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Summary of the Hearing on Artificial intelligence, data and competition

Annex to the Summary Record of the 143rd Meeting of the Competition Committee

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This document prepared by the OECD Secretariat is a detailed summary of the Hearing on Artificial intelligence, data and competition, held by the Competition Committee on 13 June 2024.

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Summary of the Hearing on Artificial intelligence, data and competition

1. Introduction by the Chair

On 13 June 2024, the OECD Competition Committee held a Hearing on Artificial Intelligence, Data and Competition chaired by Frédéric Jenny.

The **Chair** introduced the discussion and explained that it would cover two main areas. The first would cover the developments in artificial intelligence (AI) and the likely evolution of competition. The second would focus on the options competition authorities have regarding generative AI. The discussion would also touch upon the priorities competition authorities should have regarding artificial intelligence and generative artificial intelligence.

Before delving into specific contributions, the **Chair** stated that in a recent discussion on the relationship between AI and competition, two key issues were highlighted. The first issue concerns the divergence in interests between competition authorities and the general public. In Austria, for example, while authorities are focused on long-term concerns about AI's impact on competition, the public may be more focused on immediate, tangible issues such as food prices and inflation. The second issue reflects a shift in how innovation and competition are perceived, particularly about AI compared to other sectors like pharmaceuticals. Unlike past discussions where innovation needed protection to allow for the recovery of investment, there is now a push for more competition in AI to avoid the entrenchment of dominant positions and ensure future innovation. The Chair also referenced an article by economist Daron Acemoglu, offering a more pessimistic view of AI's potential economic impact compared to optimistic forecasts from Goldman Sachs and McKinsey.

The **Chair** indicated that two guest speakers would contribute to the roundtable by offering their expertise: **Professor Thibault Schrepel**, Associate Professor of law at the Free University in Amsterdam and faculty affiliate at Stanford University, and **Professor Yong Lim**, Associate Professor of Economic Law at Seoul National University, School of Law. The Chair lastly highlighted that there are a number of contributions, and therefore the topic is of high interest for competition authorities.

2. Developments in AI and evolution of competition

The **Chair** kicked off the roundtable discussion by asking **Juraj Čorba,** Chair of the OECD's working Party on AI Governance (AIGO), as well as responsible for digital regulation and governance at the Slovak Ministry of Informatisation and Chair of the Reflection Group of European Policymakers on general purpose AI and foundation models, to provide introductory remarks.

Juraj Čorba opened the discussion by addressing the updated definition of AI systems, achieved through a consensus among experts in November 2023. This definition, accompanied by an explanatory memorandum, now forms part of the updated OECD AI Principles. These principles, initially adopted in 2019, emphasise trustworthy, human-centric AI and include provisions for governments to review and adapt their regulatory frameworks to encourage innovation and competition. For instance, Principle 2.3 of the OECD AI principles, advises governments to review and update their policies and

regulations regarding AI to foster innovation and competition for trustworthy AI. The speaker also mentioned that there are multiple applications of AI in different economic sectors and that the key benefits of AI are not yet confirmed.

Moreover, Juraj Čorba discussed the complexity of the AI value chain, from investments to deployment. He pointed out the uneven distribution of research, skills, and venture capital investments across countries, highlighting potential competition issues. In particular, in venture capital, there is a clear rise in investments regarding generative AI. Despite changes in the financial market, AI continues to attract significant investments. Similarly, compute startups are also seeing a substantial increase in funding. He stressed the rising computational complexity and training costs, which could hinder market access and level playing fields for all players.

Reflecting on recent developments and methodologies for market analysis, the speaker suggested that traditional activity-based market analysis might be insufficient to understand the dynamics of AI and proposed combining it with entity-based analysis. He cited examples from the financial sector, where big tech companies are expanding their roles, potentially impacting market dynamics. Furthermore, Juraj Čorba highlighted the need to focus on new types of market cooperation, such as partnerships between established incumbents and developers of large models, like the Microsoft-OpenAI partnership. He suggested that these new forms of cooperation require novel analytical approaches beyond traditional competition analysis.

