



# Interview With Joaquin Almunia

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Joaquin Almunia has occupied particularly important positions in Europe. As Economics and Finance Commissioner he lived through the start of the financial crisis and, as Competition Commissioner, zealously oversaw the bank rescue process. His time at the Directorate General for Competition has produced important landmarks such as the Google case, the tax benefits to large enterprises and the Antitrust Damages Directive. Today, we ask him to look ahead and analyze the future changes to competition policy and to Europe itself... As we have come to expect, his response was far from disappointing.

**JUAN DELGADO – Mr. Almunia, we are now witnessing the start of a Competition Policy for the Internet. Do you think the future of competition policy and anticompetitive practices lies within the Web, or do we still have plenty left in the "physical world"?**

Joaquín Almunia: The online world has created new tensions between platforms, content providers and infrastructure owners. The power of platforms grows as their capacity to obtain and process data increases, and along with it the creation of dominant positions and the possibility for abuse also grows. On the other hand, the internet generates large efficiencies, and so the application of Competition Law faces an important challenge in balancing out these forces. Competition Authorities should not take a pessimistic or defensive position towards the web, but a pro-active one. It's true that there will be a rise in cases involving the Digital world, but I don't think they will completely displace cases related more closely to the "physical world".

**JD: Does the fact that digital markets are global by nature pose a problem for the application of Competition Policy which is constrained by borders?**

JA: What it does, is demand more regular and deeper coordination between competition authorities. The International Competition Network (ICN) was an excellent initiative, particularly well adapted to global markets. The ICN, being a place to meet and exchange experiences, allows for viable and effective coordination formulas to be developed in order to take on global issues. That being said, there are still many markets that remain national, within Europe and even on the internet. The problems often lie more on the fragmentation rather than on the globalization of markets... and in Europe we know how hard it can be to create a common market.

**JD: Within this process of digitalization, we find new technologies that clash with the world of traditional regulation. Such is the case with the likes of Uber and AirBnB. Is there room for these 'Ubers' in Europe?**

JA: Of course there is. In that sense, Competition authorities have a very important role to play in removing entry barriers to highly-regulated sectors, while also maintaining only the most necessary regulation to guarantee consumer rights. Even being banned in several countries, Uber has already revolutionized the transport industry: one can see a modernization taking place among the taxis of Madrid and Brussels, as they adopt mobile apps and offer new facilities.

**JD: How much truth is there behind the apparent ‘face-off’ between European regulators and large American corporations?**

JA: I don't think there is any real basis to uphold these fears. Competition Policy is not being used in a protectionist sense, neither in Europe nor the USA. From a normative point of view, rules and procedures are still different in Europe and the USA, but the way in which we analyze infringements and the way we think about protecting consumer rights has seen an extraordinary convergence in the last 15 years.

**JD: Regarding the difficulties in creating a common market: many of these barriers are put up by the States themselves. For example, let's take Tax benefits for large corporations. What we find is a true competition between tax systems within Europe. What lies in store for Europe, when companies can easily dislocate themselves as they search for the best tax deal?**

JA: On one hand, there is a firm reaction around the globe against Tax heavens, with the OECD leading a commendable effort to establish a Frame of Reference for avoiding tax elusion. Within the EU itself, however, we have some inconsistencies. It's very hard to pull ahead with legal initiatives to harmonize the different member states' tax systems. The most salient example is the proposal to harmonize the tax base for corporate taxes. Such proposals require unanimity, and cannot go through because of a group of countries that systemically block the possibility of coming to an agreement. This makes it so that, within the common market and its free-flowing goods and capital, we have a competition between Tax systems that benefits no one but the largest corporations.

Now, the European Commission has mechanisms to solve this problem through State aid control I reactivated this mechanism for enforcement in 2012, and hope to see the fruits ripen in the next few years.

**JD: But this is a false solution, that doesn't address the heart of the matter. What changes need to be made to the tax system in Europe to face this problem?**

JA: Unifying the corporate Tax Base is vital, which would lead to the elimination of a whole series of deductions and tax-breaks that distort businesses' decisions. Tax systems have to be redesigned in order to be directed to the market they operate within, abandoning the outdated concept of a tax residence. The financial world has been successful in coordinating operations at a supranational level. Tax policy must advance in the same direction.

