

# **Journal of Antitrust Enforcement**

## **Agency Effectiveness Study**

### **Introduction to the Study**

The Agency Effectiveness Study explores a wide range of the daily concerns faced by competition agency heads and their staff, with an emphasis on the formal and informal ways in which they are addressed. Managing and operating a competition agency is very much a process of learning-by-doing. The aim of the study is, therefore, to capture and make available the know-how that competition agency officials accumulate during their service. In particular, it aims to provide a candid account of the practical challenges encountered and solved by heads of agencies and their staff as they navigate through changing legal, social, political, and organisational landscapes.

As part of the study, current and former agency heads and competition law officials, of both young and more established agencies, were interviewed and asked for their views on a wide range of topics linked to agency effectiveness. A qualitative method was adopted to capture the knowledge and first-hand experience of the competition officials. The data were collected through both face-to-face interviews and questionnaires with the aim of exploring practical, managerial and structural challenges, which may influence an agency's effectiveness.

We note that by virtue of the employed methodology, the study has natural limitations. The information captured is likely to have been influenced by the subjectivity of the individuals and a long list of possible biases. To minimise these effects, participants were drawn from a wide range of agencies from around the world - both comparatively young and more established. These included agencies from Europe, North America, Latin America, Asia, Africa, Middle East and the Caribbean. To encourage frank discussion, the identities of contributors are not included in the public report. These confidentiality protections were put in place to reassure participants that they can freely provide a candid account of their experiences without those experiences being directly linked to a jurisdiction or individual.

The study's findings depict a challenging reality facing competition officials in the day-to-day running of a competition agency. It is this complexity that the study hopes to help untangle, by offering competition agency officials the benefits of insights from current and past competition agency leadership. The fruits of the study are aggregated in this report under nine headings. Each section includes a summary of the main points, as well as a selection of quotes from current and former agency officials who participated in the study.

The JAE editors, Dr Maria Ioannidou, Dr Julian Nowag and Mr. Hugh Hollman, acted as the study coordinators and contributed immensely to the collection of the data and the formulation of the report.

We hope that this study will constitute a repository of experience for the day-to-day management of competition agencies, and provide a source of inspiration to current and future agency heads around the world.

Ariel Ezrachi and William Kovacic  
JAE Editors-in-Chief

## 1. Goals and values

The first part of this study describes the responses given to questions about the goals and values of competition agencies, and their interaction with the goals of agency heads. Questions focused on the origin of agencies goals and values, how they were articulated within the agency and subsequently actualised.

Many agency heads expressly formulated objectives during their tenure, either on the basis of their agency's legislative mandate or in consultation with internal stakeholders. For example, one agency head stated that the goals of their agency were established at a strategic planning retreat with the help of external experts. In other cases, the goals were set by the agency's commissioners or its head. However, input by external stakeholders can also play an important role in the process of goal formulation. This input can be generated by inviting submissions, holding public hearings, or by using external consultants tasked with collecting it. Similarly, it can be created by a bottom-up approach within the agency itself, where possible goals are posited and then presented to the commissioners or head of the agency. Due to their domestic legal framework, moreover, some agencies also took localised goals – such as using competition law as tool of social justice – into account. Finally, teams tasked with taking stock by examining current cases and problems encountered in them can provide a valuable input. Often, the agency will communicate those goals and values in their annual reports. The agency heads considered it especially helpful to have a simple and easily communicable goal. Such strategic goals were often periodically reviewed (e.g., every 5 years), but were not altered with the same frequency as agencies' enforcement priorities.

Internal planning mechanisms and organisational structures were identified as essential to the achievement of any set of goals. Those mechanisms are as important to goal attainment as initial goal-setting. A consensus exists that one of the main challenges faced by agencies is smoothly integrating their policy-making function into their day-to-day work activities, while continuing to promote the legitimacy of their set goals and values.

*'To establish our goals we went to a strategic planning retreat facilitated by an expert in strategic planning who engaged various stakeholders to get their views on what they expected to be the goals and values of the Authority.'*

*'The goals could not be imposed unilaterally by the agency head but generally required "buy-in" by officials at least two levels below the agency head.'*

*'Goals were generally established or amended at an annual retreat of senior officials where there was focused review and discussion. Prior to the retreat there might be internal planning sessions, involving more than senior officials; these were sometimes conducted with the help of an outside "animateur."'*

*'In discussing the specific goals, we tried to identify ones that were general enough to allow for some tailoring to reflect both the outside environment as well as the specific responsibilities of internal departments but also specific enough to lend themselves to some type of measurement or evaluation.'*

*‘We established our goals by looking at our local situation.’*

*‘My focus was case work, as cases are the most effective form of communication’*

When asked for the specific goals of their tenure, many agency heads identified a range of agency goals which went beyond their enforcement priorities. Frequently identified agency goals included: ensuring agency effectiveness; advocacy; awareness; and, improving stakeholder relationships and communication. A primary consideration was the employment and retention of capable staff – to secure both agency capacity in the near term and to facilitate the development of staff leaders in the long term. Additionally, standardising processes and prioritising cases, as well as developing a common language both internally and externally, were considered important elements. While the focus of responses was mainly domestic, the international profile of the agency was also considered important. The aim of being considered among the most active agencies in international fora and networks was often mentioned. Some agency heads had also formulated aims in relation to specific markets, or highlighted that they wanted to adopt a new problem-led approach to ensure the tackling of issues head-on.

More specific agency goals are particularly important where the agency head is establishing a new agency or where the agency is relatively young. In these cases, the focus tends to be more on institutionalising and enhancing the agency’s visibility and image – especially in relation to small- and medium-sized enterprises (SMEs).

In formulating aims, and in particular when establishing new agencies, a trade-off between ‘low-hanging fruits’ on the one hand and important but difficult cases on the other may sometimes be necessary. Countries with newly established competition regimes also faced the problem that commissioners and judges needed to be sufficiently well trained. Indeed, training was also one of the frequently mentioned goals. Overcoming hurdles – in particular when established judges have to be retrained – can be challenging. Getting international funding for such exercises from sources such as the OECD, UNCTAD, US, EU and other jurisdictions, was considered helpful, but some added that, on occasion, the funders did not seem to understand the local legal and political landscape and had their own agenda.

*‘My main aims were ensuring agency effectiveness, increasing competition advocacy and awareness, improving the relations with all of the stakeholders.’*

*‘As the head of a new agency I had to aim for the institutionalization of the agency while increasing the agency’s visibility and corporate image.’*

*‘I wanted the agency to be one of the most active agencies in international fora and as a member of the relevant competition network.’*

*‘I aimed to employ trainable goal-getters [and to] create a cadre of leaders to take-over from me and run the institution to greater heights.’*

*‘We wanted to achieve demonstrable competitive outcomes in the economy through*

*prioritization’.*

*‘We established a problem-led approach where the agency would choose the instruments that are best suited to solve market problems [...] whether that is fining a company [...] starting a campaign aimed at making consumers aware of their rights in that particular market. This approach should be guided by the impact on consumers [...] and not, for example, the number of complaints dealt with or amount of fines imposed.’*

*‘Values are not the same as goals and, to my mind, are much more difficult to influence in a specialized government organisation with a long history. The agency is populated to a large extent by "lifers" who have spent their entire career at the agency, staying in place while Commissioners come and go. They are largely inspired by public sector values, which are set out in the publicly available public services values and ethics code. Thus there is a certain unwillingness to compromise these values to accommodate new leadership. Generally speaking, I found that the staff took their lead from the top concerning personal qualities such as courtesy, willingness to accommodate differences, trust and transparency but the only statement of values is the one contained in the public service document.’*

*‘Develop a common language internally as well as with the outside world.’*

*‘When you start you always need to make the trade-off between the low hanging fruit and the important cases.’*

*‘We wanted to start with per-se cases but then there is the risk of going after the small boys.’*

*‘We aimed at providing training for Commissioners and setting up training programmes for judges who never studied competition law. This can be quite challenging as you have to find new ways of interaction when dealing with senior and well established judges.’*

*‘We wanted to tap into international founding sources to train the staff. We started with the help of UNCTAD, OECD, Japan and others but sometimes they didn’t seem to know what we needed and pursued their own agenda.’*

Agency heads differed in their approaches to goal implementation, and they followed different programmes or internal planning mechanisms. Nonetheless, a number of common elements emerged from their responses. Communication (both internally and externally) is considered to be of paramount importance. Agency officials explained that both verbal and written communication should occur with careful recordkeeping.

Internal communication can be facilitated with proper organisational structures. A suggested example was the establishment of a unit for strategy development, which emphasised cross-services cooperation and exchange. Combining the expertise of different departments was also considered especially important. Other suggestions were monthly debriefings involving the entire agency, and separate meetings at management, departmental and unit levels to focus on more specific goals. In this context, regular internal training on agency culture and ethics, as well as leadership development programmes, are considered beneficial by both newly established and more mature agencies. Another element mentioned frequently was long-term planning – that is for a period of more than one year – which, in some instances, includes planning exceeding the term of the agency head. Such long term planning can have considerable influence over agencies’ yearly and quarterly targets, since those targets may be based on a longer-term plan.

*‘We have a 5-year plan and a 20-year plan to ensure that we are on track with these long term programmes we translate these into annual activity goals as well as quarterly targets.’*

*‘To implement these goals we set a target for each year and had a meeting to evaluate this and set a new target for the next year.’*

Externally, communication can take the form of designing guidelines and distributing them to public institutions, in order to help them draft measures which may have an impact upon competition. Any communication with external lawyers and parties should be guided by a drive for transparency, which serves to increase trust in and the credibility of the agency.

