



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: <http://www.oecd.org/competition/>



Independence

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



Independence

Multidimensional topic – aspects of independence:

- Relationship with other authorities
 - Appeal bodies and structures
 - Accountability
 - Influence on legislation
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- There are almost as many institutional variations as there are competition authorities



Structure

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 ...



Structure

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?



Structure

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!



Questions?

Thank you for your attention!

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