

Presentation by President Mr. Giovanni Pitruzzella of the Annual Report 2012

1. Growth and social cohesion are epochal challenges that the European Countries, and Italy in particular, must face with urgency and far-sightedness. Unless we resume the path towards growth and recover social cohesion (also by reducing inequalities), not only will it be difficult to overcome the economic crisis, but the very construction of Europe and the holding of national democracies will be seriously endangered.

In this perspective, it is fundamental to uphold not only the topicality of competition policies but also their “centrality.” In fact, these foster competitiveness and economic growth, while indirectly contrasting the exceeding inequalities present in income distribution: a situation which has characterized the Western societies in the last decade.

Nobel prize-winning economist Joseph Stiglitz - also renowned for his extremely critical stance on “market fundamentalism” - has vigorously underlined the connection between absence of competition and inequality. Markets that are not very competitive or, even worse, situations of monopoly create income conditions which favour restricted economic and social groups. Rent seeking is the attempt to obtain income by increasing the share of existing wealth rather than by creating new wealth. In other words, quoting Stiglitz: *“there are two ways to become wealthy: to create wealth or take it away from others. The former adds to society. The latter typically subtracts from it.”*

The fall in prices in sectors open to competition is a trend easy to verify.

The most impressive case is that of the mobile phone sector in which, from 2007 to 2012, prices nearly halved. In the same period, a remarkable reduction in prices took place also in the air transport sector, and more recently, in the professional services sector.

Competition policies foster efficient allocation of resources and stimulate innovation. This is why the Commission continued enforcing antitrust laws after Europe was hit by the crisis, just as the National Competitions Authorities are doing.

Many international organizations are encouraging those European Countries suffering the most from the crisis to continue vigorously in the liberalization process. In fact, the belief is that the opening of the markets and the removal of anticompetitive regulations lead to a significant increase in GDP. This is also the perspective, for example, of OECD’s latest report on Italy (May 2013).

Certainly, even Europe will not be able to continue just along the path of austerity: pro-growth policies will have to be pursued. However, it will be necessary to rebalance public accounts in order for the Eurosystem not to fall into crisis with extremely serious consequences for the economy, thus for savers and consumers.

Much still has to be done in order to find resources to fight tax evasion, for the spending review, and for cuts as regards unproductive public expenditure. Moreover, another issue which must be faced at European level is the recording of investments for growth so that there may be a right relationship between deficit and GDP. However, it is important not to underestimate the need to reduce the fiscal pressure on employment and enterprises, as well as the urgency of the new social issue which requires to allocate important shares of said resources for cohesion purposes supporting the unemployed, families, the youth and helping those who have fallen into poverty to get back on their feet.

Therefore, in order to start growing again it is necessary to think of structural reforms capable of increasing the Country's competitiveness; and competition policies constitute one of the most important aspects.

When focusing the attention on the sectors within the Italian economy that have undergone important liberalization processes and the opening of the markets during the past years, it is easy to notice the positive impact that said liberalizations have had on the economy.

For example, from 2000 to 2011, investments in the energy sector amounted to 120 billion Euros. If the sector had not opened to competition, the decrease in employment - which however has taken place over the past decade due to the crisis (by 22%) - would have been even more considerable. In fact, according to an estimate using OECD indicators as regards the level of opening to competition in the different productive sectors, employment would have dropped by an extra 11%.

Even more emblematic is what is happening in a sector which has opened to competition just recently, that is high speed passenger transport. In fact, in 2012 a second operator entered the market competing with the incumbent Trenitalia. According to the data provided by the undertakings, the new entrant met an investment above one billion Euros, while the incumbent, besides having about 3.5 billion Euros in intangible assets, also has investments for about 2 billion Euros in the service taken into consideration. This confirms the unequivocal incidence of liberalizations when considering the propensity of undertakings to invest.

In a context facing the double challenge both of growth and social cohesion, the legislative choice - strongly implemented by the Authority in the past years up to present day - to entrust the Authority with consumer protection against unfair commercial practices turned out to be far-sighted.

The good functioning of the market and trust are indispensable elements in consumer protection against unfair practices which in turn dangerously spread in moments of crisis.

Therefore, the Authority stands on three pillars: competition protection, consumer protection and Europe.

2. Competition policies and consumer protection policies find their origin in Europe, as they are based on European Treaties (starting from that of Rome to the Treaty of Lisbon) and are defined by the same. Consistently with this condition, the market of reference is mainly the single market.