*‘It is of course quite easy to simply state what the goals will be for an agency; it is quite another thing to have in place a plan that will facilitate their accomplishment.’*

*‘Key points are appropriate organization structure and populating it with the right staff; cascading the goals through performance contracting to each staff with very clear monitoring and evaluation framework.’*

*‘We considered it helpful to have weekly meetings with Senior Management while at the same time working closely but independently with key competition champions within the government.’*

*‘We were utilizing the hearing sessions, to increase trust and credibility with the business and consumer community.’*

*‘When reshaping the structure of the agency, our emphasis was on cross-services cooperation and exchange. For example, we set up project-based teams to provide thorough analysis from different perspectives and to combine the expertise of different departments/units’, investigators’*

*‘We established horizontal teams dealing with cross-departmental issues’*

*‘Designing an agency is not – or at least not only - about the structure. It is all about people, about how they work and how they work together and share knowledge.’*

*‘The general idea should be that money should follow goals, and not the other way around. This can be somewhat challenging in the public sector, where we faced many administrative challenges in trying to realign budgets. My long term desire had been to set our goals, allocate budgets in light of the goals and measure our accomplishment of those goals against a performance standard but I found a five year term was not long enough to make this happen.’*

In order to integrate the policy-making function of the agency into its day-to-day operation, the majority of agencies use a form of continuous internal communication. This can take the form of ad-hoc or formalised meetings. Some agencies do not have precise programmes to ensure an integrated approach, but rather have separate units for policy-making which provide support to the other units. Others have a team or a person specifically in charge of ensuring consistency between the agency’s day-to-day operation and its policy-making function. Finally, by using the full range of their competences (such as sector inquiries), the agencies are able to set the direction for more general reforms of certain sectors of the economy.

*‘In a small agency I have the chance to meet with every employee and ask their opinions. I also hold regular meetings with senior management and department heads.’*

*‘We have a designated Unit which is responsible for competition policy, and they also provide support in operational matters.’*

*‘We hold Strategic Management Meetings once a month. We have an informal weekly meeting for updates on short term (weekly basis) activities. Furthermore, the directors themselves hold a monthly directors’ meeting, to check on the operational progress of various projects.’*

*‘We try identifying best practice among the staff members at a “brown bag” staff meeting every Friday.’*

*‘We ensure implementation by means of horizontal management teams.’*

*‘We have a person in charge of linking the different parts of the agency. This person is the interface between the Management and the Board. It ensures that the advice accorded to the Board is well informed and the guidance procured by the Board is communicated to, and executed by, the management within set time lines.’*

*‘One of the key tools is the possibility for the agency to launch sector inquiries of its own motion, whereby it sets its own policy agenda. Based on the findings and recommendations made by the agency some have already led the government to enact reforms in particular sectors of the economy.’*

*‘Market studies and consultations are carried out by the same teams as those who are tasked with competition law enforcement. Therefore advocacy is fully integrated in*

*the day-to-day operation of the agency as one of the tools of competition regulation, in a continuum from “soft” to “hard” powers.’*

*‘We tried to make markets the focus, not each division’s policy tools.’*

In order to promote the legitimacy of their goals and values, agencies often encourage stakeholder engagement. A pre-strategic planning meeting has the potential to transform the various stakeholder inputs into a vision, mission, and statement of values. For other agencies, objectives set by the legislature (and hearings with it and its members) provided additional legitimacy. Some agencies found it helpful to continuously test their established goals and values via stakeholder involvement. During engagement outside the agency, for example, continuous reiteration of the agency’s themes, participation by it in public debates, and the wide publication of its decisions and opinions are considered to provide additional help. One legitimating feature highlighted by many agency heads was the balance to be struck between staying within the limits of the competition agency’s mandate and making full use of its statutory powers.

*‘We used pre-strategic planning stakeholder engagement by an independent consultant to find out from the key stakeholders what their expectations of the key deliverables from the Authority were and values thereof.’*

*‘Our goals were developed through a consultative process, involving all, even the most junior staff; they are also informed by the Government’s economic agenda which ensures attraction of adequate budget support from the Treasury.’*

*‘I spent a quite a lot of time with the senior management in order to communicate the goals I set and the values I wanted to create. My basic assumption is to stress the fact that the effective functioning of the agency necessitates taking certain fundamental values into account and endeavours to reflect these directly into our work and proceedings.’*

*‘There is a permanent dialogue with policymakers to foster competition in the economy. I am regularly invited to share my views on a wide range of different topics – recent illustrations include competition issues in agriculture, [...], in the telecoms industry, the food retail sector or regulated professions. [...] While asserting our full independence, we aim to be considered as trusted advisors and contribute to the enactment of competition-friendly legislation.’*

*‘Ultimately we created a document published on the agency’s website that set out separate goals for enforcement, advocacy, and management/administration and also specified key sectors for particular attention.’*

*‘Our ability to engage in public debate on the merits of competition policy is crucial to strengthening our legitimacy. We seek to have a pro-active communication strategy, especially concerning the findings of our sector inquiries, so that they serve to stir a well-informed debate among the different stakeholders and interested parties.’*

*‘We are however very aware of the clear economic nature of the Authority’s goals, in particular in the competition field. Our powers to achieve these goals are clearly outlined in the legislation, and we do not go beyond them.’*

To balance short- and long-term goals within an agency, strategic plans for resource allocation (often over a 5-year period) are frequently used, taking into account productivity, investment in knowledge and public interest. Some agencies do not distinguish between short- and long-term goals, but rather allocate resources according to priorities. By contrast, others distinguish between short and long term goals. It was estimated by one respondent that 55% of the agency's resources should be used for statutory obligations and the rest for strategic projects that should provide substantial benefits and be decided upon according to predefined priorities.

*'Prioritisation of key deliverables is done in accordance with the Balanced Scorecard model of Strategic Planning. The agency has a Strategic Plan out of which it produces an Annual Performance (Business) Plan under which resources are allocated accordingly in terms of priorities for a particular year (short-term) and other long-term goals funded minimally and/or incrementally in succeeding years.'*

## **2. Enforcement effectiveness and Agency appraisal**

The study examined the value attached by agency heads to deterrence, and how it ought to be achieved. All agency heads see deterrence as one of the primary objectives of their agencies. It is not surprising, therefore, that the ability of agencies to impose an adequate fine is seen as essential to securing effective deterrence. Many noted that although deterrence is an important consideration, it cannot be the only one – advocacy and education play a central role. In addition, agency heads also have to safeguard the legitimacy of the agency's enforcement agenda and ensure procedural fairness.

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*'Deterrence plays an important role in prioritisation decisions in the formation of [an agency's] portfolio. In addition, we try to use the media as effectively as possible to ensure deterrence.'*

*'While the quality of advocacy work is of course valued for its own sake, reception of such work by firms in large part depends on the perceived value of compliance vs. non-compliance. Deterrent fines help tilt this cost-benefit assessment in favour of compliance.'*

*'Without the enforcement, the compliance effort is not going to bear fruits.'*

The majority of respondents believe that their cases are in and of themselves sufficient to legitimise their enforcement agenda, particularly when coupled with estimates of the damage which the anti-competitive behaviour in question does to the economy. However, some agency heads aim to go further by highlighting factors such as transparency and audits (both internal and external), or even by engaging in a process of consultation before finalising their enforcement agenda.



*‘Our demonstrated capacity to target industries of prime interest to end consumers and businesses and to halt behaviours that are damaging to the economy serves as evidence of our being fully legitimate in deciding and implementing our enforcement agenda.*

*Assessing the extent of this damage is another way to reinforce this legitimacy. Figures speak loudly.’*

*‘The enforcement agenda is informed through a screening process, utilizing price data from the relevant national agency. The sectors which are prioritized currently are mainly the sectors with the greatest impact on the poor (staple food and agricultural inputs) and also investment drivers, e.g. banking, transport and telecommunications.’*

*‘We met with representatives from all consumers, large businesses and SMEs asking them to identify the one or two priorities that they thought the agency should have for its enforcement and advocacy work.’*

The main guarantee of procedural fairness is seen in the agency’s strict compliance with the relevant legal framework, and in providing the accused with the opportunity to bring forward arguments at every step of the proceedings. Some agency heads even went further, establishing a system that goes beyond the legal requirements – by separating the investigative and decision making functions of the agency or establishing internal audit units.

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*‘Respect the lawyers involved, listen to the other side, and keep an open mind.’*

*‘Procedural fairness is not only a duty but also a necessity in order to ensure the robustness of our decisions. Hence we make sure that at every step of our proceedings, the undertakings under investigation can bring forward their arguments’*

*‘I also established an internal audit unit to ensure that all of our units comply with the rules of procedure.’*

*‘Internally, procedural steps are divided between the Competition Department and the Legal Department. After the Statement of Objections has been sent by [...] the Competition (Investigating) Department to the parties, the file is transferred to the Legal Department.’*

The study also sought to ascertain the means and forms by which competition agencies evaluate their performance. Agency appraisal constitutes a key tool for evaluating agency effectiveness and rationalising its performance – but, at the same time, it also presents inherent limits. The focus was on both the material and the personal scope of evaluation.

Agency heads and managerial staff were asked to identify the main criteria upon which they evaluate the agency's performance, and whether those criteria are clearly set; who performs the evaluation and whether they consider the reviews to be useful and to the point; the ways in which the agency collects and interprets the collected data, whether that data is made publicly available; and, finally, the ways in which appraisal impacts upon the agency's goals and case selection.

*'Impact assessment helps the agency to act more rationally, be more clear and have a case to negotiate funding.'*

*'For proper assessment, you need to let your actions play on the market for a while. Possibly for a period of 3 to 5 years.'*

*'Appraisal tends to be expensive and doesn't always deliver predictable results.'*

With regard to the criteria on which an agency should be assessed, many answers stressed the importance of quantitative measures (such as the number of cases undertaken, and the fines imposed). However, it was acknowledged that scoring high on numerical targets does not necessarily ensure the agency's effectiveness.

