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Sofia Competition Forum

GUIDELINES FOR IMPLEMENTING COMPETITION ADVOCACY

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efficiency success trust trust
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future



BULGARIAN COMMISSION
ON PROTECTION OF COMPETITION



UNITED NATIONS CONFERENCE
ON TRADE AND DEVELOPMENT

**GUIDELINES
FOR IMPLEMENTING COMPETITION
ADVOCACY**

INTRODUCTION

Competition advocacy, understood in the broad sense of the term, defined by the International Competition Network (ICN), refers to *“all those activities conducted by the competition agency that have to do with the promotion of a competitive environment by means of non-enforcement mechanisms, mainly through its relationships with other governmental entities and by increasing public awareness of the benefits of competition”*³¹.

The purpose of the current Guidelines is to carry out an analysis and provide an overview of the range of competition advocacy tools by offering useful and practically-oriented information that can be used as a basis for designing the overall concept of the Commission for Protection of Competition (CPC) for implementing competition advocacy in the broadest sense of the term, as well as for adopting a more systematic approach to the application of the different competition advocacy tools. The Guidelines are targeted at the CPC members and staff involved in competition advocacy by offering them an easy-to-use toolkit that can assist them, through information and ideas, in implementing the CPC activities in this field³².

1. Evaluating and identifying competition advocacy issues

When competition agencies engage in competition advocacy, they may aim to:

- persuade other public authorities not to adopt unnecessarily anti-competitive measures and help them to clearly delineate the boundaries of economic regulation;
- raise awareness of the benefits of competition, and of the role of competition law and competition policy among

³¹ See ICN Advocacy Toolkit Part I: Advocacy process and tools, p. 3.

³² The Guidelines were adopted by the CPC decision № 1554/20.12.2012

economic agents, public authorities, the judicial system and the public at large.

With these aims in mind, competition protection agencies may:

- assist other authorities to assess the impact they exert on competition when choosing among the different options for implementing a policy;
- provide technical expertise regarding particular industries or markets to other policy makers;
- seek to resolve identified contradictions between competition law and other laws or regulations;
- increase the awareness that the application of competition protection rules leads to improving the well-being of consumers and contributes to economic growth.

Ways of identifying competition advocacy issues

On the own initiative of the competition agency

Competition agencies may discover appropriate advocacy opportunities in many ways. For example, competition agencies may identify the relevant competition advocacy issues on their own initiative, using techniques such as ‘horizon scanning’³³. Agencies may also identify advocacy opportunities based on recurring issues that arise across jurisdictions. What is more, agencies sometimes discover advocacy opportunities while enforcing the Law on Protection of Competition or in the process of conducting a sector inquiry or investigating a specific case study.

Cooperation with other public authorities

It is useful for connections to be established between the respective competition agency and other government bodies. It is possible, for example, for representatives of the competition agency

³³ ‘Horizon scanning’ is a technique for detecting early signs of potentially important developments through a systematic examination of potential threats and opportunities.

to take part in working groups established with the aim of adopting or amending a law. In certain jurisdictions competition agencies may become aware of competition advocacy issues because the law mandates that the executive or legislative bodies must consult the competition agency before adopting a law or regulation. In Bulgaria, according to Article 32, para 3 of the Rules of Organization of the Council of Ministers and its Administration³⁴, the movers of the bill shall coordinate the issues that are related to or have an impact on their activities with the respective government authorities. Despite that fact, it is not in all cases that bills that could have an impact on competition are coordinated with the CPC.

Information coming from third parties

Third parties often bring advocacy issues to the attention of competition agencies. Private entrepreneurs may have a special interest in doing so if a given future policy or law could, if adopted, increase their costs or confer relative competitive advantage on their rivals.

Having identified advocacy issues, it may be appropriate for the respective competition agency to prioritize them against its other commitments

Example: At a meeting of the EC ENPI Black Sea Basin Programme the representatives of regional Governments of the Black Sea and Mediterranean littoral regions of Bulgaria, Greece, Russia, Turkey and Ukraine shared their concerns regarding the existence of a dominant intermediary agricultural services firm involved in purchasing farmers' products at low prices and selling them to food stores and processing factories at monopoly high prices. Thus, due to their pricing policies the farmers did not have sufficient margin for reinvesting and financing their working capital requirements, which could lead to a reduction in output,

³⁴ Adopted by Council of Ministers Ordinance No229 of 2 September, 2009 amended, SG No.50 of 3 July 2012

while the consumers were exploited by monopoly high pricing. The Russian participants in the meeting discussed this issue with FAS Russia. After analysing this situation the agency suggested that the local authorities in Krasnodar and Rostov to provide to the farmers an alternative way of reaching their customers and possibly reaching new customers by establishing an Internet based electronic commodity exchange. The establishment of an electronic exchange would help to establish direct links and bargaining between producers and customers and thus help to avoid rent seeking by the intermediaries and resulting exploitation of the buyers and sellers through unfair product pricing. As a result of the exchange, the tender costs were reduced by \$ 1 billion.

Example: The FNE in Chile wanted to improve its knowledge about how competition in private sector healthcare provision works, mainly because it received some complaints regarding potential abuse of dominant position of certain private healthcare providers. As result, the FNE launched a sector inquiry aimed at defining the relevant markets for the provision of the different health services. provided by those institutions and trying to establish a methodology for this definition based on how consumers choose between providers in this particularly complex market. The FNE invited the Superintendence of Health, responsible for implementing health policy in the country, to assist it in carrying out the inquiry which lasted for a year and half. In the first months of the inquiry the representative of the two institutions had weekly meetings, and then started meeting twice a month in order to discuss all the aspects of this joint project. Despite the fact that no cooperation agreement was signed between the parties, there were high levels of collaboration between FNE and the Superintendence of Health. As a result of the sector inquiry a number of problems in the sector have been identified.

2. Identifying the stakeholders and selecting tools for competition advocacy activities

For the advocacy interventions undertaken by the competition agency to be effective, the relevant stakeholders have to be known once the competition advocacy issue has been identified. In this way, the advocacy interventions could be tailored to those stakeholders to maximise impact.

Stakeholders may include:

- public bodies: legislative and executive authorities, local government bodies, sectoral and other regulatory bodies;
- the business, including associations of enterprises
- consumers and consumer groups
- professional organisations and trade unions
- chambers of trade, commerce or industry, and chambers of agriculture;
- lawyers;
- judges;
- media
- legal and industry experts in the area studied
- universities
- other parties that may have an interest in the market
- the society as a whole.

Having identified those stakeholders that will be most closely involved in the project, the best way of engaging them throughout the various stages of the project should be identified. Furthermore, not only an initial stakeholder strategy should be developed, but it should also be reviewed and updated accordingly during the advocacy effort.

