Benchmarking Competition Systems: A Global Survey of Major Institutional Characteristics

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GLOBAL TRANSFORMATION OF COMPETITION SYSTEMS

- **Increasing** number of competition systems worldwide:
  - By 1950 < 5
  - By 1975 < 15
  - By 1990 < 30
  - Today: Approximately 121
  - By 2020: 130

- **Diversity**/Experimentation in Design

- **Vacuum** - to date there is no study analyzing institutional characteristics
3 STEPS TO CARRY OUT THE RESEARCH:

- **Examination** of major institutional characteristics
- **Benchmark** each of the characteristics
  - Select key defining questions for each of the characteristics
  - Find publicly available information
  - Confirm Results with NCAs
- **Regression** of information & **Identification** of Trends
Competition (+) Authority

Independence

Accountability

Governance

Architecture

Policy Making Agents

Portfolio of Policy Instruments

Decision Making Functions

Policy Duties

Policy Making Agents

Portfolio of Policy Instruments

Decision Making Functions

Competition (+) Authority
The Trend: **Competition + Agencies**

- Increased number of agencies with multiplicity of duties

- New and old combinations:
  - Competition & Consumer Protection mandates
  - Competition & IP mandates
  - Competition & Sector Regulatory mandates
POLICY DUTIES: DATA

2012-Competition Mandate

- Exclusive
- Non-exclusive
- Non-Available

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POLICY DUTIES: DATA

2012

2013 (*Preliminary Results)
Policy Duties: Data

2012

- Consumer Protection
  - Yes: 80%
  - No: 20%

- IP
  - Yes: 90%
  - No: 10%

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POLICY DUTIES: DATA

Sector Regulations

2012

- Non-Available
- No
- Yes
Some Questions to think about:

- Are institutional changes relevant for agencies’ performance?
- Are institutional changes relevant for international forums?
- How will institutional developments affect cooperation amongst agencies?
POLICY DUTIES: IMPLICATIONS

....Thinking Ahead of Time....
Intra-Agency Implications:

- Manage diversity of Tasks
  - Different Priorities

- Different Challenges
  - Searching for synergies

- Training Programs
  - Adapt to new institutional design
**Inter-Agency Implications:**

- **Cooperation**
  - Inter-Agency Cooperation

- **International Forums**
  - UNCTAD-Invite other agencies to meetings?
  - ICN-Promote networking with other agencies?
CONCLUSIONS

- Sufficient **institutional design experimentation** worth observing & examining

- Data provides for the menu that hopefully will **inform future decisions** when reforming and/or creating competition systems

- Changes in the institutional arrangements **shape actors & activities in the Competition community**
THANK YOU!

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- Hassan Qaqaya, Graham Mott & rest of UNCTAD competition team
- Worldwide Competition Agencies
- Independent Competition Experts
- Extraordinary team of GW CLC research fellows
2012 DATA RESULTS
INSTITUTIONAL CHARACTERISTICS

INDEPENDENCE

Competition (+)
Authority

Budget allocated annually
Self-finance

Non-Available
No
Yes

Clear rules to appoint heads
Powers of the executive to decide
Executive veto based on national
Obligation to publish decisions

Non-Available
No
Yes
ACCOUNTABILITY BEFORE THE EXECUTIVE

- Yes
- No
- Non-Available

Chart showing percentages of institutions with different levels of accountability:
- Report on ongoing investigations: 70%
- Executive Veto: 30%
- Annual Reporting: 90%

Non-Available: 0%
Yes: 10%
No: 20%
Non-Available: 30%
Yes: 40%
No: 50%
Non-Available: 60%
Yes: 70%
No: 80%
Non-Available: 90%
Yes: 100%
No: Non-Available

INSTITUTIONAL CHARACTERISTICS

Independence
Accountability
Competition
Authority

THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON, DC
INSTITUTIONAL CHARACTERISTICS

ACCOUNTABILITY BEFORE THE LEGISLATURE

- Yes
- No
- Non-Available

- Publish Annual Reports
- Respond to the legislature's
- Monitored by the legislature
INSTITUTIONAL CHARACTERISTICS

ACCOUNTABILITY BEFORE THE JUDICIARY

- Yes
- No
- Non-Available

DECISIONS REVIEWED BY THE JUDICIARY

- Yes
- No
- Non-Available
INSTITUTIONAL CHARACTERISTICS

GOVERNANCE

- Single headed
- Multiple headed
- Non-Available
INSTITUTIONAL CHARACTERISTICS

SINGLE CHAIRMAN

- Appointed by the... 10%
- Removal is permitted... 90%
- Extension of tenure... 80%
- Qualifications required... 70%

- Non-Available
- No
- Yes

COLLEGIATE BODY

- Appointed by the... 10%
- Removal is permitted... 90%
- Extension of tenure... 80%
- Qualifications required... 70%

- Non-Available
- No
- Yes
INSTITUTIONAL CHARACTERISTICS

ARCHITECTURE

- Self-Contained Unit
- Subunit
- Non-Available
INSTITUTIONAL CHARACTERISTICS

POLICY DUTIES

COMPETITION MANDATE

- Exclusive
- Non-exclusive
- Non-Available

Graph showing the distribution of Competition Mandate:
- Consumer Protection
- IP
- Sector Regulations

Graph colors represent:
- Not-Applicable
- Non-Available
- No
- Yes

The image also includes a flowchart indicating relationships between Institution, Policy Duties, Independence, Accountability, Governance, and Architecture.
INSTITUTIONAL CHARACTERISTICS

SECTOR REGULATORS
COMPETITION MANDATE

MOU’S WITH SECTOR REGULATORS
INSTITUTIONAL CHARACTERISTICS

PORTFOLIO OF POLICY INSTRUMENTS

- **Fight against cartels**
  - Non-Available
  - No
  - Yes

- **Dawn raid premises**
  - Non-Available
  - No
  - Yes

- **Ex officio investigations**
  - Non-Available
  - No
  - Yes

- **Accept leniency**
  - Non-Available
  - No
  - Yes

- **Seek criminal sanctions**
  - Non-Available
  - No
  - Yes

- **Voluntary opinions**
  - Non Applicable
  - Non-Available
  - No
  - Yes

- **Compulsory opinions**
  - Non Applicable
  - Non-Available
  - No
  - Yes

- **Binding nature**
  - Non Applicable
  - Non-Available
  - No
  - Yes
INSTITUTIONAL CHARACTERISTICS

PORTFOLIO OF POLICY INSTRUMENTS

POWERS TO ISSUE SECONDARY LEGISLATION

- Yes
- No
- Non-Available

Comparison of powers to issue secondary legislation:
- Fires
- Merger control
- Abuse of dominance

- Non-Applicable
- Non-Available
- No
- Yes
INSTITUTIONAL CHARACTERISTICS

PORTFOLIO OF POLICY INSTRUMENTS

POWERS TO CONDUCT MARKET RESEARCH

- Yes
- No
- Non-Available

REPORTING POWERS

- Yes
- No
- Non-Available
INSTITUTIONAL CHARACTERISTICS

DECISION MAKING FUNCTIONS

PROSECUTORIAL VS. NON PROSECUTORIAL MODEL
- Prosecutorial
- Non Prosecutorial
- Non Available

UNBUNDLE INVESTIGATION & DECISION MAKING UNITS WITHIN NCAs
- Yes
- No
- Non Available
- Non Applicable