Many highlighted the importance of qualitative criteria, such as the image and reputation of the agency domestically and internationally, as well as the evaluation of their decisions by higher courts and any challenged decisions that ultimately withstood scrutiny. In addition, staff's skill, motivation and ethical conduct, as well as the ability of the agency to prioritise its resources, were listed as factors to be taken into account. It was made clear that appraisal criteria should accurately reflect the agency's mandate and goals. Furthermore, the beneficial impact of interventions on consumers and important sectors of the economy were also stressed.

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*'Set some key metrics; set numerical targets, e.g. number of responses, meeting requests, media interviews; run seminars and conferences.'*

*'An agency should be assessed based on the impact of its work on market sectors, especially those that affect the poor and unemployed. Impact assessments and target setting.'*

*'In principal, it is common sense that two important focal points for ex post evaluation are the substantive outputs of the competition agency (e.g. cases and advocacy interventions) and the operational processes (e.g., strategic planning and case handling) that generate such outputs.'*

*'It's hard to specify criteria, e.g. bringing no cases ensures no defeats on appeal but would be hopeless.'*

*'Productivity needs to be taken into account. Issuing many decisions and opinions is not in and of itself a sure sign of effectiveness but it still is an indicator of the stamina of the agency...'*

*‘In an ideal world, we would like to be assessed not on how high our fines are, but on the effects of our interventions. That would involve having some method of assessing the impact of our informal interventions on consumers, and of our advocacy interventions.’*

On the main criteria used to assess the agency and whether these are clearly defined, respondents indicated that these criteria are articulated in the internal rules of procedure, in the agency’s strategic plan, or in its annual performance targets. Some of the criteria identified, as illustrated in the preceding discussion include: the number of cases where remedies have been imposed; the success rate for challenged decisions; advocacy work and improving public awareness; staff performance; managing pending caseload; and delivering decisions in a timely manner. The assessment of agency performance on the basis of the stated criteria appears to be challenging.

*‘Number of cases concluded with feasible/pragmatic remedies and/or in favour of the agency (including fines against erring businesses) - as it goes to the core of meeting the goals of the agency/objectives of the Competition law.’*

*‘Some of the indicators that we do use in our annual report are: number of the commission decisions; number of the cases initiated and finalized during the reporting period; the length of the investigation period (less time); number of decisions with penalties and with recommendations to regulatory agencies and other public institutions; the number of the decisions that are confirmed from the court system; number of the days of staff’s training process.’*

*‘Figures are telling. In terms of efficiency, the management of the pending caseload and capacity to deliver decisions within a reasonable period of time is a good indicator ...Another criterion to look at is the success rate before the Court of Appeal.’*

*‘I had always tried to articulate goals that would lend themselves to evaluation or measurement ... However, it was challenging to assess whether our enforcement efforts actually resulted in a decline in domestic cartel activity or in fraudulent telemarketing. In the enforcement areas, there is always a temptation to simply track numerical data...The problem is that the results are not particularly meaningful in evaluating how well the agency is doing.’*

In terms of who is responsible for assessing the agencies (and whether such assessment was useful and to the point) the existence of diverse means of assessment both internally and externally were indicated. In order to evaluate their effectiveness, the agencies often undertake internal reviews, but they are also subject to scrutiny by both national regulators and international bodies. Some replies pointed to the flaws in the assessment, primarily due to a lack of formal evaluation processes. Others stressed the constructive feedback received as a result of the assessment, as well as the difficulties associated with internal and external evaluations (particularly given that the latter are highly resource-intensive). A couple of replies commented on the existence of international standards and their usefulness.

*'I should also add that we lack a formal performance evaluation assessment. Without a proper performance evaluation system, one cannot say that we can have an efficient and well-functioning assessment.'*

*'The reviews are quite useful as they provide constructive feedback to the Authority on whether it is on the right track and whether it is making any impact to the economy. The reviews also inform the Authority whether or not the stakeholder expectations are being met.'*

*'Periodically we would try to engage in "critical self-assessment," (to quote Bill Kovacic)...There are several challenges to doing this work...First, it was difficult to take resources away from enforcement activities to carry out the evaluation...At the same time, external reviews are extremely expensive and in the current economic climate it would be difficult to justify the expenditure...In the absence of clear performance measurements, disagreements about the basis of the analysis can arise and appropriate data may not be available to do a proper analysis. I think it is unfortunate that the main source for evaluating agencies seems to be the yearly assessment done by the GCR...I think there is a considerable vacuum in creative thinking in this area.'*

*'These international benchmarks are useful in and of themselves, by allowing for a constructive emulation between competition agencies worldwide.'*

The study also addressed the collection of data for evaluating the agency's effectiveness. It was indicated that most authorities have internal procedures in place for collecting such data. They collect performance data and in some instances evaluate the impact of their work on sectors of the economy. In addition, some agencies also assess public opinion of the authority's performance. On the use of the collected data and whether it is made publicly available, the agency heads indicated that it is used for the agency's annual planning, future priorities, and in the annual competition reports, and that the data is generally made public. The data also serves more specific purposes, such as providing the foundation for answers to parliamentary questions and advisory opinions to the government. Some agencies indicated, however, that certain parts of the data collected in the financial monitor are confidential in nature.

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*'We have an internal procedure for collecting all sorts of data about the units' monthly, quarterly and yearly activities...this is a relative new internal procedure and we are still trying to improve the amount and quality of data we collect.'*

*'Public perception indices are done bi-annually on how the public perceives the Authority.'*

*'The agency collects detailed data on each part of its activity. It does so in terms of the specific data pertaining to each case, which are stored and processed by case handlers in a highly secured dedicated IT environment, and also with respect to aggregated data on its activity so that statistics can be easily put together – about the number, type, main features, etc. of the enforcement cases and advocacy activities handled over a given period of time.'*

Finally, participants commented on whether the appraisal mechanism impacts on the authority's case selection and goals. From the responses received, it appears that there is a direct correlation between the appraisal mechanisms and the authority's priorities. Observing the outcome of their cases and measuring the success of their actions appears to be very important. The agencies are keen to deliver beneficial outcomes to consumers, and they set their priorities accordingly.

*'Agreeing on the organisational targets every year ensures that case selection is in line with the strategic plan and the set targets and strategic goals.'*

*'We are keen to monitor the outcome of the cases we take or launch, whether in antitrust or advocacy. We then try and take into account the success of our action to either amend our agenda, where this is a possibility, or the way we craft or/and disseminate our message, or how we defend our cases before the review Courts. However, repeatedly encountering a difficulty in the course of our action does not call necessarily for a change of priorities but rather for a renewed effort.'*

*'We use the mechanism to prioritize, especially in areas which have high impact on the poor and the investments in the economy.'*

*'Our main goal is the effect on consumers. If ex-post evaluation studies show that our approach did not have the intended effect, other priorities should be set. However, it is important that the setting of priorities be left to the discretion of the authority, and not be dictated by what we can or cannot show in terms of quantitative consumer effects.'*

### 3. Capacity building

In order to deliver the desired results and adhere to their set goals and enforcement priorities, competition agencies need well-trained staff. Capacity building is essential. On this issue, the study inquired about agency strategies for promoting long term capacity building, the incentives available to do so. Overall, agency heads stressed the importance of devising effective internal mechanisms to build capacity and encourage knowledge sharing, while at the same time pointing to the difficulties inherent in such a task.

The responses stressed that human capital is the most important asset. To that end, agencies invest in in-house training programmes, as well as in educating their staff on competition law and providing financial support for further study. They also compile annual training plans, invest in continuous training and development, and often regard participation in international bodies, such as the ICN, as a means for capacity building. Another important point is the agency's focus on recruiting highly skilled staff and ensuring their continued development while on the job (by, for example, having staff work under the supervision of experienced colleagues and ensuring job rotation). Knowledge dissemination is also important. For example, if a staff member attends a workshop, they are encouraged to share the issues presented in them with their peers. Investment in infrastructure capacity and forensic techniques was also considered by agency heads to be important, as was the proper allocation of cases and 'learning by doing'. Finally, younger agencies commented upon the utility of support by international organisations and more mature competition agencies in capacity building. They also, however, pointed to the fact that the latter may sometimes appear to be remote and not cognisant of domestic needs.

*‘Knowledge sharing within the agency is of great importance. However, it is not always done well. No perfect communications – due to conflicts.’*

*‘[We use] internet bulletin on market and competition developments’*

*‘Online case handling subsystem enables effective management’*

*‘Our most important asset is our human resources. For this reason, we organize in-house training for the junior case handlers... Apart from that, the agency financially supports its case handlers to get Master’s degrees at distinguished universities abroad, mostly in the US and the EU. In order to train its staff, the agency prepares annual training plans.’*

*‘One of the best possible ways of improving the capacity of an agency is to have highly trained and competent staff. For this reason, we put considerable emphasis on having in place a systematic programme for recruiting top-notch university graduates and for retaining the best candidates for as long as possible... A key to retention and to capacity building was to provide for training and development on the job. This is best done by working on cases, under the supervision of an experienced officer. Each officer developed a yearly learning plan that was subject to his or her manager's approval.’*

*‘In order to retain the most talented officers, it is important that they learn continuously and have the opportunity to develop their skill set.’*

*‘Agency capability building is considered in three pillars: increasing the number of staff members; investing in knowledge management system; and, investing in the investigation infrastructure, such as forensic for competition.’*

*‘I would insist first and foremost on the importance of maintaining a steady influx of cases and pushing them forward to build expertise and know-how amongst staff: learning by doing is still the single most effective way to increase productivity and effectiveness.’*

*‘Train the staff as we started with the help of UNCTAD, OECD, Japan: sometimes they didn’t know what we needed and seemed to pursue their own agenda.’*

With regard to the incentives in place for investment in long-term agency capacity building, it has been observed that they are linked to the achievement of goals set by the legislator and to securing an independent budget. Also significant is the availability of a dedicated budget for the training and development of staff; a retention strategy; succession planning; and, the provision of formal and informal training, including attending internal and external workshops and conferences.

