

**Intergovernmental Group of Experts on Competition
Law and Policy**

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**Roundtable on:
Prioritization and resource allocation as
a tool for agency effectiveness**

**Contribution
by
Latvia**

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1. Competition law of Latvia Republic (CL) sets the institutional design, powers of Latvian competition agency (CC) and procedural norms for case investigation. That also creates legal boundaries (framework) for priority setting. Anyway agency is free to set priorities inside this legal framework.

I. Institutional design and independence.

2. CC match to the integrated agency model. Competence of CC involve investigation of the case and also decision making. Any decisions (final and procedural) are taken by Council which consists of Chair and 2 council members. Investigation is done by divisions of Executive directorate. This institution model exists from 1997.
3. CL states that functionally CC is independent institution and no directions on case investigation could be given to the CC by the Cabinet of Ministers, Ministry of Economics (MoE) and other persons. But from the other hand CC is subordinated to the MoE (appointment of the Chair and Council members, assignation of budget). MoE also represents the state as the owner in different undertakings that carry out commercial activity and could be prosecuted under competition law by the agency.
4. Strategy planning and long term priorities (for next 3 years) should be coordinated with Ministry of Economics. The annual plan with main results planned also is approved by Minister of Economics. Every quarter CC have to report about the fulfillment of these results planned what is connected with budgetary expenditures.

II. Powers of CC and transparency.

5. Under CL the agency have to prioritize among such main tasks:
 - a) investigation of antitrust cases (restrictive agreements, abuse of dominance etc.);
 - b) examination of merger notifications;
 - c) conduction of market inquiries;
 - d) competition advocacy and education activities;
 - e) international cooperation;
 - f) examination of complaints.
6. Top priority is cartel investigation, regional and international cooperation activities to investigate the cartels and competition advocacy and educational activities that are aimed to rise level of deterrence and to stimulate leniency applications. Special cartel unit was created at the beginning of this year. Also the important priorities are the investigation of abuse of dominance cases, merger cases, performance of market inquiries.
7. The CC is free to set priorities if CC acts on it's own initiative (initiate the case, start market inquiry). But CC have statutory obligation according administrative procedural law respond to every complaint. If the complainant requests the initiation of the case and there is sufficient doubts of the interpretation of facts (market, dominant position, market share) in the complaint before taking motivated

decision proving that no ground for actions. Most the complaints are about behavior of dominant or possibly dominant undertakings. Decision of CC on complaint about non-initiation of case is subject to court review. Mostly in all cases such decisions are appealed to court. Although the courts in most cases rejects such appeals resources allocated for the examination of complaint, decision making and defending the such decision at the court could be better used for other tasks.

8. CC constantly examines the experience of other competition authorities and analyses the effectiveness and necessity of it's actions and better use of it's resources. The changes in agency powers also may considerably influence the possibilities of priority settings.

For example, at 2009 the merger regulation at CL was revised to concentrate resources on mergers with considerable potential impact on market. Mergers where one party had turnover below 1,5 mlj. LVL (about 2mlj. EUR) were exempted from notification. Number of notified merger fell from 47 (at 2008) to 12 (at 2009). Also at 2009 unfair competition disputes that were at the competence of agency were assigned to courts. These cases mostly covered interests of two competing undertakings and public interest usually were not affected.

9. The transparency of CC activities and accountability of CC to government, market players and other stakeholders is for the high importance. Better recognition of agency and also public rating of agency is closely related to the level of transparency of agency activities.

III. Planning and priority setting.

10. Strategic priority setting is managed by management team (council members, head of divisions) but also all staff is involved. This plan reflects the long term priorities and objectives CC expect to realize in next 3 years. This plan also determine the indicators how CC succeed to reach the priorities. Strategic planning is based on principle.

11. Without main general priorities that CC have under the competition law – enforcement, advocacy and cooperation – some of specific objectives CC is planning to set for the next period of strategic planning:

- strengthen independence of CC obtaining autonomous status of agency – also institutionally independent agency independent budgetary planning and different sources for funding (merger notification fee);
- increase the deterrence for cartel infringements through sanctioning and advocacy activities and rise motivation for undertakings to participate in leniency program;
- allocation of more resources to heavy cases. Rise effectiveness of CC and resource allocation introducing new methods of prioritization of complaints. That model be based on evaluation of public interest and necessity of

involvement of CC to protect competition without legal obligation to take decision on every complaint;

- rise the transparency of CC activities through clear procedures (introduction of oral hearing, publication of principles how agency intend to prioritize the cases and sectors) and awareness of stakeholders and consumers about competition law through competition advocacy.

12. Annual planning is done with direct involvement of all staff and is done according to objectives set at the strategic plan. Annual plan is aimed to formulate the tasks and the potential results of different divisions (units) in certain year. It also formulates the individual tasks of certain persons if the special projects are planned (elaboration of legal acts, methodologies, participation in certain working groups etc.).
13. Operative planning of case investigation, market inquiries and planning performance of other tasks according to competence of divisions is done by certain divisions.

IV. Is there a universal standard for priority setting?

14. Partially the answer to this question could be found answering to the question – does the priorities of each agency remained unchanged through the longer period of time. Mostly the priorities and the principles of setting such priorities change through the time.
15. In it's essence the priority setting is the tool for solving the problems that agency faces to reach the better allocation of resources for the goals agency have. That involves different steps that agency intentionally or unconsciously have to go through to set it's best priorities:
 - a) to reach more effective priority setting agency have to get the full picture of *playing field* – which objectives are reached successfully in previous period and which are not, what new objectives could be highlighted;
 - b) what are the means (also resources) needed to reach these objectives;
 - c) what could be the benefits for competition, consumers, public if certain objectives will be reached;
 - d) which objectives could be reached spending less resources and getting better result.
16. Such principles as transparency and accountability should remain unchanged regardless of the legal statute of agency. Any way the means how they could be realized could be different.