MARGRETHE VESTAGER

New EU competition chief on:
‘LuxLeaks’ tax probes
The power of data
Telecom mergers
Google’s dominance
Foreign-exchange rates

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INTERVIEW

Margrethe Vestager

Lewis Crofts and Robert McLeod in conversation with Europe’s new Competition Commissioner

Lewis Crofts

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Robert McLeod

Prior to founding MLex in 2005, Editor-in-Chief Robert McLeod spent 12 years covering M&A, antitrust and investment banking for Bloomberg, where he developed a track record providing inside intelligence and commentary on the risk to investors from government regulation and intervention.

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Europe’s new antitrust chief keeps a rickety wooden stepladder in the corner of her 10th-floor office in Brussels. Once destined for the trashcan, it’s now used to display simple objets d’art – a softball picked up on a morning jog in Washington, DC; two songbooks; a figurine from the tales of a Danish poet; a selection of weather-worn stones; and a wooden sign saying “Mum” in her native tongue.

If a woman wants to go places “she should bring her own ladder,” Margrethe Vestager jokes. But her ascent through national politics to, at 46, the EU’s designated guardian of free and fair markets has been further than the three rungs at her disposal.

“I never wanted to be a politician,” Vestager tells MLex. “My mother was running for parliament. There wasn’t even a remote chance that she’d be elected.” When she’d had enough, she asked her daughter if she wanted to take over. “I said: Why not?” Vestager saw it as a good way to test herself, to get on a “crate of beer” – as the Danes call a soapbox – and learn to get her message across. “Then one thing led to another.”

Now, the daughter of two Lutheran priests, erstwhile minister for ecclesiastical affairs and career politician has become the keeper of the EU’s sharpest policy tools. Soon, they will be deployed.

Vestager is promising results by spring in contentious probes into whether national tax breaks distort competition. Multimillion-euro fines could be on the horizon for banks rigging foreign-exchange markets. And Google will soon learn how she intends to untangle antitrust’s Gordian knot. If that’s not enough, she is mapping out a sector-wide inquiry.

Her political baby steps were in school and student councils, and then came the steady rise through the Social Liberal Party: chair of the party, member of parliament, and political leader of the Radikale Venstre – the Radical Left. “We had a very positive election result and, all of a sudden, we were in government,” she says.

Speaking of her political past, Vestager returns frequently to the importance of values. As education minister from 1998 to 2001, she sought to combat bullying, discrimination and indifference by demanding that values weren’t merely “engraved over the door” but
that they benefited from an enticing regime that slashed their tax burdens. With four ongoing probes into potentially illegal tax sweeteners, Vestager finds herself in the unenviable position of investigating a fiscal architecture intimately connected with her new boss, Commission President Jean-Claude Juncker, the Grand Duchy’s erstwhile prime minister and finance minister. But she clearly views the controversy around “tax rulings” that benefit companies such as Apple and Amazon.com with the same values that have punctuated her career. “There is a basic question of fairness at stake,” Vestager says. She points to the almost unprecedented crescendo of public opinion against companies that avoid paying their way. “Many people all over Europe feel insulted or angry because there have been what they may feel are hostile reforms, changes in welfare system, et cetera, because of the economic crisis. And now they see companies they know very well who aren’t contributing to the societies in which they do their business.”

Vestager talks of fairness toward taxpaying citizens and fairness toward other taxpaying companies. “There is the potential for something good to happen instead of just, more or less, continuing a very preferential race to the bottom for some but not for others,” she says.

For now, her focus is on the pending cases: Apple in Ireland, Starbucks in the Netherlands, and Fiat’s finance arm and Amazon in Luxembourg: “We have to close the four open cases and gain the insight from those before we start opening a number of other cases coming, for instance, the ‘Lux Leaks,’ if they have the same nature. Because then we will know how these schemes or individual decisions are, and how are they set up.”