There are a number of possible approaches to engaging stakeholders, including:

- evaluating the compliance of projects or regulations with competition rules and providing a legal expertise on the condition of competition to the bodies of the legislative and executive power

in the process of drafting legal acts concerning the economic activity of the enterprises in the country;

- meetings
- joint working groups
- joint working with stakeholder organizations on key issues

- conducting a public consultation exercise
- preparing an interim report for publication for comments
- drafting guidelines on significant aspects of the competition process or on certain forms of anticompetitive conduct

- organizing seminars and conferences
- press releases
- interviews and press conference
- publications
- internet site
- video
- social networks

Different tools for interaction are likely to be used for the different stakeholders. The choice of a type of competition advocacy message depends on the degree of knowledge of the target audience/stakeholders in antitrust matters as well as on the ability of particular types of stakeholders to organize themselves for defending their interests in antitrust litigations or/and promoting their interests in relation to competition related issues.

The state authorities, the big enterprises and their associations, as well as the bigger consumer organizations are well-informed and well-organized. This means that the advocacy activities that are aimed at those stakeholders should be implemented through the use of professional language and should be based on in-depth surveys. As far as the average end consumers are concerned, the messages should be presented in a clear and understandable language, and the focus should be on the essence of the issue as the unnecessary details should be avoided.

The explanation of the benefits of competition substantially depends on **the type of stakeholder being addressed**. For example,

- ***to government bodies*** – enhancing competition culture aims at achieving a better regulatory policy which could contribute to avoiding the negative effect of introducing regulations which limit the free initiative in economic activity in an unjustified way. The government bodies need to be aware of the fact that effective competition, on the one hand, contributes to the well-being of the consumers and reduce inflation, and increases the competitiveness of enterprises, on the other, thus contributing to the economic growth of the country.

- ***to the business*** – the benefits of awareness raising would lead to limiting the cases of signing prohibited agreements and of other forms of anti-competitive conduct. To this purpose in carrying out competition advocacy activities aimed at representatives of the business, emphasis should be put on the fact that competition increases the number of innovation incentives, increases their effectiveness and improves their competitiveness.

- ***to the consumers*** – there should be a common understanding that competition brings benefits and that observing competition rules is of great significance for achieving those benefits. Consumers need to know that as a result of competition they are able to choose among a wider range of goods and services of higher quality and of lower prices.

Example: In 2008 the FNE (Chile) launched a pilot program in order to promote best practices for the prevention and detection of bid rigging in public procurement among the concerned entities. In this relation the competition agency in Chile identified public bodies involved in public procurement management and invited them to participate in the program. as stakeholders. In May 2008, the FNE brought together several public bodies and an

association of public procurement officers, to a work team which was named the Interagency Taskforce.

The Interagency Taskforce's effort was supported by periodic meetings, which had the purpose of disseminating pro-competition strategies in procurement among the participants and of building a common body of knowledge as to the authenticity of tenders in procurement. In the period between May 2008 and March 2010, the Interagency Taskforce held 10 work meetings, where the FNE played the role of a coordinator.

The main product of the work of the Taskforce was Detection Guidelines which were distributed in a seminar in 2008 attended by around 400 public procurement officers. In 2009, the FNE organised a round of seminars for public procurement officers from the main regions in the country

As a result of the program bid rigging detection criteria were introduced within the frame of the normal audits carried out by the Nation's Controller General and anti-bid rigging units were established with the Ministry of Public Works.

Example: The UK Government wanted to develop a voluntary industry agreement concerning light-bulbs, whereby producers of light-bulbs and retailers would agree not to sell certain types of energy-inefficient light-bulbs. While there are benefits to such a voluntary approach, such arrangements may also raise competition concerns including a potential increase in the likelihood of coordinated behaviour.

OFT officials learned of the issue informally and decided to pursue it as it aligned with the OFT's prioritisation principles.

Other Government departments were identified **as the main stakeholders**, in particular the Department for Environment and Rural Affairs (Defra). What is more, government officials working on developing the voluntary agreement were identified as a way to influence and shape the policy development to ensure

that competition concerns were appropriately addressed and reflected in any ministerial decisions.

The OFT provided informal advice directly to Defra officials, mostly in face-to-face meetings and via email, throughout the process of agreeing on the voluntary standards. The OFT followed up the informal advice by publishing a report analysing the potential competition impacts of environmental standards. The OFT report not only helps structure the views that the OFT put forward in this case but also provides a basis for an analysis to support future advocacy efforts in the area of product standards.

3. Tools for implementing competition advocacy activities with regard to the different groups of stakeholders

3.1. Assessment of compliance of draft or effective regulations with competition rules and providing of legal expertise on competition to the bodies of the legislative or executive power in drafting regulations that have impact on the economic activity of the enterprises in the country.

In the narrow sense of the term, competition advocacy has to do with providing position statements under projects or effective regulations with a view to eliminating provisions that could unjustifiably have a negative effect on the competition on certain markets.

In accordance with Article 28 of the Law on Protection of Competition (LPC), in order to protect free economic enterprise and prevent restriction or distortion of competition, the Commission shall assess the compliance of draft or effective legislative, regulatory administrative and general administrative acts with provisions of the LPC, as well as of draft acts of associations of undertakings which regulate the activities of their members.

In the beginning of the assessment of compliance of a given regulation with the rules of competition the groups of

stakeholders need to be identified and if the deadline for completing the assessment allows, their position statements need to be requested. The stakeholders are usually the state authorities implementing the respective policy or performing monitoring functions in this relation, the enterprises on the respective market, the users of the respective goods or services.

The motives for introducing the respective regulation need to be clarified with a view to assessing whether the restriction of competition is justified and whether there's a way for the objective of the regulation to be achieved without restricting competition.

With regard to the draft regulations that exert influence on the competition in a given market, the state authorities should send them to the competition agencies as early as possible, and with regard to the draft regulations that are closely related to competition, CPC representatives should take part in the working groups responsible for drafting those regulation in order to be able to provide legal expertise on competition to the legislative and executive bodies in the process of drafting the legislation that influences the economic activity of the enterprises in the country.

The state authorities should be able to carry out an initial assessment of compliance with competition rules in order to be able to identify potential limitations to competition and if necessary, to request an in-depth assessment on the part of the CPC. *The CPC Guidelines for assessment of compliance of regulatory and general administrative acts with competition rules*³⁵ have an important part to play in this direction.

By taking into account the fact that the CPC decisions on competition advocacy are non-binding, it is more likely for the state authority to take into consideration the recommendations of the competition agency, if they are announced publicly and promoted accordingly. Basing the position statement on the experience in other countries also contributes to its being better

³⁵ Adopted by CPC Decision No 1777 of 20 December 2011

accepted by the public. It has to be clear, however, that a research of the respective regulations in other countries is not always needed, required and possible.

Example: In February 2011 the CPC adopted a position statement by proposing to the competent authorities to amend the provisions of Ordinance No 10 of 24 March, 2009 which requires the owners of use clearance (producers and importers) to declare in front of the National Health Insurance Fund (NHIF) the wholesale dealers who would supply the pharmacies that have concluded contracts with the NHIF with the medicinal products from the Positive List of reimbursed drugs (PLD).

