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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Global Forum on Competition**

**INTERACTIONS BETWEEN COMPETITION AUTHORITIES AND SECTOR REGULATORS**

**- Session III – Call for country contributions**

1-2 December 2022

This document is a call for country contributions for Session III of the Global Forum on Competition to be held on 1-2 December 2022. GFC participants are invited to submit their contributions by **28 October 2022** at the latest.

JT03500981

## TO ALL GLOBAL FORUM PARTICIPANTS

### **RE: Roundtable on “Interactions between competition authorities and sector regulators”**

**21<sup>st</sup> Global Forum on Competition (1-2 December 2022)**

Dear GFC Participant,

On 2 December 2022, the [Global Forum on Competition](#) (GFC) will hold a discussion on “Interactions between competition authorities and sector regulators”. We are writing to provide you with some information on the topic and organisation of the session, and to invite you to submit a written contribution.

The Chair has selected this topic based on the high level of interest expressed in the participant evaluations of last year’s Forum. The discussion will build on a number of earlier sessions held by the GFC and the OECD Competition Committee. These include the Roundtables on “[Independent sector regulators and competition](#)”, “[Co-operation between competition agencies and regulators in the financial sector](#)”, “[Independence of competition authorities - from designs to practices](#)” and “[The relationship between competition authorities and sector regulators](#)”.

Effective co-operation with sector regulators is an important element to promote competition in regulated sectors. While the objectives pursued by competition authorities and sector regulators are often aligned, differences in the substantive rules they apply and different perspective on the same matters may lead to diverging outcomes. In addition, even when competition authorities and sector regulators pursue the same objective of promoting competition in a sector, there are situations when the respective mandates are not clear and the institutional set-up does not foster co-operation between different authorities. In order to address challenges and improve co-operation on enforcement cases, the session will provide a platform for sharing good practices and learning from the experience of other jurisdictions.

The session will cover the co-operation in enforcement cases between competition authorities with sector regulators, such as those in network industries (e.g. energy, telecommunications) and the banking sector, while it will not deal with horizontal issues such as data protection, public procurement or intellectual property. It will also not revisit the discussion on the independence of competition authorities and sector regulators or on the institutional set-up of competition authorities, such as the creation of “multi-function” competition authorities with sector regulation responsibilities. However, the institutional design of a competition authority may have an impact on its co-operation with sector regulators and this aspect will be covered by the roundtable.

This roundtable discussion will seek to provide practical insights into the co-operation between competition authorities and sector regulators, in particular:

- How do competition authorities and sector regulators co-operate in practice? What are the most effective co-operation tools?
- Is co-operation more fruitful with certain sector regulators and more complex with others? What are the factors affecting the quality of co-operation?

*The Secretariat will prepare a background note that explores these issues. The OECD webpage on “Co-operation between competition authorities and sector regulators” will be the primary vehicle for conveying documentation and related links on this subject (see the GFC website: [oe.cd/gfc](http://oe.cd/gfc) and our main roundtables page at [www.oecd.org/competition/roundtable](http://www.oecd.org/competition/roundtable)). Unless explicitly requested not to do so, the Secretariat will reproduce all written contributions on the site.*

*We would like to remind you that the Secretariat will compile short summaries of the written contributions to be distributed before the meeting. I invite you to submit such a short summary (no more than one page) together with your contribution. Alternatively, the Secretariat will produce one, but given the time constraints you might not be in a position to check it before distribution on O.N.E.*

We refer you to the suggested reference materials at the end of this letter and to the list of questions included in the Annex. The list in the Annex is not exhaustive and you are encouraged to raise and address other issues in your submission and during the discussion.

We would encourage you to submit a written contribution that describes your experience or views on co-operation between the competition authority and sector regulators in your jurisdiction. Should you wish to provide a contribution, please inform the Secretariat by **23 September 2022**. Written replies to this call for contributions are due by **28 October 2022** to enable the Secretariat to prepare the summary of the responses in advance of the session. Please note that not meeting this deadline may result in your contribution not being distributed to delegates in a timely fashion in advance of the meeting.

All communications regarding documentation and logistics for this roundtable should be sent to Angélique Servin ([angelique.servin@oecd.org](mailto:angelique.servin@oecd.org)). All substantive queries regarding this session should be sent to Federica Maiorano ([federica.maiorano@oecd.org](mailto:federica.maiorano@oecd.org)) or Lynn Robertson ([lynn.robertson@oecd.org](mailto:lynn.robertson@oecd.org)).