Agency heads pointed to many different means by which they invest in and increase the competence of their staff. They discussed different training programmes – some run internally by the agency (for new staff, and on-demand for professional development), and others run externally by reputable universities or international organisations – secondments, retaining first-class documentation centres and libraries, as well as smaller scale activities (such as weekly conferences/talks on a

specific topic). Some agencies adopt and design strategies for the training of their staff, which are reviewed on a regular basis and aim at securing a specific budget for such activities. Other agencies undertake a skills gap analysis, in order to identify gaps in the competence of their staff and ways to fill them. Other ways to improve staff performance include implementing a performance management system with performance rewards and other interventions, and developing annual individual performance contracts and providing mid-year evaluation. In addition, a process of ‘learning by doing’ and the exposure of case handlers’ work to their peers have also been highlighted as important elements.

*‘Besides, the agency supports any kind of training when needed. The External Relations, Training and Competition Advocacy Department is responsible for arranging and organizing training programs inside or outside the agency. The Department sticks to a set of strategies planned by the agency every year and every four years. At the end of every year the agency evaluates the past activities and makes proper arrangements for the next year’s plan.’*

*‘case handlers should present their case in front of the commission (decision making board)[...] This process is just consultation and in itself may be considered as a “know-how” process because it is based on the theoretical debate and on best practices of other agencies.’*

*‘Training sessions are scheduled a couple of times a year by the Legal Department and the Chief Economist’s team on topics of interest to both new and current case handlers. A meeting for the whole agency is also organized twice yearly. Moreover, in order to maximize the experience of agency staff on international cooperation and related issues, secondments to the European Commission or foreign antitrust agencies are encouraged.’*

*‘Considerable emphasis is placed on “on-the-job” training, and we strive to place people with different skill-sets on the same teams to encourage knowledge-sharing and development.’*

*‘Our staff evaluation takes place once a year and for each staff a target is set that helps achieving the agencies objective.’*

#### **4. Staff Recruitment and Retention**

A theme which clearly emerged from the discussion about capacity building was the ability of the authorities to recruit and retain staff. The issue of staff recruitment was discussed in greater detail with present and former agency heads. In particular, the study sought to discern trends in the means by which authorities recruit and keep good staff, the ways in which they invest in and improve the competence of their staff, and the ways to increase motivation within the organisation. In addition, specific questions were addressed towards: dealing with more senior staff; the leaving rate of staff in order to join the private sector; ways to foster education in the agency and to build a good team; and, ways to improve a team that is not performing to the desired standard.

Overall, agency heads stressed that they have competitive recruitment processes in place and put emphasis on providing incentives for their staff to stay with the agency. In recruiting new staff,

agencies employ formal procedures by publicly announcing the positions and the job criteria or employing external consultants. Maintaining good links with universities and operating exchange programmes with other civil services and international agencies, were noted as important factors.

*'Formal recruitment process, including adverts, selection and appointment. Retention is achieved through financial rewards and intangible rewards, such as: staff rotation; allocation of interesting work; incentives to speak at international conferences; etc.'*

*'The recruitment process starts with a public notice on the procedures of new recruitments and the formal criteria that they should meet to be a potential candidate.'*

*'We recruit competitively through external consultants; remunerate them competitively; award salary increments according to performance and cost of living adjustments. We also offer staff and family medical schemes.'*

*'Diversity is key, we can attract an exceptional range of people and offer more flexible environment which strengthen our community.'*

With respect to staff retention, some of the respondents noted that career ambition and a sense of being involved in shaping an important policy area appear to be more important than direct financial incentives. Dedication to the agency's mission, independence and impartiality were also underlined as strong factors aiding capacity building. Some agencies aid the professional development of their staff by funding further studies in competition and by covering the costs of their conference attendance. A further option to improve staff retention is providing them with the opportunity to live in subsidized houses as long as they work for the agency. Additionally, emphasis was also placed on specific staff retention strategies. For example, one agency head stated that, in terms of promotion to managerial positions, they opt to promote existing staff rather than outsource. Other incentives (apart from financial rewards) include staff rotation and a fair evaluation system. Given that the financial rewards of the public sector are often limited when compared to the private sector, the recruitment of good staff depends upon agencies taking risks on competent young people who will earn a professional reputation from working for the agency. In contrast, however, other answers indicated that agencies are successful in retaining staff in light of the competitive benefits packages that they offer.

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Whether the above incentives are sufficient appears to be a complex question and, in general, the agency heads have suggested that there is always room for improvement. Some respondents offered a pragmatic account and commented that, given the resource constraints under which agencies operate, the current incentives are working rather well. Some of the more specific incentives identified include the secondment of staff to other competition agencies around the world and the retention of key staff. Another challenge identified was ensuring that officers were given time off to attend relevant training courses.

*'It is important to motivate people to unleash their creativity.'*

*'One of the big challenges when you start an agency is that the big and powerful enterprises have the lawyers with expertise which can be intimidating for staff.'*



*‘When you start, your job is to listen, learn and explain which in the end will also help you to connect.’*

*‘The Authority has a Retention Strategy which aims to attract and retain a highly skilled workforce, with a transparent, consultative and accountable performance based reward system.’*

*‘We aim to provide an interesting and stimulating work environment since young civil servants are increasingly interested in moving from Ministry to Ministry and do not necessarily view the agency as the only place they will work.’*

*‘In part by taking risks on some young people. We pay well below the private market rate but money isn’t everything and winning a reputation professionally could be good for careers.’*

*‘The evaluation system is the same for senior and junior staff; that helps as they feel they are all treated equally.’*

*‘To retain staff we found that civil servants are the way to go, as they will stay because of the benefits packages (housing, car, pensions).’*

*‘In order to retain the most talented officers, it is important that they learn continuously and have the opportunity to develop their skill set. They also place considerable emphasis on a positive work environment; in this context the values and goals of the organisation are extremely important and it is critical that the senior managers set the tone for a collegial and respectful workplace, with appropriate delegation of work and the building of trust.’*

*‘Little use was made of direct financial incentives. I think good people got motivation from a feeling that we were engaged in an important and interesting element of policy and that we were at a formative stage. Career ambition – whether in public service or by moving to the private sector – may have played a positive part especially for lawyers and economists.’*

*‘I would say there are no incentives as such, at least none having any other origin than our own dedication to our mission. Expertise and independence are the two assets that are needed to ensure sustained capability and success. Building an excellent track record, year after year, is probably the best way to invest in lasting capability: a respected competition agency will keep attracting high quality, dedicated staff, who will feel they have a duty to make the agency live up to the expectations of stakeholders. The fact that the agency is known to be a fully independent agency, not only as per its institutional setting but in actual terms, is another paramount condition of lasting capability and success, since no robust decision can be made, no credible action can be taken unless our impartiality is unquestionable.’*

*‘We should consider accountability and the public interest as other factors that increase incentives to a better performance, which need more efforts to keep in the same level the public perceptions.’*



When dealing with senior staff, the agency heads identified different mix of incentives and principles – ranging from a focus on output (i.e. delivering results) and individuals’ behaviour, to securing a good working environment and providing the right incentives. Agency heads stressed the importance of offering senior staff a good working environment, keeping their motivation high, and embedding them into the decision-making process as much as possible. They emphasized leadership (especially people skills), ethical conduct and results-orientation, as well as fairness, respect, accountability, performance, teamwork, and impartiality. Furthermore, a number of other variables were highlighted such as setting the right tone, treating people equally, preventing compartmentalisation and being prepared to tackle potential generation problems, which may occur in the case of senior staff.

*‘Entrusting deputy general rapporteurs and senior case handlers with additional responsibilities in the conduct of case investigations is essential – high expectations have a capacity to bring people from good to excellent. Offering a coherent career path is also a necessity but can be uneasy to achieve, due mostly to the relatively small size of the agency.’*

*‘Set the tone at the top. Give them a safe working environment. Give them space to make mistakes.’*

*‘All senior staff should be treated equally otherwise you risk tensions.’*

*‘Try to prevent the building of groups within your organisation.’*

*‘With senior staff there might be generational problems because of age gaps: if the problems persist, you have to choose and let go of some senior staff.’*

When discussing ways to maintain and increase motivation in the organization, it has been pointed out that the question of motivation is a complex one, and that there is no single answer to it. Indeed, the range of different approaches to motivation expressed by agency heads has confirmed this: some stressed that it is very important to give clear directions and build a positive vision, and others emphasised the importance of building a sense of identity and a shared purpose. Other ways of increasing motivation include: the allocation of clear job roles, and the clear communication of performance expectations; setting challenging tasks; competitive remuneration; team-building activities, such as staff retreats; adopting an employee wellness support programme; providing financial assistance for training and development; granting performance rewards; encouraging job mobility; encouraging teamwork and participatory decision-making; very explicit job descriptions; good communication channels; good working conditions and technology; equal opportunities; and, granting staff freedom and thereby building a sense of responsibility. It was pointed out that the size of the agency is also a factor to be taken into account. In a small agency, for example, motivation can more easily be achieved by direct personal contact with the staff than in a larger one. Nonetheless, agency heads in charge of larger agencies have also stressed the importance of building personal interactions with the staff.