The Commission analyzed the effect of that requirement on competition and established that anticompetitive effects can be observed as a result of the application of the relevant provisions of Ordinance No 10 in the following directions:

- the opportunities of wholesale dealers to take part in the wholesale market of reimbursed drugs have been limited;
- the competition on the level of wholesale trade of a certain reimbursed drug is limited only to the trade declared by the owners of drug use clearance. As a result of the regulation real conditions exist for an increase
- the pharmacies are limited in their choice of a wholesale dealer as they could choose not among all wholesale dealers who offer a certain product but only among those who have been authorized. In this way the free economic initiative in pharmacies is limited which is to the detriment of the end-users of medicinal products.

The CPC has established that the existence of the relevant provisions of Ordinance No 10 that restrict competition on the relevant market has not been justified by the motives for their induction, pointed out by the NHIF. Strict requirements have been envisaged in the legislation with regard to storing drugs as well as mechanisms that aim at ensuring control on all levels of

the economic chain from the producer of medicinal products to the end-users.

The CPC proposes the analyzed provisions of Ordinance No 10 to be amended so that when applied they do not limit the competition on the market of drugs and do not lead to the same effect.

As a result of the position statement of the Commission the requirement for the owners of the clearance for use (producers and importers) to declare in front of NHIF the wholesale dealers who would supply with drugs from the PLD the pharmacies which have signed contracts with the NHIF, has been repealed.

Example: The most popular guidelines for assessing the compliance with competition rules are the ones provided by the Organization for Economic Cooperation and Development (OECD). The first OECD Guidelines in this respect were adopted in 2007 amended in 2010³⁶. There are two main ways in which the OECD Guidelines have been used in the different countries. In some countries they have been used as a basis on which the competition agencies draft their own guidelines whereas in other countries they have been translated and promoted among the state authorities which should start applying them directly in the development of projects and drafting of regulations.

The checklist for carrying out assessment of compliance with competition rules, provided in the OECD Guidelines, has been used as a basis in the drafting of similar guidelines of the national competition agencies. On the national level, guidelines for assessment of compliance with competition rules have been adopted by several countries, among which Bulgaria, the UK, Spain, Lithuania, Australia, South Korea and Singapore. Despite that, it should be noted that the national competition agencies do not copy entirely the restrictions of competition that are provided

³⁶ OECD Competition Assessment Toolkit, www.oecd.org/competition/toolkit

in the OECD Checklist but adapt it in accordance with their own needs.

3.2. Tools for interacting with other public authorities

The interaction with the public authorities is of great importance for promoting competition rules. The bodies responsible for drafting regulatory or general administrative acts use state regulation as a means for achieving a number of other social, economic and other objectives. The interference of the state in a free functioning market is needed when there is an indication of the so called market defects and is justified when it aims at protecting the public interests. At the same time there is a risk for the regulation to impose too string or unnecessary restrictions on competition in a given sector which could lead to higher prices of the goods and services and a limited product range. That is why it is significant for legislative interference to be carried out in accordance with the principles of good regulation by taking into account its influence on the competitive environment.

A number of state policies exert influence on competition and in such cases the competition authorities could have an important contribution. Advocacy with regard to public authorities could be done in several directions;

- Drafting position papers on draft acts or effective acts;
- Participation in the development of the state policy;
- Intervention in front of the regulatory bodies;
- Signing cooperation agreements with those institutions whose activities are closely related to the work of the competition agency;
- Participation in committees, councils and working groups;
- Organizing meetings, seminars and conferences, specifically aimed at promoting competition rules among the public authorities;
- Drafting guidelines for the needs of the public authorities aimed at supporting their activities.

Example: The CPC in Bulgaria has signed a number of cooperation agreements with other public authorities, including sector regulators, ministries and state agencies. The primary objective of these agreements is to outline the framework for closer interaction between the parties in accordance with their functions. The main types of activities that underlie those agreements are related to: exchange of information, documentation and consultations; creation of interinstitutional working groups; organization of joint seminars, working meetings, public events; carrying out joint projects.

Example: The CPC in Bulgaria developed Guidelines against bid-rigging in public procurement procedures. The aim of the document is to outline the basic competition problems that could be found in the public procurement procedures. The Guidelines are directed mainly to the contractors of public procurement procedures as they have a key role in the process of selecting the most favorable proposals for the state in terms of price and quality presented by the participants in the tender procedures.

3.3. Drafting guidelines with regard to significant aspects of the competition process or certain forms of anticompetitive behavior

Competition law comprises complicated subject matter which includes economic and legal analysis of the market and behavior of economic subjects. The effective legislation turns out to be insufficient for ensuring understanding of the various legal aspects of competition. Due to these reasons and with a view to raising public awareness with regard to competition rules, the competition agencies, as part of their competition advocacy, should draft guidelines with regard to significant aspects of applying competition legislation. The guidelines are non-binding. They aim at enhancing the competition culture of both the

business and the society as a whole with regard to specific issues. In addition to that, the guidelines help the business, the state and the society by providing more clarity about the legal problems related to competition, as well as about the views of the competition authority on how the law should be applied in the specific circumstances. By adopting guidelines dealing with different aspects of competition law, the target objectives of the respective policy can be achieved in a more effective way, compliant with the principles of free competition. Along with that, the guidelines contribute to enhancing the transparency with regard to the way in which the respective competition agency implements its activities.

A report of the International Competition Network contains some of the most common means for promoting the advocacy activities of the competition authorities in the different EU member-states. It should be noted that 30% of these activities consist of guidelines issued by the respective competition agencies.

Examples for guidelines in Bulgaria:

- Guidelines for assessing the compliance of regulatory and general administrative acts with competition rules – puts emphasis of the benefits of the preliminary control on the drafts of these acts. The preliminary impact assessment would ensure a precise formulation of the respective provisions and would prevent potential infringements of competition rules.
- Guidelines for exchange of information among competitors;
- Guidelines against bid-rigging in public procurement procedures – these guidelines aim at outlining the main competition issues in the public procurement procedure, the factors and the specific behavior that lead to bid rigging as well as the indications of such behavior.

Examples for guidelines in the UK:

- Completing Competition Assessments in Impact Assessments;
- Merger Assessment Guidelines, Joint publication of the Competition Commission and OFT (adopted in April 2009);
- Involving Third Parties in Competition Act Investigations (Incorporating Guidance on the Submission of Complaints);
- OFT's Quick Guide on Competition Law Compliance;
- Government in markets: Why competition matters – a guide for policy makers, adopted in September 2009.

Examined for guidelines in Ireland:

- Activities of Trade Associations and Compliance with Competition Law (The Guidance Notice informs the business community and trade associations of the limits that competition law places on joint or coordinated action by competitor);
- Competition Authority guidance note: Refusal to supply (2002) – provides guidelines to consumers and the business aimed at achieving a better understanding of when a refusal to supply could lead to competition problems in accordance with the Competition Law;
- Notice in respect of vertical agreements and concerted practices. 1 December, 2010;
- Notice on activities of trade associations and compliance with competition law, 9 November, 2009;
- Notice in Respect of Collective Action in the Community Pharmacy Sector, 23 September, 2009;
- Medical fees guidance notes, 2007;
- Guidelines for merger analysis, 16 February, 2002;
- Agreements between suppliers and retailers, 1 July 2002.