Despite the intensity of the crisis, the single market has not been questioned. It is unlikely that the European Countries will be able to succeed in facing the transformations and challenges induced by the globalization without appealing to their large and strong market made of 500 million people. The integration of the national markets in one single large market is at the basis of the construction of Europe. Besides, perfecting it by eliminating any residual barriers could provide a significant contribution towards growth.

Competition policies, from their very outset, enable to avoid the re-forming of hindrances and barriers. For this reason, the National Competition Authorities operate as a hinge between European regulations and National regulations, directly implementing articles 101 and 102 of TFEU. In fact, said Authorities operate within the ambit of a network coordinated by the Commission, with the aim to exchange information, carry out common investigations and unify rules and procedures implemented within the various Countries. Italy has operated with perseverance and commitment in the Competition Authorities' European network.

However, if competition is to be viewed in the perspective of the single market, it is necessary for the various Countries to operate on grounds of reciprocity. Likewise, as Italian undertakings have to face increasing pressure as regards domestic competition, when operating in other Countries these will have to be put in the condition to compete on the same grounds of the local competitors.

There is an obstacle, though, along the path of reciprocity and full success for the single market: the existence of a non-homogeneous level of liberalization within the member States. This highlights the limit of the traditional antitrust law, which refers to illicit practices carried out by undertakings. Therefore, it is necessary to vigorously ask the Italian political institutions to demand from our European partners Italy's same zeal in guaranteeing the opening of the markets.

3. The above general overview on competition policies, puts into evidence two aspects which are distinct and at the same time linked together.

The first aspect is that of liberalizations which open markets that used to be closed, substituting the rules on which monopolies, oligopolies and rent seeking were founded with pro-competition rules. Liberalizations fall within the responsibility of who has regulatory power, that is the Parliament and the Government.

The hope is that the political institutions will pay particular attention and take into consideration the Authorities' indications.

This is the circuit within which the Italian Competition Authority carries out its advocacy powers. In fact, its reports are directed to the political institutions so that they may remove those rules which create restrictions and bottlenecks within the various markets. During 2012, the Authority adopted 110 reports, 34 of which during the first five months of 2013.

To this regard, it is also useful to mention that a tool has been introduced in our regulations which is absolutely original within the European panorama, and gives the Italian Competition Authority the power to watch over the public administrations' behaviours. In fact, should the ICA find actions infringing competition principles, it is empowered to adopt specific opinions against those administrations; should the latter refuse to comply with said opinions, the ICA can lodge an appeal to the Administrative Judge. The first applicative experiences are proving to be very interesting.

During 2012, and in the first five months of 2013, 27 opinions were delivered; in 10 cases, the public administration conformed to the opinions; in 8 cases, appeals were lodged to the Administrative Judge.

Lastly, fact-finding inquiries are another tool which enable to study in depth the dynamics of specific markets and suggest to the political decision-maker the amendments necessary so as to ensure competition and competitiveness.

In the last period, 3 fact-finding inquiries have been carried out, while many others are still in course and others are being closed (such as the one on the agricultural and food sector).

The second aspect is that of the enforcement activity, that is the implementation of the regulations for competition protection. Said activity is carried out by repressing cartels, agreements, abuse of dominant positions and concentrations.

In such cases, consistently with the European procedures, the Italian Competition Authority has reasserted the relevant deterrent function of sanctions. When defining their strategies, economic subjects must have clear in mind that, should they adopt anticompetitive behaviours, they will encounter serious risks of incurring in heavy fines.

The seriousness of the economic crisis does not invalidate the deterrent usefulness of sanctions. Should these be reduced, new motivations would arise for the adoption of anticompetitive behaviours, seriously endangering both the economy and consumers.

Proceedings may also be closed through decisions with commitments. These can be adopted from the very outset of the proceeding when the undertaking submits to the Authority the commitment to adopt behaviours such to remove competition concerns on the basis of the investigation undertaken.

Said commitments must be serious and prompt. They cannot be considered positively in the presence of greater illicit behaviours, such as secret price cartels. In many cases, decisions with commitments have been useful to eliminate bottlenecks which were impeding competition.

It is clear that, upon the Authority's acceptance of the undertakings' commitments, the latter must then strictly comply with the commitments undertaken, while the Authority watches over said compliance with particular rigour. To this regard, the Authority used its powers to re-open a proceeding closed with the undertakings' acceptance of the commitments. In fact, the Authority decided to re-launch the investigation against several undertakings operating in the market of local public services of maritime passenger transport in the gulfs of Naples and Salerno. Indeed, besides infringing the commitments undertaken within the ambit of the previous investigation, the undertakings involved had continued to adopt illicit behaviours infringing the prohibition to enter into restrictive agreements.