Finally, he addressed the developments in the European Union (EU), particularly the Digital Markets Act (DMA), emphasising the importance of understanding the relationship between ex-post antitrust rules and ex-ante regulatory measures. He encouraged participants to explore the resources available on the OECD's AI Governance website, including guidelines on responsible business conduct, the AI Policy Observatory, and the AI incident monitor. In conclusion, he reinforced the commitment of the OECD Working Party on AI Governance to support the work of competition authorities and other stakeholders in navigating the complex landscape of AI governance and competition policy.

The Chair thanked Juraj Čorba and asked the **Secretariat** to provide a short presentation on the OECD's background note prepared for the Hearing.

The **Secretariat** started by presenting the four chapters of the note: (a) what AI is, with a particular focus on generative AI, (b) what could be the competition issues around AI, (c) which are and/or could be the authorities' responses (d) what are the potential future areas for work regarding competition in AI. The Secretariat referred back to Juraj Čorba's comments on the complexity of the AI systems, noting that the background note attempts to simplify them and provide clarity on the value chain. The Secretariat explained that the paper focused on three key stages: the foundation models which could be called "pre-training," then the fine-tuning or refining stage, which could be complimentary, and finally the deployment of AI systems.

The Secretariat added that the next chapter of the paper focused on the potential competition issues in AI, specifically on generative AI. They also explained that it is unclear how AI itself will evolve and how important it will be in the future. In addition, one point that the background note tries to make is that competition will be important in generative AI in the future and therefore the background note argues that it is something that is worth speaking about. Another point made is that there is, of course, some concern regarding the potential for existing large digital firms to leverage their market positions into other existing or emerging markets. The secretariat's report briefly outlines actions that authorities might take in response, such as categorising and gathering information to

better understand the situation. Moreover, the Secretariat discussed the need for enforcement and regulation to address potential future abuses in AI, emphasised existing and potential partnerships, and questioned whether current ex-ante regulations are sufficient or need extending. They finally highlighted the importance of cooperation among international and domestic bodies, including competition, communication, and data protection regulators.

Regarding the last chapter, the Secretariat identified two areas for potential future work: (a) how AI might change competitive dynamics in various markets, possibly by making bots act as consumer agents and increasing the importance of data, which could strengthen incumbent advantages, (b) the ways AI could be a useful tool for regulatory authorities, warranting further exploration.

The **Chair** thanked the Secretariat and agreed that there is a further need for studying and analysing the points made earlier. Also, the Chair added that the relationship between firms that cooperate is not necessarily the traditional one, and in particular, this raised the question of whether they are substitutes to concentration, which may be a problem for authorities because of merger regulations. Therefore, he stressed the need to consider legal definitions carefully. Next, the Chair reflected on whether there are existing preliminary theories of harm that the authorities can use or a need to find new theories of harm by taking into consideration some of the upcoming specificities. He, therefore, turned to Portugal due to their important work on that issue, asking the delegate to present their report published in November 2023, particularly focusing on the relationship between competition and innovation and on ways the potential accumulated advantages of some players may lead to situations which would distort competition.

Portugal started by mentioning that competition is a driver of innovation and will be crucial to fully realise the opportunities and the disruptive potential of generative AI. In particular, since late 2022, digital markets are undergoing a major upheaval and in fact, it is estimated that generative AI may add up to 7% of the world's GDP in the next decade. However, there are three main challenges of artificial intelligence for competition. Firstly, the need for significant computing resources, along with the relevance of user-generated data, will likely represent key barriers to entry and expansion. Secondly, some players may gain an advantage by using superior data sets to develop unique AI models and by integrating AI services with their existing strong market positions. Thirdly, in generative AI ecosystems, developers of foundational models hold significant advantages and may leverage their position to stifle downstream competition despite the coexistence of various AI services built from the same base. In conclusion, there is a significant opportunity for growth in digital markets. With generative AI impacting every aspect of the digital economy, competition enforcement must remain vigilant and proactive to keep up with innovation. The delegate, lastly, affirmed that firms should also be encouraged to experiment with new ideas, business models, and applications of generative AI. The goal is to remove barriers to innovation, providing firms with the incentives and means to innovate.

The Chair thanked Portugal for their contribution report and, in turn, asked the UK how they view the impact of AI and the forward-looking trends they have noted in their report.