**JD: We have recently witnessed a process of restructuring in the Competition Agencies in Spain, the UK and the Netherlands. What should a Competition Authority look like? What role does the structural design play in terms of effectiveness?**

JA: There are examples around the world of very effective competition authorities with regulatory capacities, as well as separate competition watchdogs and sector regulators who perform their duties very well. I don't think the institutional design is the best gauge to measure effectiveness and the quality of Competition Law being applied. In my view, the three important elements to consider are: Legal frameworks and jurisprudence; the autonomy from the government; and high-quality human capital, which is in turn linked to having an appropriate budget.

**JD: One criticism of the enforcement of European Competition law is the slow pace of proceedings. What could be done to speed up the process, particularly for those sectors where technology has outpaced the enforcement of the laws?**

JA: It's not just the European Commission that works slowly. The European Court at Luxembourg is slow as well, which leads to a slow investigation and decision-making process. Part of the solution is monetary- the budget given to the Competition Directorate in Europe has been reduced over the last few years. This can of course be solved. There are other complex issues, such as the way to shorten the duration of investigations, while reinforcing the Due Process. I have dedicated a lot of effort to this last issue, reinforcing the role of Hearing Officers and creating greater opportunities to access the relevant files and uphold their rights during investigations. But of course, this obviously increases the risk of abusing these Due Process protections.

**JD: En Europe, do you still find 'niche' markets, territories or sectors that are cut off from competition?**

JA: I think competition policy is increasingly present in all sectors and territories. We have recently seen a spectacular rise in the number of State-aid cases in the banking sector or the application of Competition Law in unusual markets, such as within financial services and the investigation around 'benchmark' manipulation and possible cases of copyright infringement in the Pharmaceutical industry. There is one sector that continues under heavy protection, which is Agriculture... but all in good time.

**JD: One of the initiatives presented during your mandate was the passing of the Antitrust Damages Directive. How does the future of 'Antitrust Damages' look in Europe?**

JA: Making victim compensation possible was an important step, one which I am very satisfied with. And what now? The implementation of this directive guarantees a right to compensation, establishing rules and pathways to make this right effective. But it all depends on the National judicial systems and the use they may make of the valuable instruments they now have.

**JD: What do you consider to be your Legacy for European Competition Policy, and what is the highlight of your experiences?**

JA: Well, it's not my place to define my legacy. After finishing each of the several public offices I've had the honor of holding, my legacy has never been very present in my mind. I prefer to leave that to historians and economics experts... As for the memories, I must say that Competition Policy is a highly technical matter. But each time an opportunity came to take a decision that could clearly benefit consumers, I would be filled with deep satisfaction. The fact of seeing first hand the power of the Commission being used for the benefit of victims, instead of the Powerful, is deeply satisfying.

**JD: And finally, a more general question: What future do you see for Europe?**

JA: Talking about the future of Europe means nowadays talking about Greece. The situation with Greece's economy is very delicate, with problems, and people responsible for them, stretching back from recent and not-so recent history. However, the bad handling of the crisis over the last few months of Tsipras' government does offer lessons we should remember. Near the end of 2014, the Commission published a set of economic projections for Greece that forecast 2015 as the first year since the start of the crisis where jobs would be created, and the economy would grow. There was a possibility of negotiating a new

financial aid package, in exchange for a series of conditions that could have led the way out of the crisis and would open the door for Greece to rejoin the financial markets. In five months, this has all come crashing down. We have seen no major changes in this period. In fact, the positive expectations were destroyed, and trust within the Euro zone has evaporated between Greece and her partners. And above all, citizens are now feeling more than ever the consequences of the crisis. This all adds up to a painful lesson on how countries should behave when undergoing serious economic hardship within the monetary union. It also provides powerful arguments for the need to push forward – along the lines of the “5 Presidents” statement – in providing the Euro zone with the tools it needs to complete a true Fiscal, Economic, Financial and political union. The recipes are hardly new, but they must be very bold.