*'Since we are a small organization, I am able to maintain one-on-one relations with most of my staff. However, I have to admit that the steps that I took were not enough to maintain and increase staff motivation. Therefore, I plan to take additional measures in the near future so that all of my staff's motivation is as high as it could be.'*

*'Rewards, information sharing at regular staff meeting and a culture of professionalism.'*

*'Encouraging teamwork and participatory decision making; very explicit job descriptions; good communication channels; good working conditions and technology; equal opportunities and competitive remuneration.'*

*'You need to give agency staff clear directions and a positive vision.'*

*'Motivating staff requires a significant amount of positive re-enforcement.'*

*'There is no single answer to motivation.'*

*'Idea of direction and sense of identity - shared purpose (not just vision).'*

*'Keep close connection and sometimes you have to get into the nitty gritty.'*

*'It is very important to provide your staff with recognition. Additionally, you should enable them by giving them freedom and providing them with responsibility.'*

*'To keep good staff you need two things: recognition and empowerment.'*

On staff leaving rates, it appears that a trend can be identified (albeit with different levels of intensity), given that all agency heads noted that staff have left for other roles in the public or, more commonly, private sector. The primary reason for this trend is the availability of higher salaries in the private sector. In general, agency heads noted that they have limited resources to address this issue. Some have reviewed their remuneration policy and sought to improve their retention strategies to that end. Optimism persisted, however, in that some agencies did not perceive staff leaving to be problem, as long as they can still recruit good staff.

*'For those who left for the private sector, which outnumber the ones [who] left for positions in other public agencies [...] [t]heir motives would be: getting higher earnings, changing their career path or living in another city. Some of those who left for positions in other public agencies chose to do so in order to pursue a different career path [...].'*

*'Our resources to address this trend are limited. On the other hand, the agency still has enough qualified staff and is still perceived as a good starting point for a career in public sector to new graduates.'*

*'During the 10 years' experience we had just 2 persons who resigned [for] the private sector for a better salary. Thus it is not considered as a trend yet, however we do care about this phenomenon.'*

*‘Some good people left for Law and Economics consultancy firms probably because of pay (sometimes when family responsibilities grew)... That’s fine, so long as you can recruit the next cohort.’*

*‘The relatively high turnover of the staff can be seen as a good sign that working with the agency for a while is a booster in our staff careers, and yet it can be problematic in that it may cause some disruption in the smooth handling of cases. However, this can be seen as the flipside of having a nimble, flexible agency which can cast its recruitment net beyond the pool of civil servants.’*

In terms of fostering education within the agencies, some of the points raised have already been addressed in the previous questions. Important in this regard are: training for newly recruited staff; encouraging staff to pursue graduate degrees and to get involved in training programs (e.g., IT, forensics, etc.); encouraging the continuous training and development of staff through on-the-job training, part-time training, targeted seminars and workshops; and, knowledge preservation and sharing.

*‘Most of the members of the Competition Commission are with professor and assistant prof. titles [...], or are lecturers at the universities, so it is an inspiring fact to our staff members, particularly for senior managers to approach to a higher level of the education. Thus 4 of them are doing PHD studies, 13 staff members have completed Master studies and 2 others are in process.’*

*‘We do so by having a monthly debriefing session on cases that were recently adjudicated or on hot topics of interest to the entire agency. Public presentations made by senior staff are shared with all case handlers. We also circulate an online daily press review and hold subscriptions to numerous reviews, journals and newsletters, both digital and hard copy, accessible to all members of staff.’*

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Building a good team is challenging. Some agency heads stressed the values underlying the building of a team (such as teamwork) and others the skills required (such as commitment and motivation), as well as the need to provide an environment in which the team can excel (e.g., sufficient funds, resources and training). Knowing and listening to your staff was also considered to be crucial, as was building on the respective strengths and weakness of staff members and allowing them room to engage with tasks they like. Other factors – including having a credible recruitment process, actualising development initiatives for the team, exposing staff to international best practice, holding regular meetings, encouraging peer-to-peer review of tasks, and delegating duties in a rotating manner when the agency head is out of office – were also considered important. Finally, recruiting competent staff is key to avoiding weak teams.

*‘Teamwork is one of the Authority’s strategic values and a culture of teamwork is continuously inculcated through team building activities that aim to instil the spirit of team work, support and tolerance amongst team members.’*

*'The typology of the work in competition agency is mainly based on the team work. For this reason, we hired an expert of human resources who developed training and practical courses on how to build a good team. Based on the best practice that we do identify among our staff members, we spread out this experience putting the most experienced people as the leader of the case handler team.'*

*'Know your people. Be aware of people's main competences and build teams around members that complement each other. Multi-sector teams are built when they are needed in specific cases.'*

*'Build on their strengths. Get them to do what they like to do.'*

*'Surround yourself with people that are smarter than you are'*

*'We have the tendency to pick people like ourselves. Instead, we need to identify our weaknesses and complement them. None of us is strong in everything.'*

*'It is important that people have an opportunity to discuss their ideas in different forums and with all levels of management. This builds moral and ultimately improves the quality of decision making.'*

*'I do not have a general rule for forming or improving teams [...] It all depends on what the team needs in order to accomplish their goals.'*

*'Train and develop in the long-term and outsource in the short-term.'*

*'I don't believe in walls but rather in mixed teams... For some tasks, a trusted team of your own choosing is the best solution.'*

## 5. Board and Management

Many agencies have a board with decision-making powers. It is often for the chairperson to ensure the board's effective functioning, and how possible friction within the board can be addressed.

The effectiveness of the board is heavily dependent upon the choice of its members. Induction training for newly appointed board members could help to provide them with the essential competition know-how required for the day-to-day workings of the board. The majority of participants agreed that, within a board, splitting work into portfolios is an important tool to ensure effectiveness. In some agencies, these portfolios are periodically swapped. Additionally, having an established charter – which sets out the board's processes and ensures that the expected deliverables are clear – is seen as particularly helpful. Such a charter may provide for a periodic assessment of board members, in order to maintain an appropriate mix of expertise and to identify areas for improvement. As with all human interaction, mutual respect is important: it guarantees collegial co-operation and creates the trust which, in turn, allows possible problems to be shared at an early stage in the decision-making process. Maintaining communication in informal ways – like having coffee or meals together – may help in this regard. Finally, some participants noted that bureaucratic matters and issues raised by board members should be dealt with by senior level staff before the board meeting, to ensure that the board meeting focuses on more essential matters.

*‘Effective induction training for newly appointed members is an important starting point in contemporary corporate governance and adjudication matters and is key to preparing them to effectively discharge their [...] functions.’*

*‘Mutual respect is obviously essential to an effective board. We split the work up into portfolios. We also swapped portfolios already after the first year.’*

*‘A board will work effectively if and only if: (i) it has good people; and, (ii) they trust the chair.’*

*‘I think Commission members should be trained before their appointment to ensure the board has the necessary expertise.’*

Some friction within the board may result from some of the members feeling unappreciated or pushed aside. This may be addressed by ensuring adequate credit is publically given to board members, to acknowledge their work and contribution. Some mentioned that it may also be helpful if certain members of the board have distinct areas of responsibility, and are responsible for communicating to the outside world regarding those areas.

*‘As chair, it is important to be gracious when it comes to sharing the limelight.’*

*‘It is important to share the load in terms of media appearances and public interviews. Portfolios of responsibility help a lot in this respect.’*

*‘It may sometime be challenging to maintain a healthy communication with non-board members. This requires time and care, to align the troops.’*

## 6. Media

Another important facet of agency life concerns the interaction with the media. The study addressed this issue through a range of questions on how should one deal with the media? Should one have regular meetings? Should contact with journalists be initiated? How the agency and its head should address conflicts with the media itself (e.g., criticising the agency’s effectiveness, or even the agency heads themselves)? How should conflicts with the government which are played out in the public eye should be addressed? Are there specific activities that are more likely to get media attention than others?

Many agencies have dedicated teams that deal with the media, including a spokesperson of the agency, and on occasion specific spokespersons for different sectors. All agencies have centralised their media communications to one or two general points of contact, but occasionally make exceptions where this seems useful. For all agencies, participating in press conferences was considered a major tool, although the level of engagement with the media differed between agencies.

Conveying a simple message was regarded as very important in press conferences. Many agencies aim to build close relationships, offering background conversations and interviews, while others only involve the media when more important decisions are released.

Some agencies offer training courses for journalists. Where the media is not generally interested in or educated on competition matters, such training may improve the relationship between them and the agency. Moreover, it is important to provide the media with case information that is easy to understand. The media may be used for advocacy purposes, and as a tool to increase public awareness of competition issues. Some agencies also monitor the media as a tool to gauge the success of their advocacy efforts. Media coverage can also be utilised as a compliance tool, since companies are sometimes reported to be more concerned about the bad press they may receive than by the fines agencies may impose, particularly in countries where fines are not considered to be high enough.

*‘We encourage the building up of a relationship with media on different platforms. We try to oblige the media with interviews where possible.’*

*‘We use the media only on what we consider to be major decisions which have great impact to the economy.’*

*‘We maintain close and regular contact with journalists. We have been able to establish a trust-based relationship with a number of journalists: I am personally involved in cultivating these bonds.’*

*‘We use the media for competition advocacy purposes as it is the primary tool to raise public awareness.’*

*‘The media also gives important hints and ideas on how good we are doing and how effective we are in transmitting the right messages to public.’*

*‘We deal with the media carefully! The media is important for us, not simply as a method of communication, but also as an important tool in [our] toolbox. We allocate designated spokespersons per sector, and encourage the building up of a relationship with media on different platforms.’*

*‘On the whole, our relationship with the media contributes to our mission of spreading a competition culture throughout society: I am therefore particularly attentive to this significant leg of our advocacy work.’*

*‘In dealing with the media my advice is to avoid stunts, play it straight, be clear and concise, hope for the best, don’t get upset by nonsense.’*

*‘Bring cases that the media can understand.’*

*‘Do media training and have a media strategy.’*

*‘You might not need to have the most sophisticated media strategy but personal contact and good relationships with journalist are important.’*

*'As some journalists don't know anything about competition law and are not really interested we provide them with a text that can simply be copy and pasted. That means you have to write like a journalist.'*

*'It is essential to have a good person in charge of communication'*

*'When dealing with the media you need to take into account its function in that society – how good and open the press is'*

*'Press releases are often not effective. We try to invest in better means to communicate our messages – often using digital media. This also helps us monitor impact online and sample public discussion.'*

*'Put up short videos or cartoons - no longer than two minutes on the agency website and on YouTube. This helps distil the message.'*

*'Good media work is important as undertakings are very concerned about negative press.'*

While the level of attention devoted by the media to the activities of agencies differs, it is generally the case that dawn raids, competition or merger decisions involving well-known players or important industries, and cases with a direct effect on consumers' purchasing power (such as consumer goods, transport, energy, and telecommunications) receive more media attention. Smaller merger cases, or those involving more technical issues, on the other hand, seem to be of little or no interest to the media.