Margrethe Vestager’s résumé

- 2014 – present
  European Commissioner for Competition
- 2011 – 2014
  Minister for Economic Affairs and the Interior
- 2011 – 2014
  Political leader of the Social Liberal Party
- 2007 – 2011
  Political leader of the Social Liberal Party and Chairwoman of the parliamentary group
- 2007 – 2014
  Member of Parliament for the Social Liberal party in North Zealand greater constituency
- 2001 – 2007
  Member of Parliament for the Social Liberal party in Frederiksborg County constituency
- 2000 – 2001
  Minister for Education
- 1998 – 2000
  Minister for Education and Minister for Ecclesiastical Affairs
- 1997 – 1998
  Head of secretariat with the Agency for Financial Management and Administrative Affairs
  Special consultant with the Agency for Financial Management and Administrative Affairs
- 1993 – 1995
  Head of section at the Ministry of Finance
- 1993
  Master of Science in Economics, University of Copenhagen

Source: European Commission
Vestager has her predecessor Joaquín Almunia to thank for the trickiest issues in her inbox – the scrutiny of fiscal regimes, which rile national capitals; a probe into Google’s power over ever-changing technology markets; and a broadside against Gazprom’s supply monopoly that caught Vladimir Putin’s eye. But she also has the chance to take the competition brief in any direction she chooses.

Vestager says she is “mapping out” potential sectors for industry-wide scrutiny but she hasn’t yet settled on a target. She will look first at areas set out in the new commission’s “common agenda,” she says, mentioning the digital and energy sectors as priorities for Juncker’s team. Past sector probes have covered areas such as retail banking, pharmaceuticals and telecommunications, but Vestager is tightlipped as to where her gaze may alight. She notes the burden on her staff that sector-wide investigations bring, but she stresses that competition policy has a role to play in the EU’s political priorities.

“If this commission is going to deliver, we have to focus on issues, not on the entire world at once,” she says. “When I consider sector enquiries, I want to be on the same planet as the rest of the commission, because we only have so many resources to actually influence what people are experiencing.”

### The right call

Apart from the power to pick and choose antitrust probes, the competition commissioner’s brief is limited to what lands on her desk. She may be called to rule on wars over patents; or she could be obliged to punish a global network of cartels in an obscure manufacturing industry. Yet one thing is certain for Vestager’s next five years in office: More telecom operators will seek to merge, and they will need the Dane’s blessing to do so.

Vestager’s predecessor attached tough conditions to the expansion plans of operators such as Telefónica and Hutchison Whampoa. Europe’s large operators, harboring similar aspirations, cried foul over the EU’s strict scrutiny of telecom mergers. They said the Brussels mindset stifled much-needed consolidation and held back the bloc’s companies from building scale and investing in new technologies.

Leaning forward, hands clasped, Vestager looks at the issue through a more personal lens. One of her daughters, who has also made the move to Brussels, asked whether her Danish mobile contract had preferential rates for Belgium. Vestager had to disappoint her and now faces the prospect of having to clamp down on her daughter’s calls back in Denmark. But, as a commissioner, she sees competition as a way to solve the problem.

“What you see in some countries is that it’s not the incumbent that is the big investor; it’s the one that wants to fight for market share, fight for customers,” she says. “They want to fight to present customers with a newer and more innovative product.”

She then returns to the market she knows best. Last month, Norwegian operator Telenor and its Swedish rival TeliaSonera agreed to put their Danish businesses into a joint venture. The news boosted their share prices – as well as that of TDC, Denmark’s former incumbent and the JV’s main rival. Vestager calls this a “textbook reaction.”

The announcement was interpreted as meaning less competition for TDC, she says. They expected the company to be able to sit back and be less aggressive.

“It is very telling for the fact that we need competition in order to get innovation, in order to get investment,” she says. “Mobile technology is extremely important, not only for citizens, not only for businesses, [but] it is important to enhance people’s use of phones and use of data, instead of trying to cushion telecom companies.”

The deal will one day make its way to Brussels and Vestager will face the dual challenge of overseeing a telecom merger with all its sensitivities, and one that could transform the market she and her daughter call home.

### Power of data

One other thing is certain for the commissioner’s next five years: more business will move online. This will force her and her staff to address questions over how to handle e-commerce and online content; how to treat the power of emerging networks and platforms; and what approach to take to companies amassing data. On the last point, Vestager is already a step ahead. During her confirmation hearing before the European Parliament in October, she acknowledged the role of data as the “new currency of the Internet” and said she wanted to get on top of the issue.

This zeal seems a departure from the usual circumspection of EU competition enforcers. While Almunia said monetizing data could “one day” become a competition issue, the regulator has traditionally been reluctant to travel too far down that track.

Vestager says she’s still thinking about the issue and hasn’t “found an angle” yet, but she is acutely aware of its impact. “Very few people realize that, if you tick the box, your information can be exchanged with others,” she says. “Actually, you are paying a price, an extra price for the product that you are purchasing. You give away something that was valuable. I think that point is underestimated as a factor as to how competition works.”