The data concerning the different activities carried out by the Italian Competition Authority are summarized as follows:

In 2012 and during the first months of 2013, the Authority imposed fines for anticompetitive illicit behaviours for an amount over 170 million Euros, adopting 31 provisions.

Compared to the 6 proceedings filed in 2011 against agreements and abuse of dominant position, in 2012 the proceedings filed were 11 with an additional 5 during the first months of 2013. It must be reminded that the launching of an investigation does not correspond to a liability assessment, but it is necessary in order to carry out the adequate in-depth investigations and consolidate the principle that the Authority watches over the markets. During the period taken into consideration, four proceedings were closed establishing the non-infringement of competition laws. These data highlight the attention with which the Authority assesses the evidence collected and the deep respect towards the right to defence.

During 2012, 3 decisions with commitments were adopted, one during the first five months of 2013.

As regards consumer protection, sanctions were adopted for an amount equal to twelve and a half million Euros, and 159 proceedings were closed.

Investigations and collection of evidence are at the basis of the Authority's proceedings and would not be possible without the collaboration of the Guardia di Finanza (Italian Tax Police). The interaction between the Authority's officials and the officers of the Guardia di Finanza is constant,

intelligent, fundamental. The Authority's experience is ever more characterized by the synergy among institutions and their collaboration. Equally important is the relationship with consumer protection associations, to whose reports the Authority gives great relevance.

Of course the Authority's activity is subject to the review of the Administrative Judge, and it must be highlighted that this control of legitimacy is an indispensable guarantee of the functioning of the system. The interaction between the Authority's decisions and the Judge's rulings gives shape to the "competition law in force." Thus, I would like to thank the Tar of Lazio (the Regional Administrative Court of Law) and the Council of State for the high competence and balance with which they face the issues concerning competition and consumer protection. Likewise, I would like to thank the Avvocatura dello Stato (Government Legal Service): with its traditional professionalism and dedication to the public interest it provides precious assistance during the proceedings.

4. The annual report on market and competition is also characterised by the advocacy power, introduced in 2009, which aims at a complete and organic yearly review of the legislation from a pro-competitive viewpoint. In January 2012, the Authority adopted a report for the annual law and its advocacy power was implemented for the first time. The Government of that time took many of the Authority's indications into consideration adopting the Decree Law "Cresci Italia" ("Grow Italy") converted into law by the Parliament. This gave a strong impulse to the process of liberalizations in important sectors such as energy, professional services, transports, insurances.

In October 2012, the Authority adopted a new report for the 2013 annual law on market and competition, in which new interventions were proposed in order to continue the process. On that occasion, the Authority highlighted the importance for liberalizations to be accompanied by complementary policies that create a favourable environment for economic initiatives, in order to see their effects in terms of growth of GDP. An efficient administration and certainty of law are preconditions for competition and competitiveness.

Despite the opening of several markets, the economic activity continued to drop (by 2.4% last year) and investments continued to decrease (-8.7% in 2012).

In order to see a swing in the economic trend, which some envisage between the end of the current year and 2014, it is necessary to recreate a setting of trust. In order to pursue this aim, however, it is necessary for the public administrations to stop being a hindrance, and to become a factor promoting competitiveness.

There are some aims which need to be pursued with urgency, such as: *a)* sure deadlines as regards administrative decisions; *b)* simplification of proceedings; *c)* reduction of the government's too many territorial levels; *d)* enhancement of the substitutive powers in case of inaction of the government's lower territorial levels.

In this view, the Authority appreciated the simplification measures adopted during the past legislation, as well as the measures elaborated by the Government in charge, all of which is contained in the text of the latest Decree Laws. However, the process must continue and it is fundamental to invest in Regions and local bodies as well.

Nonetheless, it is not sufficient to change the legislative rules; it is necessary to ensure their implementation. In this sense attention must be given to the tendency of laws to postpone their implementation to acts of secondary law.

For example, during the previous parliament, the legislation during Monti's Government postponed 832 acts of secondary law. If the latter are not adopted, the reforms will remain in writing and will not be able to unfold their effects on the market, on the public administration, on competitiveness. The hope is that the Parliament, privileged seat of our representative democracy, will adopt effective and innovative techniques to monitor and control the implementation of the laws as prescribed.

There is another gordian knot to be untied: that is the "unknowable law." It is indispensable to recover an acceptable level of certainty of the law.

Lastly, it is necessary to consider the link between regulation and competition, and make the former consistently evolve with the rapid changes imposed by technological development, economic dynamics, globalization.