Examples for guidelines in Turkey:

- Guidelines on remedies that are acceptable by the Turkish Competition Authority in merger/ acquisition transactions;
- Guidelines on undertakings concerned, turnover and ancillary restraints in mergers and acquisitions;

- Guidelines on certain subcontracting agreements between non-competitors;
- Guidelines on the voluntary notification of agreements concerted practices and decisions of associations of undertakings.

Examples for guidelines in Greece:

- Guidelines for the insurance sector;
- Guidelines on vertical restrains;
- Non-horizontal mergers guidelines;
- Guidelines on maritime transport services;
- Guidelines for fighting bid rigging in public procurement.

Examples for guidelines in Norway:

- Best practices on the conduct of merger control proceedings, 2009;
- Guidance on tendering and project agreements, 2008.

Examples for guidelines in Hungary:

- Notice on differentiating between concentrations subject to authorization in simplified or full procedure.

Examples for guidelines in the Netherlands:

- Guidelines on cooperation between undertakings, April 2008 – contain clear and useful examples that illustrate what is legal and what not under the Dutch Competition Law. After the guidelines were adopted, the texts on the recommendations for associations of undertakings and the exchange of information were amended and new examples were added as a result of the large number of questions from undertakings. In addition, the Dutch competition agency has created a useful tool, a flow chart, aimed at assisting the readers in finding the information they need in the Guidelines. It is through the flow chart that the undertakings can determine themselves whether the agreements and arrangements they have

with other undertakings are prohibited. These Guidelines have been drafted in close cooperation with other organizations, among which the Confederation of industry and employers in the Netherlands and the Royal Association MKB-Nederland;

- Best practices on the conduct of concentration control proceedings.

Examples for guidelines in the USA:

- **Guidelines of the US Competition Authority on the right to competition** – ensure and more in-depth analysis of the American competition law and policy (*FTC Guide to the Antitrust Laws*).

Examples for guidelines in Spain:

- Guidelines on termination by commitments of infringement proceedings;
- Guidelines on short-term notification on mergers;
- Best practices on cooperation between EU national competition authorities in Merger review;
- Guide to Competition Assessment, 2009 – the guidelines are aimed at explaining to the legislators and the regulators the potential negative impact of their proposals on competition with a view of avoiding unnecessary and negative effects on competition.

Examples for guidelines at the OECD:

- In 1976 OECD adopted *Guidelines for multinational enterprises* which were amended for the fifth time in 2011. A part of these Guidelines is devoted to competitiona;
- *Guidelines for fighting bid rigging in public procurement, 2009* – they were drafted by the Competition Committee with the OECD and aim at reducing the risks of bid rigging by means of carefully planning the procedure and the early disclosure of such manipulations. The Guidelines include two checklists:
 - ◆ A checklist for disclosing bid rigging in public procurement;

◆ A checklist for organizing the procurement procedure and reducing the risks of bid rigging.

3.4. Seminars and conferences

As competition advocacy is an information activity, it aims at reaching different sectors or groups of the population. With regard to the most often used advocacy tools, it should be noted that the developed countries, which have a more developed competition culture, maintain their advocacy efforts through selective communication means (seminars, working groups, business meetings, articles in magazines) and research, whereas the developing countries, which are less aware of the benefits of competition, focus on general means of communication (e.g. radio and TV broadcasts, newsletters, electronic media).

Another means for implementing the policy of competition advocacy and enhancing the competition culture of the society is the organization of seminars and conferences. Seminars can be organized both on the national and the international level, independently or in cooperation with another competition agency, on a specific competition topic/ problem, or in relation to the hearing of a case of international significance. It should be noted that the seminars organized by several competition agencies on urgent competition problems form a long-lasting tradition for exchange of experience. The information obtained at such seminars is at a later stage used in solving specific problems on the national level. The cooperation between the competition agencies is carried out on the basis of exchange of information and drafting guidelines, sharing experience in investigating infringements of competition, cooperation in the investigation of cross-border infringements, organizing joint projects for studying the market, working meetings and other events.

The objective of these seminars is determined in accordance with the problem being discussed, as well as in accordance with the group of stakeholders. Along with the

problem being discussed at the seminar, different topics related to the effectiveness of the market mechanisms can be discussed, as well as how to best plan the future regulation of the markets of goods and services without infringing competition rules. Options for managing or reducing the potential risks of infringing the legislation in the field of competition protection can be discussed as well as the effective application of competition legislation. As to the circle of stakeholders, the seminars could be directed to business organizations, lawyers, public bodies and society as a whole. Realizing the benefits of market mechanisms on the part of business, the public authorities, the academic circles and the society increases the opportunities of the competition protection agency in relation to their competition advocacy activities.

A report of the ICN³⁷ includes the most common means for promoting competition advocacy activities by the competition in the different member states of the EU. It should be noted that 34% of this activity comprises of seminars and working groups organized by the antimonopoly agencies.

Example: In March 2011 the Irish competition agency in cooperation with the Institute of International and European Issues started organizing a series of seminars on the topic of law enforcement in the field of competition (*Competition Enforcers Series*). The aim of these seminars is to analyze the impact and the need for strict enforcement of competition protection policy worldwide with a view to overcoming the current economic crisis and encouraging growth and innovations.

Example: The Japanese competition agency takes part in international conferences on competition law and policy with a view to discussing legal issues related to competition. In addition,

³⁷ Advocacy and competition policy, Report prepared by the Advocacy working group, 2002

the agency takes place in different international meetings and seminars directed to the development of competitive environment in Eastern Asia as well as the Asian Pacific Economic Cooperation and the Summit in the field of competition policy in East Asia.

Example: The ICN organizes annual high level conferences as well as seminar and tele seminars of the working groups in the frame of the ICN.

Example: The CPC organizes seminars and conferences for the business with a view to raising their awareness as to competition rules. In this relation, as part of the series of events on the occasion of its 20th anniversary, in March 2011 the CPC organized a seminar aimed at raising the awareness of the business circles with regards to the new regime for block exemption from the prohibition of certain categories of agreements prohibited by the European and the national legislation, as well as with regards to the recent developments of the CC policy on immunity from fines or reduction of fines in case of participation in a secret cartel (*Leniency program*). The Program was presented at the seminar in the form of a play which was recorded at uploaded on the website of the Commission.

Example: The Competition Committee with the OECD and its Working Groups, as well as the Global Competition Forum, hold annual round tables and session on various topics and the best practices in the countries with a view to encouraging the regular exchange of position statements and analyses on issues related to competition policy. The initiative started inn 1995 and is still on the move.

The work of OECD in the field of competition is being promoted by means of two world forums:

1. The Global competition Forum which was established in 2001 and unites representatives of competition agencies worldwide. The Forum aims at strengthening the dialogue with non-member states through discussing issues of global significance.