“The more data you can collect, the more you know, the better product you can provide, but also the more powerful will you be towards others,” she continues. “It isn’t solely a competition issue,” Vestager says. “It’s very important for us to be able to say what is competition-related and what is an issue of privacy, ownership, data, [and] how you can be as secure on the net as you can be in the physical world.”

Vestager’s first test will be the probe into Google’s dominance of search-
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advertising markets. Despite her predecessor's best efforts, the sprawling case and its toxic politics are now hers to deal with. And the world is watching. There is no silver bullet and whatever she does, she will doubtless make enemies.

There are political big hitters in Germany and France, as well as a well-marshalled phalanx of lawmakers in the European Parliament, who want new rules to curb US technology companies. There are blue-chip rivals such as Microsoft and Expedia, which see Google's spread as an all-out corporate attack. There are publishers saying they face extinction if Google remains the gatekeeper to their readers. And then there's Google itself, which will never manage to construct a settlement to remedy all complaints. If the search engine decides to fight the legal fight, Vestager won't see results for another couple of years.

So, it's hardly surprising that the commissioner is treading carefully. Her strategy seems to have three phases: Bone up on the case; weed out noncompetition issues; and then come up with a strategy. She will have had about a dozen meetings by the time she is done with hearing out the complainants, she says. Only then will she sit down with Google executives.

"It works very well to find out what should be the focus, because people come with a very broad palette of complaints, some of which are directly antitrust, others of which are more related with copyright and payment for copyright," she says. "So, to me, it makes very good sense to get this firsthand impression of the people who have actually worked with this and under the conditions of Google being so dominant over the last many years. After that, I will be able to design the strategy as how to move the case forward."

Bringing banks to heel

As a former economy minister, Vestager is comfortable talking about finance. In 2012, as a minister in the Danish government she was in charge of chairing EU talks on a series of lawmaking responses to the global financial crisis, and closer oversight from Brussels of eurozone governments' budgets.

She riffs with ease on the principle of imposing losses on banks' investors in case of failure, and legislation governing rescues. But she may be the first competition commissioner in a decade who won't spend the majority of her mandate wagging her finger at a queue of pinstriped banking executives outside her door.

Neelie Kroes, who served as competition commissioner during the dark days of the financial crisis, found herself balancing the need for astronomic bailouts against the opprobrium of taxpayers, while trying to preserve EU rules limiting public subsidies. Almunia, her successor, had to wean the institutions off the public purse and train them to walk on their own again. He also extracted 1.71 billion euros ($2 billion) in fines from banks whose staff had been caught promising champagne and sports cars for tweaks to the London Interbank Offered Rate and other benchmarks.

Now, the bulk of the interest-rate scandal is over, and the banking sector is governed by new bailout rules. So Vestager may be spending less time with that industry than her predecessors. That's unless more wrong-doing is exposed when the regulatory tide goes out. Nevertheless, she has inherited two complex cases: one over credit-default swaps where some of the world's largest banks are playing particularly tough; and a second on the manipulation of foreign-exchange rates to benefit traders.

Vestager already has the forex case in her sights. "We will finalize that relatively shortly," she says, in an ominous sign for banks that have already paid out $4.3 billion to settle investigations with some regulators around the world.

"People feel so appalled by some of the things that went on," Vestager says of the industry's checkered past. "You can read it in scientific reports, but you can also go to the cinema and see some of the things that took place."

She talks of "building acceptance" for the way banking works within a new
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framework of regulation. People need to learn to trust the industry again and there should be “a stronger degree of competition in business financing,” she says. Reforms may lead to a banking industry being “more boring” than during the boom, she says, but “I think we have to start there.”

Legal landscape

The competition portfolio is a rarity in Brussels: There is no natural need to write new laws; it’s all about enforcing the existing provisions. In other commission departments, the knee-jerk reaction is to draft a new law whenever a market fails or a lobby group wails. To some officials, if all you have is a hammer, everything looks like a nail. But competition enforcers are wedded to the handful of treaty provisions that already give them the most far-reaching powers of any European Commission department. Previous commissioners have pushed through reforms to antisubsidy rules and new legislation on private lawsuits. But that means Vestager takes office without calls to add reams of text to the EU’s statute book. This doesn’t seem to upset the new commissioner.

“It takes as much political leadership to implement and enforce [legislation] as it takes to actually pass it,” she says. There are risks to adding new laws, Vestager explains, stressing the need to “stay focused ... so people can actually recognize the direction that you want to take things.”