There are many economic sectors in which competition dynamics cannot unfold their effects, such as those in which there is a natural monopoly and in which it is possible to create a legal frame only through an adequate regulation, entrusted to independent Authorities. Said frame enables competition among more operators, and thus the protection of other fundamental public interests. A typical case is that of network services - energy, telecommunications, rail transport - in which it is fundamental for there to be an *ex ante* regulation.

The Italian Competition Authority operates in these regulated markets as well because illicit behaviours can lurk in the folds of regulations. Through its investigations which rise from actual cases, the Authority can find bottlenecks or factors that hinder the functioning of the market and hamper growth, reporting them to the competent regulator.

If, in principle, there is a clear distinction between *ex ante* regulation, entrusted to the specific competent Authorities, and the *ex post* guarantee which implements the antitrust law entrusted to the Competition Authority, the risk of interferences and superimpositions among the different Authorities cannot be excluded. Last year, in order to avoid such a situation, the ICA signed agreements and collaborations with AEEG, AGCOM, and AVCP. The relationships among the Authorities are excellent and are carried out take place within a climate of true collaboration in the general interest.

5. Despite the spurs towards the opening of the markets, many sectors of the Italian economy still do not have a satisfying level of competition, and at the same time, the prices paid by consumers tend to rise irremediably.

In other markets, where the entrance of new players has led liberalizations to reach important levels, there are worrying signals of crisis which risk to put into discussion the results obtained up to now.

Such hypothesis seems to concern, first of all, the insurance market. The trend concerning the increase in prices paid by consumers has been widely documented by the Authority which concluded its fact-finding inquiry in 2013.

In the insurance market as regards civil liability for the circulation of vehicles, it has been observed that the average premium in Italy is more than double compared to the premium paid in France and Portugal, higher than the German premium by 80%, and of the Dutch by almost 70%.

In the period 2006-2010, the increase in prices for the insurance of means of transport in Italy was almost double compared to that of the Euro zone, and almost three times higher than what registered in France. In some cases, especially for the insurance of motorcycles, premiums have reached a 35-40% increase per year. Italy has become known as the Country with the highest rate of accidents, and with an average cost for accidents among the highest compared to the main European Countries. On the other hand, ascertained frauds damaging the insurance companies in Italy are four times inferior to those registered by insurance companies in the United Kingdom, and half compared to those in France.

The data of our inquiry show that the mechanisms adopted by the insurance companies to improve productive efficiency and contain costs are insufficient, which then causes negative consequences for consumers. The reduced rate of consumers passing from one insurance company to another considerably reduces the competition pressure as regards the level of prices. The Authority, in the above mentioned fact-finding inquiry, deemed a reform of the sector indispensable so as to strengthen efficiency and competition, and thus prospected a possible regulatory solution. Of course it will have to be the competent Authority of the sector, Ivass, with its authoritative President to study these indications more in depth, while the final word will be up to the Parliament.

Always in the view of strengthening competition in the sector, the Authority authorized the concentration of Unipol-Fonsai with the imposition of rigorous pro-competitive measures.

These concerned both the rescission of financial equity and personal bindings between the post-merger body and Mediobanca, with its subsidiary Generali, as well as the reduction of the

market shares resulting from the concentration under the 30% threshold, not only at national level, but also with reference to the single provinces.

In this context, moreover, there has been the recent launching of a proceeding aimed at assessing the dispositions contained in the contractual relationships among some of the main insurance companies and their respective agency networks, which could be hindering the spreading of agency networks in multi-mandate, thus avoiding an actual competitive confrontation among companies.

6. As regards the markets of energy and gas, the factors which influence the level of competition, competitiveness and the dynamic of prices are more complex. First of all, it is important to highlight that in the electric energy sector, where liberalizations have fully developed, deep and dangerous changes are taking place.

In the presence of stagnation of the demand and an increasing entrance in the market of plants fuelled by renewable sources, the market can no longer grant the coverage of fixed costs to thermoelectric plants. The risk is for thermoelectric operators to be in the need of storing a good part of their productive capacity, with the likely consequence that the market could merely concentrate. In such a case the negative effects in terms of rise in prices is extremely likely.

An example of what could happen is represented by the Sicilian case, where the failure of the market is measured by a particularly high differential of price, about 30% higher compared to the national average. These dynamics interweave with the growing need of reserve margins so as to counterbalance the intermittence of the production from renewable sources. In such a context, it is important to study in depth the usefulness of the flexibility of services, so as to guarantee the remuneration of said services and to assess the possibility that Italy can become an exporter of flexible services.

Deep transformations are taking place in the natural gas market as well. Prices are in a dropping phase.