The **UK** explained that the Competition & Markets Authority (CMA) focused on identifying future challenges around digital markets and AI, such as data protection and privacy, attempting to fully understand how markets would develop from early on. The OECD provides a perfect opportunity for competition authorities to think forward and proactively identify potential benefits and risks from an antitrust perspective. Moreover, the UK has produced two reports, one in September 2023 and another one in April 2024, about generative AI foundation models. The reports set out six principles. First, access to

key inputs such as data, compute power, and technical expertise is critical. However, challenges could be emerging with potential bottlenecks and the development of strong controlling positions over these inputs. The second principle refers to sufficient diversity of models sustained over the medium term, while the third is to ensure choices not only in upstream models, but also to allow businesses and consumers to switch between models and to prevent lock-in to a single ecosystem. The fourth principle is fair dealing, including no anti-competitive bundling, no tying, no self-preferencing etc. The fifth principle is transparency, aiming to ensure consumers and businesses have access to accurate information about the risks and limitations of different models, and the last one is accountability, i.e., holding developers and deployers responsible for their contributions to model development and deployment.

Nevertheless, in the second Report in April 2024, three areas of concern were highlighted. First, large firms controlling critical inputs (e.g., compute, data, expertise) must ensure open access to maintain diversity. Second, major tech players should not leverage their strong positions in digital markets to dominate foundational AI models and downstream services. Third, partnerships between large and smaller AI developers are beneficial but must not harm competition. Taking all those concerns into consideration, the delegate stated that it is important for the CMA to fully deploy their current resources. For instance, the CMA launched a market investigation looking at cloud infrastructure services, so as to delve into the interaction between cloud and foundation model development. Another example is the CMA's merger control powers which can be used to comprehend and clarify the particularities of the industry as a whole because those arrangements are sometimes complex and opaque.

The UK lastly referred to the Digital Markets Competition and Consumers Act, raising a question about the interaction with ex-ante regulatory powers and the ability to use those tools in the future in a flexible way, to ensure that the authorities stay ahead of the curve regarding the developments in generative AI. The delegate highlighted the importance of that agency to stay flexible due to the rapidly evolving developments of AI and to follow broader policy considerations on competition in order to predict any potential concerns.

The Chair thanked the UK for their contribution, in particular for linking the teachings of the studies to how the competition authorities should react. Next, he asked France to present their upcoming reports.

France first referred to the economic impact of artificial intelligence, explaining that this impact can be realised only through an open competition model, as noted by the UK. The French Competition authority has been working on a diversity of competition tools, noting that they have two ongoing cases where AI is an important dimension. One recent case involved Google, fined €250 million for not fulfilling obligations in copyright-related matters, including failure to inform users about use for its "Bard" AI model.

Another inquiry involved graphic cards, exploring potential challenges in AI model production. An opinion would be published on June 28 2024, based on public consultations. The opinion would focus on upstream risks and practices, particularly on inputs such as graphic CPUs, GPUs, and cloud computing infrastructure. The opinion builds upon a prior analysis regarding the oligopolistic nature of the cloud computing sector and its impact on AI access. One specific concern is the practice of "credit clouds," which could lock users into certain AI ecosystems. The opinion would also address data access, considering recent technological advancements like synthetic data for training models, and the differing data requirements across the AI value chain. Furthermore, the opinion would analyse issues related to copyright and intellectual property, particularly focusing on exclusive partnerships between AI model producers and users. Another area of focus would be the labour market, especially the necessary skills and investments required for AI development.

The delegate suggested that antitrust tools, especially concerning partnerships, can be effectively applied within the current EU framework. The legal framework allows for complementary approaches, including audits, financial governance controls, and scrutiny under Articles 101 and 102 TFEU.

Looking ahead, France stressed the need for modesty in predicting the future impact of AI, given the rapid technological advancements. They highlighted the increasing energy consumption that will accompany widespread AI usage and raised the potential risk of vertical integration in energy markets. The delegate pointed to Microsoft's recent partnership in nuclear fusion as an example of this possible risk. The broader impact of AI on competition across all sectors, particularly services and education, was also emphasised. AI is expected to significantly change the production and distribution of services in many sectors, as well as education. It could potentially have disruptive effects, calling for continued reflection on these developments. France concluded by expressing the need for further reflection and cooperation on this issue.

The **Chair** turned to the EU for their comments and to present their upcoming reports.