2. The Competition Forum of Latin America which encourages the dialogue, the building of consensus and cooperation networks among high level officials from the competition agencies in Latin America. The Forum was established in 2003 as a result of the partnership between OECD and the American Development Bank with the aim of encouraging competition law and policy in Latin America. The Forum unites representatives of countries outside Latin America as well as international organizations as the aim is to provide the widest possible range of viewpoints and experience.

In 2006 seminars were held in Russia, Africa and Brazil, aimed at the judges from the countries participating in the forum. Since 2005 in cooperation with the EC and the Hungarian competition agency, the Competition Departments with the OECD supports the meetings of European judges on competition.

3.5. Tools for effectively interacting with the media

Using the media is an effective way to educate the public. If people see the benefits of competition authorities' actions in the media, they will gain a better understanding of the role competition policy plays. If they see the results of non-compliance with competition laws in the media, they will be more likely to conform to competition laws. Dealing with journalists requires special skills and an awareness of how the media work. Here are **the most important aspects to consider for building successful media relations.**

- Identify at least one person in your competition agency to be the media contact. That person will determine whether

to handle the matter or pass it along to another government official. It is interesting to note that different jurisdictions use different approaches in dealing with the media. Some jurisdictions empower employees of all levels to speak to the media, while others either have official spokespersons or have only the head of the authority as a spokesperson;

- Be open and honest with the media – if your agency is secretive, its actions will get little coverage.
- Seek to build good relationships with reporters, and keep them well-informed. It is important to work with the media in ways that promote activism rather than passivity on their part. If they are made totally reliant on what the agency feeds them, the most you can expect is that they will also passively accept what the corporations give them.
- When talking with a reporter, remember that everything you say is on the record unless otherwise agreed upon. Do not reveal non-public information, even if a reporter asks leading or persuasive questions.
- Speak on behalf and from the positions of the agency. Try to avoid personal questions and “attacks.”
- If you don't know the answer to a question, don't try to answer it without verifying your response with agency officials. Tell the reporter that you will get back to him/her with an answer
- Have a plan. Think beforehand about the key messages you would like the reporter to come away with, including the underlying messages of promoting competition and how this benefits consumers – lower prices, higher quality etc. Also, think about possible landmines – difficult questions that could arise.

- Don't play favorites. Treat all reporters equally, regardless of whether they are print or broadcast reporters.
- Remember that reporters are most likely working on a deadline, so to respond to their inquiries as soon as possible.
- Give reporters advance warning when you expect that something is going to happen. Tell them, without going into particulars, "I may have something you'll be interested in" or "you might want to stick around for an announcement", etc.
- To keep reporters constantly informed, some competition authorities set a fixed time of day when they send out releases via fax and e-mail. This is useful for reporters since they know what to expect. This time can also be used to meet regularly with journalists and give them the opportunity to ask questions.
- Alternatively, some jurisdictions have set up an embargo system for issuing market-moving information in advance. This helps journalists digest the information before getting it out and, therefore, results in more accurate reporting. The EU has introduced an embargo system for important releases outside of its midday briefing. The system contains stiff penalties for breaking the embargo (three-month exclusion from the system for the 1st break, increased to six months for a second offence, nine for a third, etc.).
- Send out news releases for important announcements. When drafting a news release, try to think in terms of what a reporter would want to know. Read the news release aloud from the perspective of a non-expert and make sure it makes sense. To make your news releases more appealing to the media, try to lead with what actually happened ("The CPC revealed a cartel in the field of bread production").

- Don't just fax or e-mail out news releases. It is helpful if someone from the office calls reporters as well.
- Regularly track your media coverage to see who is reporting about your agency and about competition issues. Get to know these journalists better by holding a media relations meeting or roundtable discussion with them.
- Make sure your media telephone and e-mail distribution contact lists are up to date. You should get home and cell phone numbers in case breaking news happens after regular business hours.
- Offer reporters a contact with an official who can give background information and explain a charge, laws, possible penalties, etc.;

How to write an effective news release

A news release is the best way to get your message across. Just as you are trying to reach journalists with your news, they are trying to reach their audience with their stories. The audience may not be familiar with competition issues and antitrust laws. That's why effective news releases should lead to a better overall public perception of the organization/ institution.

How

News releases must be simple and easy to understand. They should **explain “what’s new” as early in the text as possible** and should contain all the necessary information on the companies, the market concerned, the impact on citizens/consumers and the specific case details. Use **plain language**. If you must use technical terms, always explain them clearly. **The release also should relate back to key messages about promoting competition and benefitting consumers.**

Style

- Use as few words as possible
- Avoid Latin words, complex legal terms and complex economic terms
- Use sentences of varying length
- Always check for grammar and spelling
- Try to focus on what's new, rather than on the process behind the news

Organization

- Draft logical sequence of paragraphs enabling the reader to understand easily Put the news in the release as close to the top as possible
- Use short paragraphs
- Use headings to help the reader follow the logic of the text
- Use bullets/numbers where appropriate in order to add clarity
- Add hyperlinks to relevant materials

Example: The FAS-Russia home web-page has been designed to present the most recent proceedings and decisions taken as well as the main competition advocacy initiatives on one hand and the comments to the agency actions in the media on the other hand. In addition, FAS has pages in the social networks like Twitter and Facebook where it publishes its new releases for comments by the general public, thus soliciting feedback with regard to the work of the agency.

Attracting the attention of broadcast media

The demands of the electronic media are quite different from those of print journalists. Journalists working in radio and television have very little time to tell a story. Typically radio news items are 30 to 60 seconds. Television stories normally run

between 90 seconds and three minutes. That's why the interviews have to be extremely concise due to time constraints.

Develop relationships with specialized reporters

- Identify individual reporters that regularly cover competition-related issues
- Proactively advise them of upcoming issues that would be appealing for them to cover.

Train spokespeople

- Train spokespersons to condense a complex story into a 20 or 30 second clip and to distil the essence of a case in basic terms
- Coach spokespeople to convey key messages and stick to them, without being shaken by the line of questioning of the journalist
- Have selected rehearsed interviewees available as part of a media strategy for any big announcement.

Think visually

- When planning an interview think of simple visual examples that illustrate what the case is about
- Use video news releases (VNRs) where appropriate –
- Enrich news releases with video and audio comments of the agency officials.

Example: The Polish competition and consumers agency disclosed yet another concerted practice – a press release and a video comment of the chairperson:
http://www.uokik.gov.pl/aktualnosci.php?news_id=3191&news_page=1

Example: The Polish competition and consumers agency adopted a decision by which it imposed a fine of 133 million Polish Zlotas for cartel – a press release and an audio comment by

the

chairperson:

http://www.uokik.gov.pl/aktualnosci.php?news_id=3085&news_page=7

Example: In order to maintain the interest of the journalists in the issues related to competition, the Polish competition and consumers agency organizes competitions on an annual principle and gives awards for the best articles and interviews.