This tendency is fruit of global dynamics, also connected to the recovered self-sufficiency of the U.S.A. market for the effect of the intensive exploitation of shale gas and the drop in consumption. However, there are also virtuous reasons connected to the completion of the liberalization process. In particular, it is important to mention: the regular running of investments in a new capacity of transport and regasification; the creation of a market of gas balancing, based on the so-called "economic merit"; the completion of the process of ownership separation of ENI's national and international transport network.

As regards this aspect, in September 2012, the Authority gave its contribution with the acceptance of several commitments undertaken by ENI with reference to bids of secondary capacity on the Transitgas gas pipeline.

Although the gas pipeline was greatly under used, in 2011 ENI did not carry out any cessions of secondary capacity on said infrastructure. This behaviour, according to the Authority, determined the onset of a differential between spot prices on the Virtual Exchange Point and spot prices on the Dutch market up to 5 Euros per MWh.

On the basis of the commitments undertaken by ENI with the Authority, the company is obliged to carry out bids of secondary capacity for the period 2012-2017 for a maximum of five billion cubic metres/year, on a summer, winter and autumn basis.

In any case, in order to make the offer of gas structurally exceeding on the Italian territory - unavoidable condition so that Italy may become the main Mediterranean hub (as hoped for in the recent National Energy Strategy) - it is necessary to have a flow of new, although limited, investments. In particular, the reference concerns regasification terminals, the realization of which greatly suffered from the complexity of the administrative procedures.

More in general, it is necessary to review art. 117 of the Constitution which considers energy production, transport and distribution as a competing issue between State and Regions. The strategic infrastructures of national interest should be re-conducted to state competence, so as to overcome the current paralyzing conflicts; whereas the preventive consultation of the populations involved in the realization of the work would be ensured through an informed public debate.

Furthermore, the separation of the gas network Snam from Eni was extremely important and highly hoped for by the Authority. The Authority intervened afterwards on the issue imposing measures directed to avoid the creation of operational connections between the manager of the network and Italgas.

As regards the initial phases of the natural gas chain, the issue of major interest for the Authority concerns the imminent season of call for tenders for the distribution in 177 ambits. In particular, the Authority carried out 3 proceedings in the gas distribution sector, charging an abuse of dominant position and dealing with aggregations of distributors.

7. In the telecommunications sector it is important to highlight that the great issue concerning the control of the copper and fibre network remains open. As known, after liberalization processes in the electronic communications sector, the incumbent Telecom maintained the ownership and control of the network infrastructures.

According to the Authority, the regulatory obligations imposed on the incumbent in order to guarantee access to the network, in equal position as regards the alternative operators, were not

able to prevent the incumbent abusing of its dominant position, thus hindering the development of a competitive market, in particular in the sectors of telephone landline network and the connection to broadband internet. Therefore, with the Authority's favourable opinion for competition in communications, it sentenced the incumbent for abuse of dominant position, sanctioning it with a fine amounting to 104 million Euros.

Telecom's decision to separate the network from the company is another very important aspect to be welcomed with great interest also for the value it can have in Europe. This enables to guarantee to all the operators of the sector, full equality as regards procedures through which the requests for access to the Telecom network and alternative operators will be managed. The separation procedure can be an opportunity for the sector and the Authority will be following it carefully.

These procedures will certainly have an impact on the great issue concerning the development of the broadband in Italy, which is crucially important also for economic growth. I would here like to remind that the Worldwide Bank's estimates reconnect to an extra 10 points of penetration of the broadband, with an increase equal to 1.5 points of GDP. In this regard, on the other hand, the bureaucratic delays which are marking the beginning of the digital Agenda are cause of preoccupation.

Internet is certainly a great opportunity for development which must not go lost. Freedom has been a great and positive characteristic of Internet. However, freedom does not mean anarchy and absence of rules. Although the characteristics of Internet lead to privilege a soft regulation, not hindering the innovative processes which are carried out daily, in some cases a regulation seems to be necessary. In particular, for the protection of editors' royalties who produce contents and face relevant costs, and whose products are used freely by the Over the top. This certainly has nothing to do with making surfers pay the Internet, but rather to regulate the relationships among the economic actors involved in the production and diffusion of contents. The Authority has sent a relevant report to the Government and Parliament.

8. The transport sector of passengers and goods, be it on wheel, trail or sea, represents a strategically important sector for the economy, capable of significantly influencing the GDP. Nonetheless, it can also heavily suffer from its fluctuations. Although aware of this aspect, even in cases that tend to be justified as "crisis cartels," that is cartels created by undertakings so as to face the losses deriving from the negative phases of the cycle, the Authority has reacted with determination.

In this perspective, the proceeding closed this month is emblematic. It concerned a 2011 cartel among companies involved in maritime transportation to/from Sardinia.