One legislative act that awaits her approval is the EU’s approach to companies buying up minority stakes. Under the current rules, the regulator can’t lay a finger on such transactions – and for good reason: They are usually harmless. But open warfare over Ryanair’s 29.8 percent stake in rival Irish carrier Aer Lingus exposed a potential lacuna in the law. Under Almunia, officials explored changing merger laws to allow enforcers to review such deals if there was a suspicion one company could be exerting pressure on another. But Vestager remains unconvinced of the need for the revisions.

“The jury is out. It’s not obvious that it will be beneficial,” she says. In any case, “it will be a tool rarely used. It’s an open debate if we want to try and get it and put it in the toolbox.”

During her mandate, Vestager will also have the chance to review Europe’s keystone competition law, known as Regulation 1/2003 in Brussels parlance. This sets out the powers that all antitrust enforcers across the bloc use. But divergences remain, both in institutional setup and legal procedures, which means the landscape isn’t as even as it might be. The commissioner is still taking advice on where the reform might lead. “More aligned competences and more aligned resources” could be possible among competition agencies, she says, but changes will be “very controversial” in some countries.

“What we see is that some national competition authorities are very courageous in their communication, and about how they see the national competition environment and culture – even when it may not be that convenient for the government in place,” she says.

Tweet tweet

Vestager’s own communication skills have already singled her out as someone to watch in Juncker’s 28-strong “college” of commissioners. The president’s inner circle sees her as an asset to be deployed in a team where others may struggle to shine in a foreign tongue. Her unveiling of fines on a cartel among envelope makers last month – when Europeans were licking stamps for their Christmas cards – was much celebrated inside the commission’s star-shaped headquarters.

Vestager’s openness over social media has won her nearly 84,000 followers, who are treated to a mix of politics and private life in equal doses. There are more tweets in Danish than in the working languages of Brussels, leading some observers to suggest she’s still keeping her ear in
the waters of domestic politics. Even so, photographs giving glimpses of the commissioner’s day-to-day life go some way to breaking down the walls that have built up around Brussels in general and around competition policy in particular. But she is aware that in her new quasi-judicial role there may be “some constraints on public communication.”

The commissioner already used a tweet to announce the approval of a $43 billion merger between cement manufacturers Holcim Group and Lafarge. Usually, such commercially sensitive information is carefully rationed and distributed to press under embargo. For some, Vestager’s tweet was a welcome dose of transparency. For others, it was an unnerving augury of things to come.

Brussels and beyond

But why Brussels now? Until late last year, Vestager was deputy prime minister and presumed by many to have her hand on the tiller in Copenhagen. What did Brussels offer that lured her away from high-octane party politics, uprooting her family to oversee the enforcement of laws for which she seems to have little or no prior experience?

“Most importantly, I was absolutely certain that both my country and my party could live without me,” Vestager jokes, noting that the European Commission has become “more merit-based.” That’s shorthand for the EU attracting better politicians and not just mopping up those in the twilight of their national careers.

The current college of commissioners boasts some of the biggest political hitters ever to make Brussels their home: five former prime ministers, four deputy prime ministers, 19 former ministers and plenty with past roles in either the commission or the European Parliament. Nominating the country’s No. 2 politician was a smart move, guaranteed to scoop Denmark a powerful portfolio.

“I’m 46 now, and I have been in Danish politics for 20 years,” Vestager says. “I have been a legislator. I have been a minister. I have done a number of different things, and life is short. You should test yourself and do something while you can.” But it’s clear Brussels won’t be the end of the line for the Danish politician.

Before her, plenty of commissioners have seen the Belgian capital as the last roll of the dice in a long career. They have resigned themselves to the unavoidable animosity of enforcing competition laws. Commissioners end up alienating businesses angry at eye-watering fines or scuppered mergers; they rile lawyers who say the rules have been bent to the discredit of the union’s founding fathers and their clients. And, in any case, the benefits of most enforcement won’t be seen until the incumbent has long since disappeared.

But Vestager will be 51 when her term as a commissioner comes to an end. That’s more than a decade younger than the last two antitrust chiefs when they took office. Within the first year, companies and consumers will be able to measure her impact with results on probes into tax arrangements, Google and banks. Only then will we see where she may wish to take the brief. Her next move is anyone’s guess but the antitrust job won’t be the last stop. In five years’ time, Vestager may still have other heights to scale. And she will have a ladder there to help.