Press Conferences

- Stand straight, never slouch or lean on the podium or shift from side to side in and out of camera range--you'll look nervous or uncomfortable with the subject matter.
- Your opening statement should be short. Talk about the action the agency is taking, the purpose of the action and what is alleged.
- Speak in a strong, clear voice. Don't be afraid to use intonation. Nothing is more boring than a monotone speaker. Remember to speak slowly.
- Speak in short sentences.
- Put together the three most important points that you should use throughout the news conference.
- Hand motions are good when they explain and emphasize your point. Avoid scratching your head--it will look like you're confused.
- If you don't know the answer, don't respond to the question immediately--just say you'll look into it specifically and get back to them.
- Don't repeat the negative of a question. For example, if asked "Will this hurt the consumer?" Don't say "No, this will not hurt the consumer," instead turn it into a positive statement and say "This will be good for the consumer"
- Do not be hostile or defensive when talking to reporters. Your attitude and actions affect the message.

□ Bridge into something you'd like to discuss. If asked about a negative or technical aspect of the case, quickly answer with a word or two and then transition into something positive or some part of your message with "What's really important here is..." or "It's important to remember...."

□ Avoid technical or legal jargon.

□ When it's time to bring the news conference to a close, (because the questions are getting repetitive or you're tired), either you or a Public Affairs representative can announce, "We have time for only one more question." Don't wait until they're finished asking questions.

□ Hold a mock news conference. This will give you an opportunity to rehearse the significant points that you would like to make. It will also help you to be better prepared for reporters' questions.

□ Think about clothing. For men--a dark suit and bold (but not busy) tie. For women--a bold, solid- colored dress/suit. Avoid stripes and loud patterns.

3.6. Website

The website of any competition agency is one of the most important means³⁸, to address various types of stakeholders interested in competition enforcement and policy matters. One of its most important advantages is that it helps to inform and address the stakeholders on an ongoing basis and convey the competition agency message to them directly and, therefore, avoid its misinterpretation by the media.

The website should possess the following characteristics for its content to be accessible by the target groups:

- interactivity:

³⁸ According to data provided by Intergroup for the first 9 months of 2010 more than 50% of the messages of the Russian competition agency on competition law were published by online sources.

- ◆ develop a user-friendly website that highlights the sections that are most useful to the consumers/general public
 - ◆ provide interactive learning tools in audio and video format
- list of the electronic mail applications:
 - give users the option to subscribe to an automatic service to receive electronic notifications when anything new has been published to the site or has been updated
 - provide the subscribers with competition agency newsletters, bulletins and other updates on proceedings considered by the agency or/and competition policy issues and other developments
 - offer subscribers choice in the type of information they want to receive
 - track the number of users and most popular features on site

Surveys among users as to how the site could be improved are recommended.

In addition to the main website of the competition agencies, specialized sites could be created on a specific topic.

Example: FAS supports an individual website (www.torgi.gov.ru), devoted to tenders for the realization of state property as well as a separate anti cartel website (www.anticartel.ru). The site provides information about the nature of cartels, why they should be considered a threat and how can each citizen contribute to disclosing them. Specific focus is given to promoting the Leniency program applications for which can be submitted online. The website offers an online forum for discussions in real time.

Example: On an international level the working group „Competition advocacy” of the International Competition Network has provided opportunities for the member agencies, non-governmental organizations, competition law specialists, scholars and the wide public to publish online comments, articles, statements and announcements on competition issues.

3.7. Guidelines and reports that can be published on-line

Competition advocacy has traditionally been implemented by means of publishing:

- newsletters or press releases;
- law enforcement guidelines;
- documents for discussion;
- reports on specific topics;
- a series of brochures;
- summaries of decisions;
- annual reports explaining the activities of the competition agency and major competition topics/ issues;
 - publications in a plain language aimed at the small and medium-sized enterprises containing carefully selected key questions related to the compliance with competition rules;
 - facts related to competition law aimed at educating the business and consumers.

Example: The Polish competition agency strengthened its media campaign by direct mailing of an information package on the leniency program to 500 of the largest enterprises in Poland and 335 enterprises functioning on the local market.

The agency organized a series of educational sessions on competition law in its 9 regional centers. The sessions dealt with infringements committed by municipalities. The Guidelines “Competition of the local market” were published which included selected decisions by the Polish competition agency. The

guidelines were distributed among the participants in the training session and were sent to all municipalities in Poland.

As serials to newspapers and magazines information on the topic “What is competition for consumers?” was distributed.

Example: In the frame of a two-day advocacy campaign held in May 2010 the Brazilian competition agency distributed 500 000 brochures and materials at 8 Brazilian airports; published advertisements on the topic in four of the biggest weekly magazines in the country; mailed post cards to 1000 enterprises in Brazil, created a comic children’s book related to the application of anticartel legislation.

Example: In the end of 2010 FAS published a booklet in the form of a cartoon – when, how and in which cases the help of the agency should be sought.

3.8. Other tools – video, social networks, etc.

One of the directions in which much work has been done with regard to competition advocacy is the virtualization of information.

It is recommended that **press releases are presented in a video format**³⁹ – the TV version of the traditional print press releases. The sending of videos to the mass media is an effective way of telling a story. That’s why the comments of the representatives of competition agencies should be supported by video and audio comments (in MP3 format). In addition to the website of the competition agency, the videos could also be uploaded in other sites such as youtube.com.

³⁹ By clearly stating that these are press releases because problems have arisen in some agencies due to the fact that those are considered to be independently published data.

Example: In June 2011 the UK office of Fair Trading (OFT) published on youtube.com a forty-minute film entitled „Understanding competition law”⁴⁰, which consists of:

- part 1: „On-site check”⁴¹ – includes a dramatization of searching an enterprise followed by an explanation of why competition is needed, what are the benefits of it and what are the sanctions in case of infringing competition rules (duration 4.41 min.);
- part 2: „Cartel”⁴² – a professor in competition law talks about cartels and its forms (price fixing, bid rigging, exchange of information) (duration 2.30 min);
- part 3: „Cartel, prohibited agreements”⁴³ – the professor pays specific attention to the setting of minimum selling process (duration 0.32 min);
- part 4: „Abuse of dominant position”⁴⁴ – the professor explains the concept and provides examples. The host summarizes the information provided by the professor (duration 0.56 min);
- part 5: „On-site check follow up”⁴⁵ – an interview with a representative of the enterprise that has been searched about the committed infringements, imposed sanctions and the results of those sanctions. What are the potential actions that could be taken for avoiding such a situation – stages of the analysis of assessment of compliance with competition rules; an interview with the director of directorate „Competition Policy” (duration 2.12 min);
- part 6: „Compliance with competition rules :Step 1: Identifying the risk”⁴⁶ – more information is provided on how the

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<http://www.youtube.com/watch?feature=endscreen&v=ACA9vdlNqek&NR=1>

⁴¹ www.youtube.com/watch?v=ACA9vdlNqek

⁴² www.youtube.com/watch?v=JO2R4Yort-g

⁴³ www.youtube.com/watch?v=wewyV6bM8os

⁴⁴ <http://www.youtube.com/watch?v=Z7WMYJFEZzA&feature=relmfu>

⁴⁵ <http://www.youtube.com/watch?v=Z7WMYJFEZzA&feature=relmfu>

⁴⁶ http://www.youtube.com/watch?v=jhqGB_XJz70&feature=relmfu

risk can be identified and on the high risk situations (duration 0.29 min);

- part 7: „Step 2: Risk assessment”⁴⁷ – low, medium, high (duration 0.34 min);
- part 8: „Step 3: Risk reduction”⁴⁸ – through training, code of ethics or a telephone hotline (duration 0.35 min);
- part 9: „Step 4: Review”⁴⁹ – the review is needed in case of price increase or in case of entering new markets as well as a summary of all steps in assessing the compliance with competition rules (duration 1.03 min);
- part 10: „Undertaking actions”⁵⁰ – contact details of OFT (duration 46 min).