The **EU** noted that they concluded a call for contributions launched in January 2024, which had two parts, one on virtual worlds and one on generative AI. On the issue of generative AI, the delegate highlighted the fast-paced and dynamic character of the relevant markets, citing an agreement between Apple and Open AI as an example. Even though their respective power is not the same, this agreement could cause anticompetitive effects due to reasons of compute power, cloud capacity, and technical expertise, and each of them may be potentially an area for expansion or entry. However, according to the EU, a partnership between a big company and a smaller company does not necessarily have the same competition impact as a partnership between two major players. Therefore, pro-competitive aspects of agreements would still need to be taken into consideration.

The EU also identified three primary competition concerns: bottlenecks in critical inputs, the risk of new anti-competitive practices, in addition to traditional self-preferencing, tying or bundling, and killer or reverse killer acquisitions. The EU emphasised the necessity of closely monitoring the relationships and partnerships between major corporations, particularly those involving significant market players such as Microsoft, OpenAI, Google, and Samsung. This should include not only established giants, but also rapidly growing firms. Lastly, although the upstream bottlenecks are relatively well-identified, there is a concern regarding downstream bottlenecks and the control over consumer access held by dominant firms like Google, Microsoft, and Apple. To conclude, the EU added that they would be organising a workshop on virtual worlds and generative AI on the 20th of June 2024, having invited keynote speakers from the French Competition Authorities.

The **Chair** thanked the EU delegation for outlining a number of the risks in the field and asked Turkey to provide insights on how open source and synthetic data could alleviate some of the competition problems that were mentioned.

Turkey explained that even though there is a risk of firms abusing their leading position in other markets to restrict access to data by rival AI model developers, most popular AI models are known to be using only publicly available data. Nevertheless, for Turkey, when these models would need to be developed and trained with larger data in the future, there is a risk of publicly available data being exhausted. Therefore, to access a new data source beyond what is freely and publicly available, AI model developers have options such as using data already written by their own businesses, purchasing data from third parties in return for a fee, or using synthetic data. As for the latter, on the one hand, synthetic data, since its introduction in the 1970s, has helped train machine learning models, is easier to generate, limitless, pre-labelled and cheaper, serving as an alternative for the shortage of

publicly available data. On the other hand, Turkey identified the risk of model collapse, i.e., AI generative data degrading over time, leading to progressively poorer quality in their outputs and diminished model performance, reducing the overall effectiveness and innovation of AI technologies. In conclusion, Turkey stated that while synthetic data presents an attractive approach to overcome the lack of data, there are competition concerns and possible hazards that need to be considered. To encourage innovation and avoid monopolies, open access to data is essential, and balancing the use of both data types is crucial for fostering a competitive and innovative AI landscape.

The **Chair** thanked Turkey and picked up on the importance of quality problems related to synthetic data. Therefore, he asked the guest speakers, **Professor Yong Lim** and **Professor Thibault Schrepel**, respectively, whether the diversity and variety of foundation models is alarming.

Professor Yong Lim first placed competition regulation within the broader context of AI governance, highlighting its alignment with a risk-based approach. Current AI governance frequently identifies market concentration and monopoly power as significant risks. Reflecting these concerns, policy discussions on AI and competition have become more precautionary and preventive, diverging from the traditional evidence-based and effects-focused regulatory framework. Professor Lim emphasised that competition authorities need to clearly define their key objectives to achieve success, such as preventing durable monopolies, mitigating the leveraging of market power, addressing abuses within ecosystems, or accelerating enforcement, as each goal necessitates distinct policy responses. Additionally, learning from previous successes and failures is crucial. For example, Professor Lim referred to the Microsoft case, suggesting that it demonstrated the importance of prioritising the promotion of innovation capable of altering market dynamics rather than merely attempting to dilute or constrain market power in existing markets.

Professor Lim went on to highlight several cautionary points regarding a risk-based approach for AI and competition, especially when predicting structural risks of foundation models. Firstly, AI technology is evolving, complicating efforts to define it and delineate layers within the AI tech stack for regulation, particularly as it merges with other emerging technologies. Secondly, competition authorities should avoid broad generalisations when assessing competitive risks in AI, as these could vary based on specific models, domains, and the parties' positions within the tech stack. A nuanced analysis is essential. Lastly, present market dynamics may easily defy predictions, necessitating flexibility and agility from competition authorities. For example, Professor Lim pointed to developments like the emerging AI agent layer, which could disrupt existing inter-layer relationships. Regulators should also remember that current market dominance does not ensure future entrenchment, as rapid AI market growth may challenge predictions based on conventional network effects.