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From the replies of agency heads, it appears that, at least in some countries, the media is not particularly interested in competition law and policy. Even major international cartels receive little attention. However, other replies, and in particular those from countries with highly concentrated economies, indicated that competition issues are generally reported but that the agency may face a wall of silence where powerful companies or families with stakes in the media are involved.

Of particular interest to the media are conflicts between agencies and governments, although it has been remarked that the intensity of this interest appears to decrease as the conflict moves towards resolution.

*'Fines on companies always get media attention. Mergers of well-known companies and hospital mergers, also information on dawn raids, are always well reported.'*

*'The more complex the industry, the more difficult to attract media attention from the general press and media.'*

*'My predecessor had established meetings with journalists and editorial boards. I continued this tradition but found that the discussions with editorial boards were on relatively superficial matters, such as price-fixing in the retail gas sector, and few, if any, journalists were familiar with basic antitrust principles. I eventually stopped requesting meetings with editorial boards but spoke periodically to a few reporters.'*



*'Our market is characterised by high concentration and oligarchic structure, while we invite all media to our press conferences the media controlled by the oligarchs would sometimes not report.'*

*'We ask the press to publish information about our cases but quite often they don't publish.'*

*'We have not had attacks against our agency but we have faced a wall of silence in the media which we try to tackle with a detailed webpage.'*

When it comes to agencies' interactions with the press, a scale of varying engagement may be identified. While some agency heads highlighted that regular contact at an individual level is important, others do not hold regular meetings. At the other end of the scale, a more reserved approach can be observed, whereby the agency only interacts with the media where it seems necessary.

*'The spokespersons regularly speak to journalists and invite them for background discussions. In this way we maintain important contacts with journalists.'*

*'We meet with journalists when it is necessary; we like to maintain a degree of independence.'*

*'We certainly initiate contacts with the media, we have a data bank of all business writers in all media houses whom we also trained on competition policy and law. The training, among others, covered the process of merger analysis and other enforcement procedures.'*

*'You need to feed the media: it's a bit of a politics game'*

*'Media coverage is an importance as it provides often the foundation for future government funding and support by the legislator.'*

*'We try to keep a low profile when investigating cases. Only once we brought the case to court we increase the communication efforts.'*

A number of agency heads reported that at times they experienced harsh media attacks. They considered a variety of approaches to dealing with negative coverage. The majority aim to provide a calm and measured response by contacting the editor to correct false or misleading information, if necessary by means of a press release. Another approach is to ignore the majority of attacks by the press. The media rarely criticise the effectiveness of agencies because there is usually no participant to report such criticism. Where such a case does arise, however, the agency heads try to list and explain the agency's mandate and the specific problems involved in a clear and constructive manner.

The responding agency heads have not experienced any major public conflict in the media between the competition agency and the government. However, disagreements between the government and the agency are normal and agencies have adopted different approaches to these conflicts; some highlight the aim of preventing public fallout by making sure that both the government and the agency know the relevant positions beforehand. If such a conflict does nevertheless occur, some

prefer to speak to the other side in private, while others use the media to highlight the independence of the agency.

*‘Keep calm, stick to your main message. Be open and responsive.’*

*‘So long as what is being reported has no iota of truth, ignoring helps.’*

*‘The business editor of one of the national newspapers was consistently negative about any intervention by the agency, which probably played well to the business community, but his editorials were few and quite likely did not have much impact on the public's general view of competition law, so we made little effort to reach out to him.’*

*‘Media can be a useful tool to make explicit your independent role as an agency in certain cases. Yet it is best to avoid conflict through the media and ensure that we know each other's views beforehand and that no one is taken by surprise, so that we speak with one voice from government, even where we have different views.’*

*‘Make it a simple message, something you can explain in a sentence.’*

*‘Use all of your tools; outreach, research and enforcement.’*

*‘We were attacked in the media and after a cartel case: the allegation was that we would be protecting the new entrant which would have negative consequences for the local businesses: we didn't react.’*

*‘Occasionally there are threats made by the media after a case against a big company: don't react; so far they were always empty threats and never materialised.’*

*‘Once, I was misquoted by a journalist, since then I never talked to him again. With journalists nothing is off the record!’*

*‘One time the media tried to boot me out of the office: I didn't react but luckily a big cartel case came along so I could let the work speak for itself.’*

*‘Only if it's factually wrong we react – but this is rarely the case.’*

The majority of agency heads maintained that their approach to investigations into the media sector is not affected by the power of the media. Yet, some noted that it may force them to accelerate proceedings, or that they generally approached this sector in a cautious way, particularly with regard to the gathering of evidence and witness statements.

*‘There may always be supporters as well as opponents of an investigation in media. This kind of pressure may force us to accelerate the proceedings but it can never affect the outcome of those investigations.’*

## 7. Interaction with Stakeholders

The relationship between the agency and its various stakeholders is of great importance. The study considered how agency heads and staff interacted with stakeholders, and whether there are formalised channels for communication with the various groups. The most common form of interaction with stakeholders is the publication of the annual report, as well as the participation of relevant stakeholders in sector enquiries. Similarly, many agencies publish drafts of legislation or guidelines in order to receive stakeholders' input and comment. The majority of participants also mentioned that they meet stakeholders in various forums, symposiums and meetings. These meetings can take the form of hearing sessions with undertakings under investigation, but can also involve meetings requested by stakeholders or events organised by stakeholders to which the agency is invited. A number of agencies organise interactive seminars and workshops, and are also active on social media. Some agencies find it useful to distinguish between primary and secondary stakeholders.

*'I believe interaction with stakeholders, regulated firms, public, universities, politicians and NGOs, as well as media, are very important for embedding competitive culture and thus preventing future anti-competitive practices.'*

*'We identify primary and secondary stakeholders; we hold regular meetings with primary stakeholders, and less frequently with secondary stakeholders.'*

*'We use a communication team which is active in setting up and facilitating inter-agency discussion.'*

*'We use an online portal with all information and for all communications'.*

*'Anticompetitive government regulation may be as harmful as the private players. Yet the regulator is not the enemy. It is important to focus on human skills and reach out to them. You have to explain the implications of competition law and regulation and how competition may help to achieve these goals'.*

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The majority of the participants communicated with stakeholders largely without formalising their communication channels; only few have adopted a policy whereby every meeting is recorded and attendance registered.

*'We have signed Memorandums of Understanding with the national anti-corruption authority, the public procurement, insurance, central bank and civil aviation agencies. However, informal interactions are prevalent and often afford a more relaxed platform of information dissemination and exchange.'*

*'All our meetings, internal or with our stakeholders, are recorded and attendance registered and signed.'*

## 8. Independence

Agencies' independence is an important factor contributing to the legitimacy of their work. In trying to discern the extent to which agencies perform their mandate free from external pressures, former and present agency heads were asked how exposed they are to political pressure, about the relevance and significance of external intervention, and whether the agency's institutional setting may prevent external intervention. More generally, the study inquired about the interaction between the agency and different types of external pressures. It sought to identify: whether agency heads experienced a difference between 'formal' and 'actual' independence; ways in which politicians may try to exert influence; reactions of agency heads to calls from politicians; ways to prevent political attacks; and, ways to deal with industry lobbying. Overall, the replies to these questions revealed a great degree of independence, though it would appear that competition agencies are not completely shielded from external pressures.

*'Try to counter the influence of external sources by finding support in the Parliament and the universities.'*

*'We only experienced external influences via the press, sometime lawyers from big firms in seminars try to influence you,... but you have to stay strong.'*

*'Sometimes you can say 'yes' on the phone to take the pressure off: what you will do about it is a different question and it will happen at your pace.'*

*'I feel like a dissident sometimes.'*

*'I have investigated my own ministries for anticompetitive conduct, in such cases it is important that you talk to them before the case officially starts.'*

*'If you are a young agency you might need a sugar-daddy (Ministry). The key is to try and retain independence.'*

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The majority of the agency heads stated either that they are not formally exposed to political pressures, or that the exposure is rather limited. They did, however, identify some more indirect institutional influences and interactions, including parliamentary queries and the fact that the agency may take into account the political and economic implications of its decisions. Other agency heads pointed to their obligation to report to the competent minister, and some stated vaguely that they are exposed to political pressures as an independent institution – although no consequences had been experienced to date. Other agency heads claimed operational and functional independence, but underlined their reliance on the national treasury for budgetary purposes. Further, and depending on the competition law regime at issue, some agency heads commented that there may be some ministerial involvement, for example with regard to the setting of policy guidelines or in some merger cases.