The Authority resolved that in summer 2011 the companies Moby, SNAV, Grandi Navi Veloci and Marinvest entered into an agreement with the aim to increase prices for passenger transportation on the main connection routes to/from Sardinia. The agreement produced considerable price increases, which translated both in damage for the consumers and, as far as Sardinia is concerned, a reduction of the touristic flow and an increase of the cost for the transportation of goods. The companies were subject to a fine amounting to a total of 8 million Euros.

The Authority has intervened also within the ambit of rail passenger transportation. In fact, in July 2012 the Authority ascertained that the FS group, historic incumbent in the sector, put into action together with the companies RFI and Trenitalia, a complex and unified strategy aimed at hindering and impeding, which it did, the entrance on the market of the company Arenaways.

Lastly, with reference to the transport sector, it is important to report that the Regulatory Authority for said sector - which was established at the end of 2011 - is not operative yet. It is the Authority's belief that the operativeness of the Transport Authority can no longer be postponed, so that the same may watch over the "third party's condition" in the management of all the infrastructures considered essential for correct competition in the services of goods and passengers rail transport.

9. In the postal sector, the issue of liberalizations has been once again centre of the Authority's interventions highlighting the full complementarity among the enforcement and advocacy tools in the removal of behavioural and normative obstacles which hinder the development of competition.

With a resolution regarding an abuse of dominant position, the Authority disimplemented the Italian law owing to which the company Poste italiane was able to provide its services exempt from VAT and, although part of a global service, these were negotiated individually. Owing to this particularly advantageous regime, the company was able to formulate offers capable of excluding competitors from the markets involved. In fact, Poste Italiane's offers were not repeatable by competitors because of the amount of the rate applicable, currently set at 21%.

This comes to show that the implementation of antitrust laws, as European Union laws, does not stop in front of conducts which are protected by a national law.

The postal sector has produced important results as regards the opening to competition, but it still presents spaces of intervention so as to favour the access of new operators really competitive compared to the incumbent, and to widen the amount of services to be made contestable, with the increase of the quantity and quality in the services which may be used by consumers.

For this reason, the Authority reported to the Parliament and the Government mentioning the need to proceed in redefining the ambit of global service, limiting it exclusively to the essential services which the user would not be able to purchase otherwise. The delimitation of the area of the global service, subtracted as such to competition rules, should be subject to a periodical review in order to keep the evolution of the technological sector under control.

10. Another sector which has received the Authority's particular attention is the pharmaceutical sector which constitutes a typical ground for tensions between intellectual property protection and competition. Protection is indispensable so as to promote innovation, but an abusive and instrumental use of protection mechanisms can impede competition. In such cases, it is possible to keep a higher price of drugs artificially in life with often negative repercussions on the public balance. The Commission highlighted the damage that competition can undergo in this market through regulatory gaming, first with a fact-finding inquiry and then with the resolution on the AstraZeneca case. Said case evidenced the abuse of dominant position of an undertaking which was exploiting the folds of regulations to abusively maintain a position of exclusiveness. The resolution was confirmed by the Court of Justice in December 2012.

On the basis of this interesting concept, the Authority closed a case in 2012 resolving that a pharmaceutical undertaking had exploited the regulation on intellectual property rights so as to delay the entrance on the market of generic drugs, with an increase in the costs borne by the National Healthcare Service. Tar Lazio annulled the regulation, and the Authority is now waiting with serenity on the appeal of the Council of State. Besides, the authoritative indications of the Judge of appeal will provide a contribution awaited also in Europe by the Commission and the other competition Authorities.

In the meanwhile, the ICA has launched another extremely important investigation in the pharmaceutical sector involving several multinationals of the sector.

The Authority's hypothesis, which has to be assessed within the ambit of the proceeding filed respecting cross-examination, is that two pharmaceutical companies have entered into an agreement presumably favouring the marketing of a drug to the detriment of another one, with equivalent effects, but much more economical. Even in this case the negative repercussions on the costs borne by the Healthcare Service are extremely considerable.

11. Professional services have undergone an important liberalization process, especially starting mid-2011. The complete abolition of tariffs was a fundamental passage. In this field, it is necessary to perfection the opening of the market and to the guarantee its effectiveness.

The Authority, after promoting the liberalization of the sector with its advocacy activity, is watching over the compliance with the new laws, opening proceedings against those Boards of Professional Associations which have adopted behaviours that seem to reintroduce artificial barriers in the professional markets.

