

# PANEL III INDEPENDENCE AND INSTITUTIONAL DESIGN THE OECD PERSPECTIVE

COMPETITION CONFERENCE

BEST PRACTICE IN INVESTIGATIONS

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# Previous and On-going OECD Work

- ➤ 2003 Global Forum on Competition Optimal Design of a Competition Agency
- 2005 Global Forum on Competition The Relationship Between Competition Authorities and Sectoral Regulators
- ➤ 2008 OECD Policy Roundtable The Interface Between Competition and Consumer Policies
- Peer Reviews/Accession Reviews e.g. Romania (2014); Russia (2013); Brazil (2010)
- 2014 (to come) OECD Policy Roundtable Changes in Institutional Design

All on: <a href="http://www.oecd.org/competition/">http://www.oecd.org/competition/</a>



#### Multidimensional topic – aspects of independence:

- Decision making structures
  - Direct or indirect influence of government, industry bodies and other interest groups on decisions?
  - Public interest overrides?
- Authorities' status in the public administration
- Appointment/removal/tenure of top management and agency head
- Financial autonomy/budget



#### Multidimensional topic – aspects of independence:

- Relationship with other authorities
- Appeal bodies and structures
- Accountability
- Influence on legislation

> There are almost as many institutional variations as there are competition authorities



# Again a multidimensional topic:

- Administrative vs. judicial model
- Single president vs. multimember boards
- Internal division of work along sectoral lines or by conduct or by profession
- Single vs. multi-function authority
  - Integration of consumer protection/unfair trade practices
  - Integration of sector regulator functions
  - Others public procurement, state aid …



#### Some thoughts on multi-function authorities:

- Same/similar/complementary objectives?
- Synergies?
- Resolution of policy/enforcement conflicts?
- Unified/effective advocacy approach?
- Cannibalisation risks?
- Culture clashes/capture issues?



### Recent developments in Europe:

- Denmark merged with consumer agency (2010)
- Estonia integrated with sector regulators, separate consumer protection board
- Finland combined competition and consumer authorities (2013)
- Iceland divested consumer protection (2005)
- Ireland combined competition and consumer authorities (2014)
- Netherlands combined competition, consumer + sector regulators (2013)
- Spain combined competition authority and several sector regulators (2013)
- UK divested part of consumer remit + more competition functions for sector regulators and rules on concurrency (2014)



# Lessons from the "Best"?

# **GCR Rating Enforcement 2014:**

Elite (\*\*\*\*\*):

European Commission's

DG Comp

France

Germany

**US DoJ** 

**US FTC** 

**Very good (\*\*\*\*):** 

Japan

**UK CC** 

Australia

Brazil

Korea

Spain

**UK OFT** 



# Lessons from the "Best"? Cnt'd.

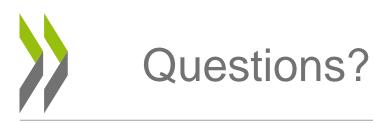
# Common features (acc. to GCR):

- ➤ Highest staff numbers
- > Highest budgets
- > Highest no. of merger filings
- > Highest no. of leniency applications
- > Highest cartel fines



# Conclusions?

- ➤ Money matters
- ➤ Age/Experience matter
- ➤ No single institutional or structural ideal
  - >Well funded agencies with a
  - Credible enforcement track record and an
  - Institutional memory and experienced staff and an excellent
  - ➤ Reputation domestically and abroad Will enjoy respect and with that independence!



# Thank you for your attention!

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