*'Political pressure is limited. The independence of the agency is well accepted and respected... This is first and foremost the result of our relentless efforts to build and consolidate the (agency's) credibility as an enforcer and adviser over several decades. This credibility is in turn seen by the government as an asset when it seeks our input and expertise to jump start a pro-competitive reform package, or looks for*

*an impartial and objective arbiter to help secure in practice the changes such reforms are meant to bring about. Several legislative initiatives carried out in recent years illustrate this trend.'*

*'The Authority has functional and operational independence but relies on the National Treasury for the Budget. Also, just like any other state organ, we are answerable to Parliament; as the oversight body.'*

*'The agency is relatively protected from parliamentary attack. The Minister answers questions on the agency in parliament, and always makes it clear that it is not for Parliament to instruct the agency to undertake particular investigations. Nevertheless, we do observe a trend for the Minister to encourage high fines. For example, there are currently political proposals to increase the fining maximum.'*

*'Independence from government interference is a ticklish issue. First, it is important to examine the legal framework in which interaction with politicians or public servants take place.'*

*'Independence is not detachment. It is important to keep the communication channels open.'*

*'It is important to safeguard the independence of the agency. This however, does not imply that you should have no links with the political arm. On the contrary, such links are essential for effective advocacy, and for ensuring funds and resources are allocated to safeguarding competition.'*

In determining the relevance and significance of external intervention, the agency heads gave a wide range of responses and underlined that they are bound by the rule of law and that external interventions cannot therefore force a decision upon them. In some jurisdictions, the opinion of the government is expressed exclusively by formal means, thereby minimising the scope for allegations of back door and opaque dealings. Other agencies stressed that their status as independent administrative authorities, functionally independent from the Government and with a separate budget allocation, allows them to retain full autonomy in the implementation of that budget. External intervention can also take the form of private interests' influence, so internal conflict of interest checks are therefore of crucial importance.

*'We have to follow the Rule of Law. No intervention can force us to take a decision which is not in line with the provisions of the law.'*

*'The relevance and significance of external intervention is determined by the extent at which it assists us to fulfil our mandate and does not take away our autonomy or independence - while at the same time ensuring that we are accountable to the tax payers through the established accounting processes.'*

*'External intervention can also take the form of private interests bearing on officials' assessments and pronouncements. To address these concerns of subjective impartiality, we have a robust system of conflict checks, supported by an internal code of ethics which is applicable to all members of the authority...'*

*‘We do not have a problem with external intervention in individual decision-making. It does not happen. When it comes to policy-making, we do our best to isolate the issues and reach agreement on them with the Ministry.’*

*‘...All determinations are by the Board; which is separate from the management and the day-to-day operations of the Authority. This number and the vertical separation minimizes political risk.’*

While the majority of participants did not discern a difference between ‘formal’ and ‘actual’ independence, a few indicated that independence is fragile, and that external influence can be exercised through various means - by implementing budgetary measures, affecting or initiating staff appointments, or by introducing legislative proposals which may undermine decision making in contentious cases.

*‘As head of the agency, it is my job to make sure that our formal independence translates into actual independence on a daily basis through my personal attitude inside and outside of the organization.’*

*‘Formal independence ensures a high level of actual independence and vice-versa.’*

*‘Formal provisions on independence are undoubtedly helpful, but the basis of independence in practice, boils down to respect for independence... Independence ... is a crucial condition for reaching the authority’s goals.’*

*‘Independence is fragile everywhere...Much influence can be exercised by appointing people – and by implementing budgetary measures. However, the most important factor for fostering respect for independence lies with the board of the regulator itself. Independent authorities should maintain their independence themselves, and they should earn that independence as a self-confident, professional organization.’*

*‘Cutting funding, or threatening to do so, can affect independence.’*

*‘We were once told to change the approach or risk a likely change in legislation’*

There are different ways in which politicians may engage with competition agencies. Some of the respondents noted that they often receive calls from politicians. Other noted that politicians have sometimes asked the agency to investigate alleged anticompetitive practices, and may intervene in relation to the broader public interest goals– especially with regard to issues of poverty alleviation and unemployment. Another means of interaction are parliamentary questions. A distinction can also be drawn between *ad hoc* intervention in specific cases and broader attempts to influence policy goals. It was stressed that it is vital for agency heads to send a signal that the agency will not give in to political pressure when investigating cases. On the other hand, there remains scope for constructive debate in the area of advocacy work.

*'I sometimes get calls from politicians who are trying to explain their concern over some issues. However, most of the time the topic of these calls are completely out of the scope of our Act... I also try to clarify what we can and cannot do and try to increase their awareness on competition rules.'*

*'On casework politicians did not engage with the authority. On wider policy and prospective legislation they and their senior civil servants very properly did.'*

*'The best way to bring politicians to avert any attempt at discussing an on-going case is to make this absolute red line clear, upfront, and as part of a principled position. Hence, politicians do not engage in a discussion on such matters with me. When it comes to advocacy, and especially in the context of the follow-up to recommendations which we already issued, my role as head of agency is, on the contrary, to be open to exchanges with politicians.'*

*'Politicians interact through physical visits and telephone calls aimed at fast-tracking certain matters. Also, seeking employment opportunities for their constituents.'*

*'They may ask about a case in rare instances but never try to intervene.'*

*'The only Minister to call me was the Industry Minister and that was to congratulate me on work we have done.'*

The agency heads were in agreement that they would boldly reject any attempt to intervene on the part of a powerful minister, and that they would only accommodate such discussions within the scope of their legal mandate. The agency heads would act in the same manner when facing pressure by a powerful member of the legislature.

*'If I receive such a call I tell him/her the rules of law that we have to abide by, in an appropriate way.'*

*'We engage within the ambit of the law.'*

*'Never happened.'*

*'I would of course listen to his/her argument but if the need arises would always make very clear that, as an independent organization, we are obliged to take decisions based on our own analyses and the merits of the case, without undue influence from any stakeholder, including politicians. This always proves effective.'*

*'Inform him that we do not take into account any external advice or assistance from any person not working for the Authority or authorised by the Act to be consulted or to intervene in any matter being investigated. We can even report the member to a relevant higher authority (or name and shame in the press, if need be).'*

*'Lots of MPs' letters to answer, however, firmly and courteously.'*

When asked how they keep politicians from attacking them, the agency heads commented that they largely employ persuasion tactics and leave the agency's work to speak for itself. A couple of responses stated that they answer parliamentary questions, present their annual report to the parliament, and undertake market studies in key sectors of the economy.

*'In a democratic country, politicians or anyone else are entitled to their criticism. We will deal with each criticism on its merits and in terms of the law and our mandate.'*

*'... my sense is that parliamentary committees mostly attack officials who are evasive when questioned... playing it straight is key.'*

*'Building and consolidating a good track-record as competition enforcer and advocate, sticking to your role as competition expert, knowing how to present pragmatic solutions to politicians, and, among other things, never discussing on-going cases with them [...] should help you gain respect from politicians and therefore protect you from political attacks.'*

*'We try to watch for situations in which we can be framed by politicians or by media. At the end of the day the authority is an easy target, but we try to stay one step ahead; making sure we can explain our reasoning every step of the way.'*

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Regarding industry lobbying, the agency heads commented that this may take different forms and may be exercised in different ways – through, for example, directly contacting the agency head or indirectly through exerting pressure on the government, politicians or the media. Consulting with the board was noted as a prudent step when confronting such pressure. In addition it was noted that it is essential to make it clear that pressure on the agency in relation to on-going cases is not accepted. It was further suggested that the agency head should avoid meetings with lobbying groups, especially in private. Any intervention should be dealt with only through formal channels.

*'Usually industry lobbying uses the media to put the competition authority under pressure. In such a case I make quite clear in a statement that when the cases are under the process NO ONE should put the pressure onto the Commission.'*

*'Avoid meeting tycoons, especially in private.'*

*'When a particular trade association or stakeholder attempts to contact us in the midst of an investigation ... we rely on the ample avenues offered to such stakeholders to express their views directly to the team charged with the case or the opinion. Again, the key is to channel such intervention through formal and transparent submissions, which can then be discussed, disputed, validated or rejected during the proceedings.'*

*'For us it is important to always be open for dialogue ... When we run a consultation, as a general rule, we publish all the input we receive from lobbyists.'*



## 9. Personal Experience

The study attempted to explore the most important internal and external factors that agencies' heads considered to have affected their tenure. Externally, the most relevant and frequently named factors were legislative changes and the agency's funding. In addition, competition culture, agency reputation, and business lobbying have also frequently been highlighted as important external factors. In countries with relatively young competition agencies, the agency heads also highlighted recruitment as an important factor, since it is not always easy to find staff who are sufficiently qualified in both economics and competition law.

*'The performance of the economy (exterior factor) translates to the resources available and also the demands from the policy makers in regard to where the Authority should focus its priorities.'*

*'Establishing trust in the new authority.'*

*'Another issue with which the authority has to deal is a general distrust in public institutions, caused by major incidents in other government agencies. Such incidences can lead to anti-government rhetoric and distrust in the integrity of the public sector in general.'*

*'Externally, the most important factor affecting the agency was the perception of success: this gave credibility to the organisation and motivated the staff.'*

*'One of the most challenging external factors is the level of the informality and the fiscal evasion.'*

*'Most crucial to my agency are its impartiality and independence vis-à-vis policy-makers as well as treating powerful stakeholders in the same manner as weaker ones.'*

As for internal factors the most noticeable ones have been staff motivation and competence. Keeping communication channels open within the agency, to ensure an open minded and smooth flow of information was also mentioned as an important internal factor. Some agencies mentioned the scope of their mandate as influential – when they are entrusted with a multitude of roles and tasks, beyond competition law and customer protection.

*'The most important internal factor was our ability to set the right targets and achieve them.'*

*'The most important internal factor that affects my agency is the competence and motivation of our employees.'*

*‘One of the major challenges is avoiding the emergence of ‘silos’ within the agency.’*

*‘Potentially high conflict of interest in investigation, prosecution and adjudication of cases.’*

When the participants were asked about situations in which they wished they had acted differently, the point most often made was the need for more frequent communication within the whole agency, including with lower ranking officers. In a similar vein, establishing a communication unit and increased communication with parliament were amongst the most frequently mentioned points. Another important feature that the agency heads would have wanted to put in place from day one is a proper evaluation system for staff, which facilitates better steering of the agency. Correspondingly, taking staff decisions at an earlier stage seemed important to a number of participants, so that they could avoid working with staff with whom they had a difficult working relationship.

