures, which leads to a renewed relevance of interim measures.

This is an aspect that we need to consider when assessing if our toolbox is fit for purpose.

- Advocacy

[Slide 6]

Moreover, effective competition advocacy is building an accurate understanding of the landscape and dynamics of the digital sector.

In its efforts to promote competition and guarantee contestability in digital markets, competition authorities have **accumulated experience** and **critical know-how** in anticipating and understanding risks to competition and anticompetitive strategies.

The Portuguese Competition Authority, along with other competition authorities, has been actively building-up know-how for instance on the AI sector. This has resulted, so far, in the publication of the seminal Issues Paper on Generative AI (in 2023), offering a comprehensive view on the AI sector and mapping the determinants and risks to competition¹.

This is being followed by the AdC's Short Paper Series², launched in 2024, that aim to keep track of the fast developments of the AI sector, focusing, so far, on access and use of data and on the degree of openness of AI models.

This knowledge-building and sharing can act as a powerful nudging tool for firms, steering them towards more competition-friendly behavior, while reducing uncertainty regarding the approach of competition agencies.

Indeed, fully realizing the potential of the markets and ensuring contestability is ultimately a collective effort, both by competition

¹ See Portuguese Competition Authority, *Competition and Generative Artificial Intelligence* (November 2023), available at:

https://extranet.concorrencia.pt/pesquisAdC/EPR.aspx?IsEnglish=True&Ref=EPR_2023_19.

² See Portuguese Competition Authority Short Papers Series, *Competition and Generative AI: Zooming in on Data* (September 2024), available at:

https://extranet.concorrencia.pt/PesquisAdC/Page.aspx?isEnglish=True&Ref=EPR_2024_14; and *Competition and Generative AI: Opening AI models* (December 2024), available at https://extranet.concorrencia.pt/PesquisAdC/Page.aspx?IsEnglish=True&Ref=EPR_2024_23.

authorities all over the world, and by different regulators with their specific priorities and expertise.

As such, effective vigilance and intervention will require cooperation, coordinated action and collaborative regulatory approaches.

- Merger control

[Slide 7]

Another key concern relates to the **risk of harmful mergers** going under the radar of merger control.

We need to consider how policies on merger control might need to evolve to deal with new market realities.

To mitigate these issues, some jurisdictions have **market share notification thresholds** (such as Portugal, Spain and the UK), **thresholds based on the value of the transaction** (in Germany and Austria) or **call-in powers**.

These criteria increase the likelihood that at least some of these mergers, for example related to the so-called “killer acquisitions”, including those in digital markets, will be subject to the assessment by competition authorities.

Indeed, the evolution of **digital markets**, especially those operating under zero-price models, underscores the critical need for competition authorities to identify and scrutinize mergers.

In light of this **dynamic landscape**, it is crucial to **revisit our toolbox**.

- Internal Challenges | Digital tools

[Slide 8]

Therefore, allow me now to turn to an **inward look**.

Indeed, these rapidly changing market realities call for the continuous **adjustment of legal frameworks and analytical toolkits**.

This is the chance to turn a challenge into an opportunity.

For instance, in the EU, in 2019, the legislator enacted the ECN+ Directive, reinforcing the powers of the NCAs.

It streamlines the effective investigative and decision-making toolbox of the NCAs, including to gather digital evidence stored on mobile devices.

Another challenge lies precisely in the fact that detecting and investigating anticompetitive practices is becoming increasingly complex and resource-intensive, demanding more advanced tools and specialized expertise.

Thus, digital tools may be used by enforcers to optimize the existing proactive detection mechanisms.

In this context, NCAs around the globe have been investing in specialized teams and enhancing their procedures, by **increasing the quality of the data, and the models that are used to detect anti-competitive patterns**.

As an example, AI models may be used to improve the **detecting of collusion in public procurement databases, or through web scraping of online prices**.

Algorithms and AI may also **improve the efficiency and effectiveness of investigations** in other ways.

We believe that these **tools can play an essential role** in the investigation of anticompetitive practices and the detection of non-notified mergers.

In the context, NCAs have been working hand in hand, engaging in exchanging knowledge and disseminating best practices internationally.

- **International Cooperation**

[Slide 9]

In fact, this cooperation is **cross-cutting**:

Currently, there are unprecedented opportunities for international cooperation.

Here, let me share with you the EU experience.

As I previously mentioned, since 2003, both the European Commission and the NCAs are competent to apply European competition rules [, the Treaties,] directly.

In fact, the **European Competition Network (ECN)** was created in 2003, between the European Commission and national competition authorities of EU Member States.

The creation of this Network enhanced the effectiveness of the application of the European competition rules in a remarkable way.

Over the past 20 years, about **85%** [84,67%] of the ECN investigations were carried out by the NCAs.

This experience, aligned with the support and engagement within international organizations such as UNCTAD and the OECD, as well as informal cooperation through the International Cooperation Network

(ICN) and bilateral cooperation, is essential to enable countries to establish **robust competition policies, grounded in best practices** and tailored to their economic and social circumstances.

I am convinced that we have been creating a true “*competition ecosystem*” among agencies - a concept that resonates deeply with all of us.

International cooperation fosters **mutual trust** among competition authorities and **propels our voices**, empowering us to address global challenges.

Other than promoting the dissemination of knowledge and expertise, it helps us to focus on our shared values and finding common ground.

I firmly believe that global markets require global dialogue. Therefore, international cooperation remains an invaluable tool.

- Conclusion

[Slide 10]

Ladies and gentlemen, it is time to conclude.

We need to keep in mind that competition is a **strong ally of economic growth, investment, innovation** and, may I add, **democracy**.

Competition can actively strengthen economic development by promoting **open and contestable markets**.

As competition authorities we need to continuously **address market failures** and the reduction of **barriers to entry, expansion and innovation**.

Consequently, we need to make a good use of our **entire toolbox**, ensuring an **integrated use of the competition protection mechanisms**.

It is, therefore, vital that competition authorities are well-equipped with the **necessary resources** and have the **necessary support** to enhance their action.

So that we are able to press forward, keeping our resolve set on making sure that all market participants, public or private alike, compete on a **level playing field**, without undue advantages or distortions.

Here there is an important role of the **international community**, **echoing our common concerns** and potentiating the **dissemination of knowledge and expertise**, as UNCTAD has done in the past decades.

This is, indeed, a significant celebration, and I am proud of the path we have collectively forged.

Thank you.