The **Chair** reserved a follow-up question for the second part of contributions and gave the floor to **Professor Thibault Schrepel**.

Professor Thibault Schrepel addressed the issue of whether generative AI is exhibiting patterns similar to those observed in tech markets two decades ago. Concerning market dynamics and competitiveness, although future developments are unpredictable, it is unlikely that the tech market will achieve perfect competition conditions. Also, even though the expert highlighted the importance of big data, he mentioned that small data sets can be competitive and small companies can access large amounts of data. The speaker included Llama 3 as an example of small data sets performing better than bigger ones. Additionally, using synthetic data and machine learning techniques has become crucial and allows to expand the capabilities around small data sets. Professor Thibault Schrepel also touched on the high costs and capital requirements of training large models. Training and running large

models are expensive, but advancements in technology and federated learning are reducing costs. Access to capital is easier regarding generative AI than a couple of years ago. Moreover, despite the scarcity of talent, he pointed out that small teams can still lead in this space, exemplified by companies like Mistral, Mid Journey, and XAI, which had less than 50 employees.

Additionally, Professor Thibault Schrepel explored how open foundation models contribute to competitive dynamics, citing platforms like Hugging Face. Open foundation models, like those on Hugging Face, foster competition and have limited amendments or termination provisions and include anti-opportunism clauses that do not allow for the code to make it exclusive. In past tech markets, dominant platforms like social media were more closed, with less opportunity for open competition. Also, those models do not restrict interoperability or access to the API, which means that one is guaranteed to get long-lasting access to the API or access to the code as long as one respects the terms of the conditions. Lastly, he pointed out that foundation models are not equally used, because of strong increasing returns. Foundation models experience increasing returns due to the interconnected nature of their ecosystems, but these returns manifest differently compared to the immediate learning effects observed in social media and search engines. For example, Instagram's or TikTok's algorithm changes on a daily basis based on user interactions. However, ChatGPT's value increases as more applications integrate with it, more data is fed into its training, and more users interact with it, providing indirect feedback. These interactions do not change the model daily but enhance its utility over time. Thus, while both generative AI and social media benefit from network effects, the mechanisms and timelines through which these effects occur are distinct, reflecting the different operational dynamics and innovation cycles of each domain.

The **Chair** thanked Professor Schrepel and anticipated the second part of his intervention, then turned to the **United States (US)** for their reaction to the previous presentations.

The **US**, first, agreed with Professor Yong Lim's comments, stating that, when observing past reactions regarding the Internet, network effect, scale and/or self-preferencing does not pose a great threat to the ability to enforce. Data's importance is undeniable, especially regarding crawling and indexing the open web. However, they noted that many proprietary datasets play a crucial role in specific domains. For instance, in the healthcare sector, companies with access to proprietary data can develop specialised models and applications, such as those for genetics, which could easily dominate the market. The second point the US made referred to network effects, which may differ from those seen in earlier versions of the Internet, but still remain significantly powerful. Addressing competition problems retrospectively can be burdensome, costly, and imperfect. Therefore, for the US, a modest and timely intervention, when meaningful, can prevent the need for extensive intervention later. This perspective challenges some previous comments and underscores the importance of proactive measures to manage competition effectively.

The **Chair** thanked the US delegation and gave the floor to the **UK**.

The **UK** agreed with the comments made by the US delegation and confirmed that there exist different unpredictable outcomes, both positive and negative from a competition perspective. The delegate added that it is mandatory for competition authorities to ensure that positive conditions for strong competition occur, regarding the widespread technological shifts and that appropriate steps are being taken to protect and safeguard competition. However, the UK noted that protecting competition should neither interfere with innovation nor mean the adoption of a "wait and see approach".

The **Chair** thanked the UK delegate and gave the floor to the **EU**.

The **EU** expressed concerns regarding the monopolistic control that Microsoft holds in certain markets, which poses significant anti-competitive issues. According to the EU, it is particularly troubling that Microsoft can leverage its monopoly power into other markets. Even if regulatory authorities shift their focus to different markets, Microsoft's monopoly persists, thereby perpetuating the anticompetitive challenges. Also, Google has the same monopoly on licensable mobile, OS and Android. Therefore, the EU highlighted the importance of staying vigilant regarding those problems.