In this context, emblematic cases have been recently resolved concerning four different agreements restricting competition, carried out by the Board of Notaries of Lucca, Milan, Bari and Verona. Said behaviour essentially aimed at maintaining, through the principle of fairness of the remuneration of professional services, the regime of price fixing, thus thwarting the intervention of liberalization wanted by the legislator.

The Authority has dealt with many other markets, repressing illicit competition, reporting the opportunity of making legislative changes and promoting competition, from the bank sector to the agricultural and food sector, from commercial distribution to road barriers. The obvious lack of time does not enable to illustrate in this context what has been done; therefore, please refer to the annual Report.

12. As regards consumer protection, the Authority's interventions have repressed unfair and misleading behaviours executed by undertakings in strategically important sectors for the economy.

Consumer protection is currently living a new season.

The possibility to purchase through the web undoubtedly represents a spur towards growth, competition and integration of the markets; but at the same time, it is a tool full of dangers for the consumer who, lacking the points of reference which used to orient purchasing choices, risks to be increasingly exposed to commercial practices contrary to the principles of professional diligence and capable of falsifying the economic behaviour or wrongly condition the freedom to choose.

Therefore, commerce via internet represents one of the most relevant sectors object of the Authority's interest and recent interventions. In fact, online advertisement represents about 30-40% of the Authority's enforcement activity as regards unfair commercial practices.

In this context, it is noteworthy to mention the provisions with which, at the beginning of this year, the Authority launched several proceedings aimed at repressing the sale of counterfeited branded products. Moreover, with precautionary measures, it disposed the suspension of the diffusion of the conducts and the shutting down of the websites active at national level.

The Authority is extremely attentive as regards the most relevant sectors for the economy and the most difficult ones for consumer protection.

Among the above mentioned, the air transport sector has recently been in the centre of a series of investigations carried out against the main companies operating at national level. Said investigations are aimed at ensuring the maximum transparency and fairness of the modalities of

presentation of the tariffs offered for the service of air passenger transport, especially with reference to the process of on-line booking and purchasing of plane tickets.

Another sector which the Authority believes requires priority as regards intervention for consumer protection is the bank sector in which there is a high asymmetry of information - also owing to the economic context which the country is going through - and a sort of "subjection" of the consumers to the professionals.

The Authority has intervened at several levels, sanctioning banks' conducts for hindering the closing of accounts, not illustrating with due clarity the amount of expenses for the services of the account such as overdrafts, for subjecting the granting of mortgages contrarily to what prospected to the clients, and for the signing of insurance policies.

Among the tasks carried out by the Authority for consumer protection, there has recently been the new added competence concerning the control on unconscionable clauses which undertakings use in their commercial relationships with consumers.

At present, the Authority has closed five proceedings as regards unconscionable clauses, and specifically clauses which, for example, excluded or limited the professionals' obligations and liabilities in providing the advertised services, which enabled the professionals to modify unilaterally the characteristics of the product and the service to be provided, without a justified reason, that is they found a competent law court different from that of the consumer's residence or domicile. An aspect which is important to highlight is that, following the communication of the launching of the proceeding, undertakings have often proceeded in modifying the clause object of the investigation, eliminating the unconscionable clauses contested by the Authority.

13. The Authority is always alert and rigorous as regards conflicts of interest, and will be even more incisive if the criticalities highlighted in the latest half-yearly Report are removed for the implementation of the law.

The problems reported concern, among others, the merit of the notions of incompatibility and conflict, as well as the inadequate means of enforcement provided for by the legislator to ensure an actual and efficient implementation of the law. In fact, the legislator's views on conflicts of interest concentrate on the acts affecting the patrimonial sphere of those involved, without considering juridically relevant the simple situation of danger deriving from the mixture between the Government's appointment and the owner's economic and financial interests.

As far as the enforcement mechanisms are concerned - as known - these do not allow to adopt tools such as divestiture, blind trust, selling of goods, capable of undermining the situation of conflict, so that it may not arise again in the future.

14. Legality and market are two sides of the same coin. Compliance with the law is the basic condition for a well-functioning competitive market. For this reason the Senate's choice was particularly successful as regards the conversion of the Decree "Cresci Italia" ["Grow Italy"] and the introduction of "legality rating," intended as a tool which prizes the undertakings that adopt behaviours and organizational models aimed at ensuring compliance with the whole legal framework.

Rating is a tool full of potentiality for the Country's growth because it enables to increase trust in markets and to free the resources stolen from a healthy economy and which have been distracted from their natural real destination for too long: the financing of research, infrastructures and innovation.

Unfortunately, the studies carried out on illegality depict Italy as a Country in which the presence of illicit trafficking, corruption, usury and fiscal evasion is increasingly widespread. According to estimates of the State of Auditors Department corruption currently costs the State 60 billion Euros a year.