In line with these objectives, taking more time to orientate oneself was also mentioned. Where agencies have only part-time commissioners, arranging frequent meetings or investing in equipment for appropriate audio-visual communication amongst the board ought to have been an early priority. Another area mentioned by participants was the quality of external consultants and, in particular, the recognition that the standard of their work should have been screened more vigorously early on. Finally, ensuring independence from the relevant ministry was mentioned – as this would have reduced unnecessary staffing and organisational bureaucracy.

*‘I wish I had set aside at least 1 hour a day to chat with staff members [...] regardless of their positions within the agency.’*

*‘I wish I had started early-on to walk the floor.’*

*‘I wish I had focused more on getting to know a wider range of people inside the organisation. Although I held "Birthday breakfasts" once a month, to which I invited all non-management people born in that month, it did not allow me to see exactly what the impediments for success might have been in some groups and I wish I had had more knowledge about that.’*

*‘I wish I had put in place an appropriate performance evaluation system for the staff members.’*

*‘I wish I had established a communication unit from day one and also adopted and implemented performance management systems from day one.’*

*‘I wish I had created more interaction with Parliament and with the public [and] insisted on a higher independent status (completely separate from the Ministry, with separate legal personality). Not because this would have affected our independence as such (as independence comes down to the individual personalities involved), but rather because it would have reduced the bureaucracy that comes with staff secondment from the Ministry (unnecessary internal rules and management reports).’*

*‘I am more forceful now.’*

*'Need to invest in popularising ideas.'*

*'You need to communicate with staff and stakeholders, particularly in difficult times to build trust. But do keep in mind that you will never convince everyone.'*

*'You need to show sensitivity to the political and economic landscape'*

*'Culture of a competition law enforcement agency is very different to other government agencies. Competition agencies are very inward-looking (i.e. they typically only engage with "competition people"). However much you are paying attention to this – even if you think you are already paying attention - pay 100% more attention to that.'*

*'As our [members] are not all in one place [at one time], I should have invested early on in audio-visual communication equipment.'*

*'I should have been firmer on the reports by external consultants who drafted our rules to cut down on unnecessary procedural rules.'*

*'I should have done things quicker in terms of the administration in particular in terms of firing people.'*

The replies highlighted the importance of staffing decisions; identified by agency heads as the number one mistakes made. In the same vein, a lack of focus on organisational politics and a failure to utilise them for the benefit of the agency has been mentioned. In terms of mistakes that are particularly relevant for newly established agencies and agencies that are in the process of being established, three points have been highlighted as being of particular importance: first, persuading policymakers to allow the agency more discretion to set enforcement priorities; second, creating tailor-made in-house training programmes for staff rather than investing in training programs abroad; and, finally, making bolder demands and compromising less during the establishment of the agency.

*'The biggest mistake I made was a personnel decision.'*

*'The biggest mistake that I made was not appointing the right persons for the right positions and, in some instances, not paying enough attention to control mechanisms because of too much trust I placed on executives.'*

*'I should have focused on the ability to understand and navigate through organizational politics and utilize these insights to the benefit of the organization as a whole.'*

*'Perhaps my biggest mistake was not fully understanding the complexity of the relationship with the Minister, who can be motivated by all sorts of issues that may only be apparent to political junkies: we ended up in a very public exchange with the Minister that should and could have been avoided if I had paid more attention to the environment.'*

*'I have not fully persuaded policymakers that our agency should have more discretion to investigate or not the complaints that are filed – I would have preferred to be more at liberty to prioritize between those.'*

*'Instead of investigation training programs abroad I should have focused on tailor-made in-house investigation programs for our staff that address the unique processes in our Competition Act as well as our legal system.'*

*'Now I feel that perhaps I should have been more radical from the very beginning on [...]. There were certain issues about which I had a gut instinct, and because of circumstances, and the need for compromise or whatever, I didn't always follow that instinct. With hindsight, I feel I might have pushed harder and achieved more. Of course, at the time, such action felt too risky, but I feel now, with the solid success of the existence of this new authority under my feet, that I could have been more demanding.'*

*'My biggest mistake was not thinking of the politics of landing a case. I was too naïve and thought that law and economics simply add up.'*

When asked what worked particularly well, the majority of the agency heads pointed to new staff and key appointments made by them. Another related area mentioned was the establishment of internal rules, management systems and, finally, a vision and strategy for the agency. Similarly, competition advocacy by means of media interaction, competition letters and reports were cited in particular for helping to increase stakeholder interaction. A final point that has been highlighted is the timing of enforcement action.

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*'What really worked well were some bold appointments, boosting economics and law.'*

*'What worked well was the incorporation of effective team building activities to establish an 'esprit de corps' that has brought about a sense of 'family' to the organisation. Moreover, the performance management system has also worked very well in providing required feedback to and from supervisors.'*

*'The following worked particularly well, bringing in new staff and developing a strategy plan and the interaction with the media houses.'*

*'What paid off was trying hard to develop the team working spirit and to overcome any lack of expertise and vision.'*

*'What worked well was setting a vision and strategy for the agency.'*

*'We have dealt very well with the issue of time, especially through the use of interim measures; [...] we have managed to be a proactive agency although enforcement is complaint-driven.'*

With regard to the main points of advice which agency heads would give to any successor, the most important and frequently mentioned point was defining agency goals and ensuring that staff internalise them. Comments referred to the significance of clearly defining processes and

procedures, ensuring that an effective IT system is in place, and creating an effective system for staff management and hiring. Additionally, communication within the agency (including the lowest ranks) is vital to securing a sense of community and common aims within the agency. Finally, agency heads stressed the importance of being more decisive and willing to make difficult decisions in a timely manner.

*'Identify a few important goals with concrete steps to accomplish them and hammer away at them over your entire term; develop the strongest and most capable team possible and let them know constantly how wonderful they are.'*

*'Engage and interact with people, including the lowest ranking and make them feel you care about their personal and professional well-being.'*

*'Keep your eye on the IT system; it's an expensive part of the organisation, and if it doesn't work well, everyone is unhappy.'*

*'Systematic monitoring of risk and strategic plan implementation are key to the success. Monthly or quarterly reviews [...] as well as quarterly reports [...] assist to ensure that key deliverables are achieved and any mismatch addressed quickly.'*

*'Listen to what staff members suggest but also to your own instincts [and finally] prioritize.'*

*'Produce results - don't lecture about what you can or ought to do. Just do it!'*

*'Never complain, always explain; keep smiling; never talk about individual cases with government people.'*

*'Be prepared to cut your losses. Regardless of sunk costs and pet projects and bias, be prepared to stop on time.'*

*'Enjoy making a difference in the economic lives of ordinary citizens, this is the reward I treasure the most.'*

*'Repeat the same message – it takes time before it breaks the noise'*

*'Avoid doing things that unite your enemies.'*

*'Whatever formal or informal mechanisms you have - you need to make some personal investment in building and sustaining those relationships.'*

*'Enforcement takes more resilience both at a personal and organisational level...you need a thick skin to get things to the end and litigate where necessary.'*

*'If you focus on building consensus you get a lot more things done ... building consensus both internally with staff and externally with different allies.'*

*'My advice to any successor would be: 1. think priorities, priorities, priorities, recourses, resources, resources; 2. maintain a good and transparent relationship with other agencies in your field; 3. Get media training.'*

*'Go forward and do what has to be done; don't lose staff. Give opportunities to staff to be innovative. Speak with people. Don't show hierarchy.'*

*'You need to be very diplomatic in board meetings even when the other members are not well trained; a good chair makes a huge difference; have a good connection to the government.'*

*'1. Support consumer organisations; 2. It is always important to have political support (but you have to compete for that support); 3. If you can, try to ensure that your agency is placed in a strategically important location, as this will affect the options in terms of available staff. Not everyone is ok in working in some remote place.'*

*'1. Use the training opportunities aggressively; 2. Retain people, 3. Develop a good strategy.'*

*'You need to have a vision for the agency: where should it be in - 5-years, where in 10-years.'*

*'You need a good team and that means that you might need to fire some people in particular in order to ensure that everyone is aligned with the agency goals.'*

*'Have a conviction, it will be supporting you in difficult times  
- you have to be confident in your team  
- Prioritise cases – choose carefully (1 or 2 cases per year)'*

*'It's all about leadership: corner stones are personal integrity and personal commitment.'*

*'The name of the agency matters!'*

*'Sometimes you can get the message across, but you have to do so slowly and incrementally.'*

*'I would have been more tough minded and willing to use my personal capital to make good decisions'*

*'I would be more prepared to 'kill' cases – so we can focus resources where we need them'*

*'At the start I spent too much time seeking unanimous approval for significant changes. With time I realised that there will always be opposition.'*

*'This is a public service institution that you have to fulfil – it needs people with character'*

*'Rome was not built in a day: competition enforcement is a marathon, not a sprint race.'*

*'Sometimes you need to let things go.'*

*‘Avoid the vanity fair’*

*‘Having only the chairperson in a full-time position might not be a good idea, it would be better to have at least two additional deputies’*

*‘You have to set your own agenda, resist the outsiders with their agendas’*

## **Final remarks**

The qualitative study was set to gather and record the valuable expertise and experience of former and current agency officials in a bid to provide a useful point of reference for agency officials. The study identified key issues relating to the day-to-day work of competition agencies and conveyed a complex legal, social and political landscape. As one agency head eloquently commented “Rome was not built in a day: competition enforcement is a marathon, not a sprint race.”

In a constantly changing world, there is no silver bullet for effective agency management. The domestic social, legal, economic and political reality makes the environment in which each agency operates uniquely challenging. We hope, however, that the report and the selection of illustrative quotes provide valuable insights and may inform possible solutions for agencies and their staff as they grapple with the challenges of running a government agency in each of their jurisdictions.