3. Options Competition Authorities Have Regarding Generative AI

Next, the **Chair** turned to BIAC to comment on the view that existing competition laws already provide numerous instruments to address both known and unknown issues effectively, a view presumably shared by BIAC.

As for the adequacy of competition rules, for **BIAC,** the question of whether existing competition laws are sufficient to address issues in the rapidly evolving AI sector is complex and cannot be fully answered at present due to the sector's dynamic nature. The AI industry's unprecedented pace of development raises legitimate concerns about the adequacy of current regulations. Significant contributions from various agencies, such as the CMA, the Portuguese, and French agencies, have been invaluable in understanding potential issues. It is crucial to remain vigilant and proactive in this area, as highlighted by the Portuguese and UK delegations, and supported by BIAC. The sector's transformative nature has led to concerns about the timing and sufficiency of regulatory intervention, with varying perspectives within the business community.

BIAC asserted that there is uncertainty about whether these potential concerns related to AI deployment will occur. Regarding the adequacy of competition rules, two key points were made: first, BIAC noted that there is no historical precedent where necessary intervention was impossible due to inadequate tools and second, the antitrust landscape today is vastly different from one or two decades years ago, with specific AI legislation and numerous safeguards now in place. The AI Act in Europe and various national regulations, like the DMA, exemplify this evolution. Additionally, there is now a collective interest among agencies to monitor the AI sector. Many tools and safeguards exist, reducing the likelihood of missing critical issues. Despite uncertainties in the sector, such as data access and the potential for smaller companies to leverage data, it is premature to conclude that current competition rules are inadequate.

The **Chair** thanked BIAC and acknowledged that there is a general attempt to produce innovative solutions, with Singapore contributing to that direction, by developing a toolkit that would inform users and firms that develop AI instruments whether competition issues arise from the use of those instruments. Therefore, the Chair asked **Singapore** to present this toolkit to tackle competition concerns, and its development so far.

Singapore answered that the development of this toolkit is a work in progress in collaboration with Infocomm. They intend to accelerate AI adoption, attract AI talent and develop a conducive ecosystem for the trusted adoption of AI. To achieve this, Singapore recognised that AI must be developed in a safe and responsible manner to manage the risk of AI systems being misused, abused etc. and emphasised their recognition of the AI sector as a learning process. As for the development of specific tools, the delegate elaborated on two areas: The first tool refers to building a separate team to acquire digital and technical expertise. Second, collaboration with other government sectors and regular engagement with the industry were noted as key strategies to leverage technical expertise and resources. For instance, Singapore mentioned a particular initiative referring to the development of

the AI Verified Foundation in partnership with industry leaders, aimed at creating a tool for companies to ensure their AI systems comply with best practices and principles. This technology tool would be a set of software that companies could use to make sure they comply with competition principles. Singapore's competition authority, CCCS, aims to incorporate competition principles into this tool to detect behaviours such as algorithmic collusion and self-preferencing. To conclude, for Singapore, it is crucial to continuously update its guidelines to address evolving risks in the AI sector.

The Chair thanked Singapore and further explained that by using that tool, firms can test the performance of their AI system regarding ethical principles and attempt to use this framework to allow them to test whether their AI system is potentially or could raise competition concerns. Next, he gave the floor to **Greece** to present their approach and tools, taking into account that competition authorities need to be agile, due to the rapid evolution of the AI sector.

Greece emphasised the need for alternative competition tools and a balanced approach between competition and regulation in the context of generative AI markets. When discussing digital markets' evolution over the past decades, Greece pointed out similarities over the years, such as risks of tipping, first-mover advantages, and the importance of data.

The necessity of timely and effective interventions was also highlighted. As an example, Greece highly doubts the timeliness and effectiveness of Article 102 TFEU. Therefore, the delegate suggested alternative tools like comfort or no action letters, sandboxes, and limited notification systems for partnerships regarding Articles 101 and 102 TFEU. In addition, balancing competition and regulation is a multifaceted issue for Greece, involving not only competition law but also copyright protection, data privacy, and consumer protection. Therefore, close cooperation between competition authorities and regulators is essential, as is striking the right balance between excessive regulation and a hands-off approach. Greece mentioned that a lack of regulation may lead to market tipping, while over-regulation could create significant barriers to entry for startups and Small and Medium Enterprises (SMEs), which are the main drivers of growth in these markets. To sum up, the work of competition authorities is difficult. However, the importance of cooperation between competition authorities and other regulatory bodies was underscored to maintain a balance that promotes innovation without stifling competition.