This film complements the written guidelines of the competition agency by means of an overall presentation of competition issues in a clear and understandable way. The OFT encourages the organizations and institutions to include elements of the film in their training programs as well as to promote the film on their websites, or through the newsletters or magazines of trade associations and chambers.

Example: In 2009 the Polish competition agency launched a competition advocacy campaign which included the broadcasting of an advertisement called The Joke⁵¹ on TV and radio channels. The TV advertisement was created by a famous Polish animator. The radio broadcasters broadcasted it free of charge on the 20 biggest national and local radio stations. The ad depicts Statsek who is asked to tell the joke from the previous day at a business meeting. Statsek starts by saying that a group of businessmen agreed on fixing process but he is interrupted by the laughter of

⁴⁷<http://www.youtube.com/watch?v=ReJLpKoe1J0&feature=relmfu>

⁴⁸<http://www.youtube.com/watch?v=zTzzRS5EGh0&feature=relmfu>

⁴⁹<http://www.youtube.com/watch?v=FttKFFLtw5o>

⁵⁰<http://www.youtube.com/watch?v=icABO06dOzQ>

⁵¹http://www.uokik.gov.pl/leniency_programme.php

the other participants. There is a caption saying: It's better for you to listen to Statsek because when everything is disclosed you won't feel like laughing. The fixing of prices is illegal. You can avoid serious sanctions by applying under the leniency program

The campaign is a big success and in 2011 it is extended by a new package of radio and TV programs devoted to the control of concentrations. The ten episodes cover key issues such as: why concentrations are under the control of the state; how are concentrations implemented; who and when should submit a notification for a concentration; why and how does the competition agency carry out an analysis of the market. The radio broadcasts includes lectures on the following topics:

1. Why are secret agreements a threat to competition?
2. What is prohibited by the law?
3. False beliefs that could lead to law infringements
4. Control on the entrepreneurs carried out by the competition agency.
5. What are the dangers in disclosing the conspiracy?
6. Shall I confess a secret agreement?

The broadcasts were on for 6 weeks (one topic per week).

The Polish radio and the Polish competition agency are the authors of a series of programs "I have the right to compete" broadcast in 2006. Their aim is to promote among all participants in the market the Polish legislation and the EU legislation as public polls had shown that the wide public is poorly informed in this respect. The topics covered by the program include:

1. Why should competition be protected?
2. Tasks in front of the competition agency.
3. What is important for the consumers? The most famous antitrust proceedings in the EC and Poland.
4. Restrictive agreements
5. Prohibited agreements
6. Immunity from fines
7. What is dominant position and why shouldn't it be abuse?

8. Protection of small and medium-sized enterprises from illegal practices on the part of the participants in the market which enjoy dominant position

9. Protection of competition in the field of the municipal services and energy. Allocation of tasks between the competition agency and the regulators.

10. Municipalities and antitrust legislation.

11. Protection of competition in the telecommunications sector (a national operator, a universal service, collective dominant position, tariffs).

12. Protection of competition in the railway sector

13. Control on mergers

14. Competencies of the national competition agency and competencies of the European Commission in the control on mergers

15. Free professions and right to protection of competition

16. Practices of the big chains: do they infringe the rules of competition?

17. Competition in the media

18. State aid for certain tradesmen and protection of competition

All materials, including a list with Questions and Answers and the debate on the topics Concentrations under Control with the participation of representatives of the European Commission, entrepreneurs, lawyers and journalists, are accessible online.

Example: On the home page of the Japanese competition agency⁵² there are three banners that are directly related to competition advocacy, namely:

1) a link targeted at older children accompanied by a written illustrated text and explanations of market economy, competition,

⁵² <http://www.jftc.go.jp/en/kids/index.html>

benefits for consumers from competition, and the consequences of the lack of competition.

2) a link to an educational computer game designed on the principle of the cartoons named „Dokkinn!! Please, teach me about competition law!”. „Dokkinn” is part of the PR campaign. The name coincides with the abbreviation for the Japanese competition law („Dokkin-hou”) and its pronunciation coincides with the pronunciation of the phrase “beating heart” in Japanese („Dokkinn”).

3) a link named „In support of the educational system”

3.1. a free of charge distribution of the respective materials has been envisaged (without fees or covering any other costs incurred by the recipient) and an instructor is provided in the classrooms of the secondary schools⁵³, specialized secondary schools⁵⁴ and universities⁵⁵:

3.1.1. the program for the primary schools includes a simulation game that introduces the students to the nature of competition and the need for competition, and a test for checking what the students have learnt;

3.1.2. the program for the secondary schools includes a simulation game in which the students play the role of entrepreneurs and gain first-hand experience with regard to how the prices on the market change. The game ends with an exam;

3.1.3. the program for the university students is designed in accordance with the needs of the specific university.

3.2. each year in August the Ministry of Education organizes a tour for primary school children – they watch a film on a topic related to competition, have a tour in the court, watch a

⁵³ The following number of secondary schools went through such training in the following years: 26 in 2009, 28 in 2010 and 32 in 2011.

⁵⁴ Only 2 specialized secondary schools passed through such training in 2009, 8 in 2010 and 9 in 2011.

⁵⁵ In 2009 the universities that passed through such training were 19, 46 in 2010 and 55 in 2011.

simulation of a court hearing with questions and answers, simulation games, lotteries.

The Japanese competition agency has created a 20-minute film targeted at adults⁵⁶, which contains a demonstration of an on-site check as the host explains the legal terms related to competition and the infringements in this area. Both the special competition law and the law on sub-contracting are being discussed. In addition, the host discusses the structure of the agency and the investigation procedure as well as the sanctions and the Leniency program.

Example: The US Federal Trade Commission (FTC) published on its website (in its part devoted to parents and teachers) a series of interactive illustrated dialogues aimed at older children that explains and illustrates the “real life” application of competition and consumer protection principles through a “trip through a shopping mall”⁵⁷. The following topics have been covered: advertisements: (nature, target markets, misleading advertisements, advertising preferences); security (on-line safety; identity stealing; personal information; personal data protection); modeling frauds; deceptive jobs, “miracle” project, lotteries and competitions, competition, supply and demand, history of US competition law, mergers..