The Authority is aware that remedies to the economic problems mentioned can be found not only through stricter laws and regulations, but also through the penetration in the entrepreneurial world of a shared culture of legality. For this reason, it has undertaken its new function of legality "auditor" with seriousness and rigour.

The Authority has adopted the implementing Regulation, and undertakings are showing great interest in the rating.

From the beginning of the year to present day almost 100 requests have been submitted. The requests which have already been assessed by the Authority have led to the rating of 25 undertakings.

It is interesting to notice how many requests come from undertakings operating in sectors which are known to be sensitive (i.e. constructions 13%, engineering 8%, waste disposal 8%, transport of goods and people 13%, catering 4%, services 19%).

15. The Authority has always been managed in a virtuous manner. I would like to thank the colleagues of the Authority, and in particular acknowledge who preceded me in the position I now hold for the kind of institution that has been built. In the period taken into consideration by this report, we did our utmost to follow this virtuous path.

Even if not imposed by any legal obligation, we started a spending review process with the constructive and intelligent aid of the Board of Auditors - that I here want to thank for their high professionalism - and of several external experts who provided their aid free of charge. Said

process, which is still in course, enabled to close the 2012 fiscal year with less expenses compared to what estimated. Moreover, it especially enabled to obtain a total reduction of the expenses compared to the previous fiscal years for an amount equal to about 1.8 million Euros, entirely related to current expenses.

However, it is important to highlight that the cut in expenses was higher compared to the net data provided. In fact, a considerable part of the savings was invested in the modernization and strengthening of the Authority's operational structure, through the complete substitution of the obsolete computerized system and the starting of a process to reorganise the application management, with the aim to improve efficiency and reduce costs related to the employment of the personnel.

Some of the resources freed were addressed to covering costs deriving from the employment of personnel through public selections, concerning 31 positions as officials and 4 as operatives.

Within the ambit of the current enhancement of human resources, it is also important to mention that 60% of the Authority's personnel is composed of women, who in turn constitute 45% of the people in charge within the organizational departments.

The Authority believes that it has to be accountable not only to the Parliament, but also to the operators of the market, the contributions of whom fuel the Authority's balance. Said accountability should concern how resources are used, doing all which is possible to contain costs and consequently reduce the entity of contributions. For this reason, the Authority has recently reduced by 25% the share of contributions which weighs upon companies with revenues above 50 million Euros.

Besides the interventions mentioned, it is important to adequately underline how the Authority's efficiency and the results obtained depend on valiant officials, from the Chief of Cabinet, to the Principal Legal Adviser and the Secretary General, who give life to the Institution with their high professional preparation and their dedication in taking care of the public interest, of which the Authority is point of reference. I want to thank them publically for their work and their enthusiasm. Likewise, it is important to underline that the Authority is rigorously based on a collegial method and that the decisions benefit from the constructive contribution of all its components: Piero Barucci, Carla Rabitti Bedogni, Salvatore Rebecchini. Their dedication in working together is absolutely extraordinary.

16. Free market and competition cannot exist outside juridical rules. The market is not a spontaneous order, but rather is a juridical creation. This is the main intellectual legacy of that glorious cultural current called Social Market Economy. In this tradition, it is very important to have well in mind that Antitrust is rooted in Europe. The great crisis we are facing has put into evidence

how a market without rules produces extremely negative consequences on social welfare. Thus, the economy of the market has to pay particular attention to the social dimension.

Such indications must be taken even more seriously into consideration in a period in which the crisis is not the mere expression of an economic cycle, but is radically changing the basic balances of our societies, their "material constitution." The big issue concerns how to rebuild the endangered balance among democracy, market and social cohesion on new basis.

Great attention will have to be given to Institutions. In fact, the way institutions are formed plays an important role on the competitiveness of an economy, the opening of the markets, social cohesion and therefore, in definitive, the prosperity of a society. This thesis has been recently analysed in depth by two scholars, Daron Acemoglu and James A. Robinson in a book with an emblematic title, "Why do nations fail?" According to the Authors, the answer lies in the quality of the Institutions and in the characteristics of the virtuous or vicious circles which are set up in the economy and in the society, starting from the actual Institutions. The issue of growth and social cohesion interweaves, in Italy as in Europe, with institutional issues.

To conclude, I would like to express my gratitude towards the Authority's former Presidents: Francesco Saja, Giuliano Amato, Giuseppe Tesouro and Antonio Catricalà. Without their knowledge and authoritativeness, the Italian Competition Authority would not have reached the position of indiscussed prestige which characterizes it today.