The **Chair** thanked Greece for their analysis of the flexibility approach and the importance of cooperation with the business world and gave the floor to **Austria** to explain their model of developing guidelines to tackle the competition uncertainties.

Austria emphasised the critical importance of AI, noting that their organisation has established an AI division to address its complexities. The delegate expressed concerns about AI's uncertainties and significant risks, referencing a "Time" magazine article that described AI as a "black box," highlighting the pressing issue of transparency. First, from a competition perspective, they stressed the need for AI systems involved in decision-making to be transparent and explainable to competition authorities. Providing clear guidance on that was recommended as a starting point. Second, Austria underscored the importance of accountability, asserting that companies should be responsible for the actions of their AI systems. Guidelines and standards should explicitly address this issue and suggest legislative solutions where gaps exist. In conclusion, Austria advocated for common international standards and guidelines for AI, emphasising that the OECD forum is suitable to discuss those issues and potentially draw those guidelines.

The **Chair** added that the work undertaken by Singapore could also contribute to the formulation of such guidelines. Next, the **Chair** circled back to the two experts, **Professor**

Thibault Schrepel and **Professor Yong Lim** respectively**,** for them to expand on their views of the next steps regarding competition enforcement.

Professor Schrepel listed four suggestions for competition authorities: first, he proposed following the increasing returns rather than just the money, in order to identify practices that enable companies to dominate markets by benefiting from snowball effects. Professor Schrepel emphasised the importance of access to users and the need to reassess past practices to determine if they hinder competitors from reaching critical mass and benefiting from scaling effects. Second, the speaker recommended deploying computational antitrust methods. This involves tracking changes in APIs and terms and conditions automatically to identify potential anti-competitive practices. By raising flags on suspicious changes, agencies can leverage their expertise to analyse these practices more effectively. Third, he suggested documenting regulatory capture, particularly noting that large companies often advocate for regulations they can afford, which may disadvantage smaller players. They highlighted the need to balance competition law with other regulatory objectives and reassess regulations enacted before generative AI's rise to ensure they remain appropriate. Fourth, Professor Schrepel advocated for considering exemptions for open-source initiatives and highlighted the importance of maintaining an open player in oligopolistic structures due to increasing returns and network effects. He suggested facilitating joint ventures and strategic alliances among open-source companies and revising existing regulations, such as the EU's Research & Development (R&D) block exemption, to better support these entities.

Professor Lim began his remarks by clarifying that his recommendation for caution in making predictions about competitive risks associated with AI should not be misconstrued as an endorsement of a lenient or passive approach. He underscored the importance of a balanced strategy between proactive regulation and innovation, emphasising that the objective is to enhance the capabilities, methodologies, and tools of competition authorities in assessing and, if necessary, predicting such risks. Professor Lim mentioned burden shifting as a practical tool for information collection, where authorities can encourage firms to present pro-competitive arguments. He also suggested that competition authorities could improve their market predictions by incorporating business strategy perspectives and academic insights to better understand market incentives in emerging AI markets.

Additionally, Professor Lim pointed out that competition issues are not the sole concern for AI regulation, advocating for a more interdisciplinary regulatory approach. This involves balancing various policy objectives beyond traditional competition law and coordinating closely with other regulators. He also warned about regulatory misalignment, where regulations may not properly align with specific AI risks or may overlook trade-offs between different societal goals. Professor Lim finally proposed several topics for further exploration: (i) the potential for regulation-based market power within the AI tech stack and how it should be managed; (ii) how to evaluate the competitive potential of open source models with differing levels of openness, and (iii) how to design and tailor remedies for AI-relevant markets, and monitor compliance.

4. Conclusion

The **Chair** thanked the experts and circled back to the importance of their interventions. He acknowledged the crucial questions raised and the ideas presented to reduce the prevailing uncertainty. The Chair also highlighted the necessity of considering AI regulation as a global issue, involving compatibility with other regulators. He expressed gratitude to the experts and contributors for their participation in the discussion.