## Annex A. Suggested questions for consideration in written contributions

This Annex provides a list of questions for consideration in preparing a written contribution. A contribution does not need to cover every listed question, and you may wish to address issues not listed here. Please prepare your contribution as an integrated essay rather than a list of answers to questions.

You are encouraged to refer to practical examples that demonstrate how and when co-operation on enforcement cases works better or works less well. Please provide examples of enforcement cases to illustrate your answers.

### Institutional context and co-operation

1. In your jurisdiction, does the competition authority have the mandate to enforce competition law in all sectors? If not, does this responsibility lie with the sector regulators, or is there any kind of joint enforcement?
2. Does your competition authority have any sector regulation functions?
3. Do the competition law, sector-level legislation or other legislation clearly define the respective objectives and roles of the competition authorities and of sector regulators? Has lack of clarity been an issue in your jurisdiction?
4. Are senior officials of the competition authority in board positions for sector regulators or vice versa?
5. Have you experienced any challenges in co-operating with sector regulators? If so, what challenges and in what sectors? How were these challenges resolved? Please provide examples.

### Legislation and co-operation agreements

1. Do the competition law, sector-level legislation or other legislation explicitly provide for or require co-operation between the competition authority and sector regulators? In what sectors?
2. Does your authority have any formal agreements with sector regulators? In what sectors?
3. Do legislation or the agreements clarify the respective roles and competences of the competition authority and the sector regulator?
4. What types of co-operation do legislation and/or agreements envisage? For instance:
  - Requirement to *inform* the sector regulator of issues within its remit that arise in a competition investigation, and vice versa for the sector regulator to inform the competition authority
  - Requirement to *involve* the sector regulator when issues within its remit arise in a competition investigation, and vice versa for the sector regulator to involve the competition authority
  - Requirements to provide consent before the competition authority or the sector regulator can issue a decision on matters of mutual relevance

- Protocols to share confidential information
  - Protocols to share data
  - Joint inspections
  - Establishing working parties on relevant topics
  - Exchanges of personnel
  - Other – please specify
5. Have there been any changes in these agreements or legislation over time and why? Is your competition authority discussing any new agreements with other regulators?

### Co-operation in practice

1. Please provide examples of how these tools work in practice, with reference to specific examples of enforcement cases.
2. What types of co-operation occur more frequently and/or are more effective?
3. Please provide examples of enforcement cases that would not have been possible or would not have achieved the same results without formal or informal co-operation with a sector regulator.
4. Are there any sectors in which co-operation is smoother and more effective than in others? Can you identify any reasons for this? Why are these sectors different from others where co-operation is not equally easy?
5. Please provide examples of enforcement cases that did not work well due to lack of co-operation between the competition authority and the sector regulator.
6. Are there any sector regulators with whom you have not established formal co-operation processes? In what sectors and why?
7. What type of informal co-operation practices are more frequent in your dealings with sector regulators? For instance:
  - Ad-hoc technical meetings on relevant issues
  - Sharing of relevant public information
  - Request or provide informal opinions
  - Other – please specify
8. Please provide examples on how informal co-operation practices have helped in specific enforcement cases. What type of co-operation, among those listed in your reply, occur more frequently and is more effective?

## Suggested bibliography

- Carletti, E. and A. Smolenska (2017), *Co-operation between Competition Agencies and Regulators in the Financial Sector: 10 years on from the Financial Crisis*, Background Note for the OECD Competition Policy Roundtable, [www.oecd.org/daf/competition/cooperation-between-competition-agencies-and-regulators-in-the-financial-sector.htm](http://www.oecd.org/daf/competition/cooperation-between-competition-agencies-and-regulators-in-the-financial-sector.htm).
- OECD (2021), *Competition Enforcement and Regulatory Alternatives*, OECD Competition Policy Roundtable Background Note, <http://oe.cd/cera>.
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- Stern, J. (2015), Sectoral Regulation and Competition Policy: The UK's Concurrency Arrangements - An Economic Perspective, *Journal of Competition Law & Economics*, 11(4), pp. 881–915, <https://academic.oup.com/jcle/article-lookup/doi/10.1093/joclec/nhv029>