Another visual aid that is often used in the training sessions on competition advocacy is a video⁵⁸, devoted to *Lysine conspiracy*⁵⁹.

⁵⁶ <http://www.jftc.go.jp/douga/100212index.html>

⁵⁷ http://www.ftc.gov/bcp/edu/microsites/youarehere/pages/parents_and_teachers.html

⁵⁸ <http://www.youtube.com/watch?v=wDH0Rv8R0SQ>

⁵⁹ The first successfully completed international cartel case of the US competition agency from the mid 90s of the last century for price fixing of the animal feed additive Lysine. The case leads to sanctions and three sentences for imprisonment for up to 3 years.

Another interesting untraditional tool for competition advocacy is **social advertising by means of advertising billboards** and audio clips with social messages.

Example: In the frame of a year the clips with social advertisements were broadcast on 11 V screens on the territory of Moscow. The message of one of them is: „In the world of animals there is no room for business and in the world of business there’s no room for animals”.

Another new means for communication used in the context of competition advocacy are the social networks. The competition agencies in Austria, the UK, Ireland and Sweden have profiles on Twitter, and the Russian agency FAS (under the name FAS-book) has a profile on Facebook. The competition agencies in Australia and the US have profiles in the two social networks.

Example: In the spring of 2010 FAS starts a micro blog in Twitter (@rus_fas) where it published news related to competition legislation in Russia. The network is useful in transmitting the information to the stakeholders and serves as a space for publishing materials which are not suitable for publishing on the main website. In addition to that, many FAS representatives run their own micro blogs.

In October 2010 FAS-BOOK was launched and synchronized its profile with the Facebook account. The main idea behind FAS-BOOK is the effective group communication with representatives of the competition agency in an informal setting. FAS publishes comments to both provide information about the work of the agency and answer the questions of the general public. In practice the social networks are turning into a virtual alternative of the reception rooms, used by the Russian competition agency, where everybody can file a complaint or propose something. They provide a suitable environment for the public discussion of a problem.

Example: Since September 2010 the OFT develops its online presence by means of creating a profile in the Twitter. This profile gives the users the opportunity to send or read text messages of up to 140 characters known as „tweets”. The account of the agency (@OFTgov) is administered by an intra institutional group representing all OFT employees. The agency „tweets” approximately once every day as the tweets include:

- messages for the publishing of new information for the agency on the Internet (news, publications, uploaded videos on YouTube, speeches, campaigns, etc.);
- Invitations for feedback on a certain issue that the OFT is having consultations about.

Despite the fact that the OFT is not able to provide individual answers to all questions received via Twitter, all new topics or useful suggestions of users of the network reach the respective employees of the agency.

Even in the cases when the respective agency does not have a page in the social networks, it can add to its website a button for sharing information via Twitter and Facebook, just like the Polish competition agency did.

Other ideas for carrying out competition advocacy:

- Participation in national and regional exhibitions and fairs;
- The Japanese competition agency maintains relations with the Japanese Forum on Competition Law through delivery of lectures, presenting opinion statements, etc
 - The students in Poland study a subject called Corporate Social Responsibility”. In Russia FAS is the main department of the Higher School of Economy, as well as in other higher institutions. The students at the economic and law higher schools in Moscow take internships at FAS.
- Competitions:

- annual competitions for journalists for the best publication on a given topic – a practice of the Polish competition;
- an award for the best master's thesis on the topic competition policy – a practice of the Polish competition agency;
- an award for the best website and the best spokesperson in the public administration - a practice of the Polish competition agency;
- in 2011 for the first time FAS organized a competition for the best idea for the development of competition in Russia among the readers of Arguments and Facts Magazine;
- FAS organized a competition for bloggers for the development of the best visual design of a social advertisement for competition advocacy as contract for implementing the project is signed with the winner.

- The employees of the agency are ambassadors of the organization. In the ideal case each employee should be able to tell his or her friends or neighbors what he/ she does and what are the benefits of competition for consumers. This would lead to higher appreciation of the role of the agency in society and should be considered a type of competition advocacy. In some competition agencies some employees are trained as spokespeople on certain key issues or cases. The employees are the most reliable source of information and they can tell the story in the best possible way.

4. Ex ante and ex post evaluation of the effectiveness of competition advocacy interventions

The evaluation of the effectiveness of a certain approach is of great importance for the effective implementation of competition advocacy interventions. The evaluation can be both ex ante or ex post.

The ex ante evaluation aims at estimating the impact of the advocacy intervention before its outcomes are known in order to assess which are the tools that might produce the greatest effect and to compare the expected outcomes and the resources needed for achieving those outcomes (human, financial, etc).

In the case of ex post evaluation the advocacy activity outcomes are evaluated on the basis of specific indicators such as: whether the recommendations of the competition agency have been taken into account by the public authorities, whether the awareness of the business and of the society as a whole has been raised with regard to the importance of competition rules. Ex post evaluation gives the competition agency to amend its competition advocacy strategy if necessary, by selecting more effective tools.

The tools for evaluating the effect of competition advocacy that the competition agencies can use include surveys of the recipients of advocacy efforts, assessments by independent experts, public opinion polls, media coverage, Internet exposure.

Example: The UK Office of Fair Trading (OFT) evaluates the competition advocacy interventions on the basis of a methodology that has been designed for that purpose (*Evaluation of OFT Competition Advocacy*⁶⁰). Part of the impact is measured quantitatively through the effect of the competition advocacy on the prices. Due to the fact that the regulation could lead to an increase of the process, the price in the conditions of anti-competitive and the price in the conditions of competitive

⁶⁰ http://www.oft.gov.uk/shared_oft/reports/Evaluating-OFTs-work/oft866.pdf

regulation are compared, as well as the price in the conditions of a lack of any regulation. The benefits for the consumers could be summarized in two main directions: lower prices and increased consumption as a result of the lower prices. For a precise calculation of the effect, information is needed about the elasticity of the demand so as to see what the decrease in consumption would be in case of increasing the prices. The outcomes of competition advocacy are also reflected in non-price effects which are hard to measure. Such effects are, for example, the improved quality or the improved level of service, as well as enhanced product range, etc.

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4. Ex ante and ex post evaluation of the effectiveness of competition advocacy interventions

SCF

Sofia Competition Forum

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18 Vitosha Blvd.
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United Nations Conference on Trade and Development
Palais des Nations, 8-14, Av. de la Paix
1211 Geneva 10
Switzerland
www.unctad.org



A word cloud featuring various business and economic terms in different sizes and orientations. The most prominent words are 'growth', 'convergence', 'trust', 'success', 'efficiency', and 'support'. Other visible words include 'future', 'convergence', 'support', 'growth', 'efficiency', 'success', 'trust', and 'future'.

support growth
support growth
convergence
efficiency convergence
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