"check against delivery"

Thank you for inviting me again to your Committee.

Let me start by saying that I am very pleased that your Committee decided to continue its work. You're helping to make sure the fight against tax avoidance stays high on the political agenda in Europe.

The Commission's goal is to ensure fairer and more efficient corporate taxation. This is driven in particular by the objective of re-establishing the link between taxation and where the economic activity takes place. And we have made progress on this agenda since we met in September last year.

In January, we proposed to close important loopholes that companies can use to avoid paying taxes. We also proposed that multinational companies disclose their tax information to tax authorities across Europe.

It's a sign of the importance of this proposal that the Council has already reached political agreement, subject to parliamentary scrutiny in the UK. Next week, we will present our impact assessment for further measures to increase public transparency in companies' tax affairs.

We've also come a long way in our work to tackle distortions of competition under state aid rules. In October last year, we found that Fiat and Starbucks had received illegal state aid, in the form of selective tax advantages. In December, we opened an investigation into whether Luxembourg gave McDonald's an advantage that wasn't available to other companies. And in January, we found that Belgium's excess profit scheme was illegal, and we ordered recovery of about 700 million euros from more than 30 companies.

On the final cases, recovery process has begun. For Fiat this process is even complete. Luxembourg has recovered the totality of the incompatible aid from Fiat.

Those cases are all well known. So I want to report to you today on something that is less visible, but just as important.

In the last two years, we have also reviewed more than a thousand individual tax rulings. Nearly 600 of them came from the LuxLeaks files. The rest were from our own investigation, which we started in 2013 and expanded at the end of 2014 into a systematic review of tax rulings in all 28 Member States.

We proceed on a two step basis: we first requested to all Member States the list of all the rulings for a number of years. On that basis, we have requested individual rulings in a second stage for companies selected from the list.
We were particularly vigilant to large companies and so called possible 'national champions'. We did all the analysis ourselves, with our team that combines legal experts, financial experts and tax experts from the Commission and from national tax administrations. Where things were not clear we asked the Member States to clarify.

We now know that all but five Member States make active use of tax rulings: the exceptions are Bulgaria, Greece, Croatia, Latvia and Slovenia. The 23 Member States that do use tax rulings, some issue only a handful each year, while others issue thousands. And now we have a good indication of how they use those rulings.

The good news is that most tax rulings aren't about aggressive tax planning.

For instance, most of the so-called "Luxleaks tax rulings" are what we call "confirmatory" rulings. These confirmatory rulings can be quite simple, they do not contain any calculation of profit. They ask a yes or no question. And as such they are much less likely to raise state aid concerns. But that may not be the case for all confirmatory rulings and that's what we are looking at in the McDonald's case.

Many tax rulings try to follow the basic principle that profit should be taxed where it is generated. This can be a complex question notably for advance pricing agreements, which set transfer prices between companies belonging to the same group, sometimes in different countries or not directly comparable. Around 200 of the rulings we have requested are transfer pricing rulings.

Transfer prices are not problematic if they match economic reality. In particular, they should be in line with the prices that you would see in a similar transaction between independent companies: the so-called "arm's length principle". This means that advance pricing agreements as such are not problematic provided that they make a genuine attempt to match transfer prices to the economic reality.

Following best practice helps Member states ensure that advance pricing agreements reflect economic reality.

Our investigation shows there are many tax rulings that don’t raise State aid issues.

But we have also found examples that are more worrying, where rulings seem to be used in a way that could favour particular companies or types of companies. My services will be looking into those issues in detail in the months to come, but I would like to give you a flavour of the sort of concerns we have.

- Some advance pricing agreements, around 100 of the transfer pricing rulings we have requested, look at just one side of a transaction. They decide on an appropriate profit for the activities of just one company of a group. As for the profit that remains, it might be taxed somewhere else – or it might not be taxed at all. This creates a potential for loopholes.

- We also have concerns about financing companies. These are the most common rulings in the LuxLeaks. Their only role is to borrow money from one company in a group and lend it to another in the same group. We see that this can be used as a way to reduce the taxable profit.
So far, most of our work has looked at transfer pricing. But there are other types of tax ruling as well. For example, some rulings confirm whether or not a certain tax rule applies in a particular situation.

Today I am giving you a snapshot of our work in progress. Of course this snapshot of potential concerns and the proportions mentioned cannot be used to make any prior judgment of potential new problematic cases.

I have also listened to your request for guidance on how to assess whether tax rulings may give a selective advantage to a company.

First when our recent decisions are published, they will already give some guidance to both tax authorities and companies.

Second, in June, we will meet senior tax experts from the Member States at our High Level State Aid Forum, to discuss how to apply the rules in practice. To support that discussion, my services will publish a **working paper**, including more detailed information about what we've learned from the more than thousand tax rulings that we have looked at.

When we apply the state aid rules to this type of advantage, we are not actually doing anything novel.

The European Court of Justice has made clear since the 1970s that the state aid rules apply to tax exemptions in the same way as to direct government subsidies. That’s because the distortive effect is the same whether a subsidy is in cash, or in the form of lower bills – including tax bills.

And the Court has also confirmed, in its 2006 judgment on the Belgian Coordination Centres scheme, that the arm's length principle is the right basis for the Commission to assess fiscal measures for multinationals under the state aid rules.

But if there is no selective advantage for particular companies – for example, if the same loophole is available to everyone – then it is not for state aid control.

So no matter how well we apply the state aid rules, we also need to work on improving our tax laws at national, European and international levels. That is not something we can do in a vacuum. The Commission is committed to close cooperation with our partners in the OECD and G20.

Thank you for your attention. I look forward to this exchange of views.