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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
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**Working Party No. 2 on Competition and Regulation**

**Summary of Discussion of the Roundtable on Assessing and Communicating the  
Benefits of Competition Interventions**

**Annex to the Summary Record of the 75th Meeting of Working Party 2**

12 June 2023

This document prepared by the OECD Secretariat is a detailed summary of discussion of the roundtable on Assessing and Communicating the Benefits of Competition Interventions, held by Working Party 2 on 12 June 2023.

More documents related to this discussion can be found at:  
[www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm](http://www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm)

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## *Summary of Discussion of the Roundtable on Assessing and Communicating the Benefits of Competition Interventions*

On 12 June 2023, Working Party 2 held a roundtable discussion on assessing and communicating the benefits of competition interventions. The roundtable was chaired by Professor Alberto Heimler.

The **Chair** explained that the discussion would take place in two parts. The first part would cover how competition authorities communicate the benefits of competition and competition interventions. The second part would focus on how they measure the impact of their activities.

Before delving into specific contributions, the Chair asserted that trust in competition authorities and their interventions depends on the ability of competition authorities to accurately measure and effectively communicate the benefits of their work. Sceptics of competition remain so clear communication is required to build trust and demonstrate value.

Noting the high number of submissions, the Chair indicated that three guest speakers would contribute to the roundtable by offering their expertise on the following areas of discussion:

- Communication as a driver of improved competition performance measures;
- How best to communicate on technical issues, and
- How to quantitatively estimate the impact of increased competition.

The three experts were **William Kovacic**, Professor of Law and Director, Competition Law Center, Georgetown University Law School; communications specialist **Padraic Convery**; and **Fabienne Ilzkovitz**, Professor of Economics, Université Libre de Brussel.

### **1. Communicating the benefits of competition and competition interventions**

The **Chair** explained that the first part of the discussion would be organised around three themes emerging from the country contributions: (a) communication strategies; (b) communication on the enforcement activity; (c) communication language and the importance of the general public.

The **Chair** kicked off the roundtable discussion by asking Chinese Taipei what it planned to achieve by creatively expanding its communication channels to attract more audiences, and to comment on the results of those actions.

**Chinese Taipei** explained that it uses online platforms such as YouTube to share decisions, enforcement activities and news releases. Often journalists are informed beforehand to help spread the message. In another example of creative communications methods employed by the Chinese Taipei Fair Trade Commission, an individual charged with antitrust violations in the US was invited to speak about their experience at a recent conference on authority's leniency program allowing attendees to gain first-hand insights from someone directly involved with antitrust law internationally, which enhanced participants' understanding and engagement on competition matters. In closing, the delegate said that while feedback

on the communication channels has been positive, conveying the complexities of competition law in plain language is a continuous challenge.

Next, the **Chair** asked Croatia about the impact and lessons learnt from their brochure on fighting bid rigging.

**Croatia** explained that the brochure was a starting point for further development of activities to fight bid rigging. One of these activities was co-operation with the State Office for the Supervision of Public Procurement. This also involved training activities, which are very important to promote a competition culture. Another activity was an agreement with the Ministry of Economy to obtain access to the public procurement registry. The authority believes that this kind of initiatives have an impact, as shown by more compliance programmes and internal training being organised by undertakings. The delegate summarised other communication tools, noting that the combination of communication tools tailored to particular audiences best promotes competition.

The **Chair** picked up on the importance of clear communication on the role of competition authorities, including being clear on what falls outside of competition law. He turned to Israel to talk about the pressure sometimes placed on competition authorities to solve problems beyond their mandate such as inflation, for example.

**Israel** is noticing a growing gap between public and media perceptions of the role of the competition authority, on the one hand, and responsibilities, on the other hand. Specifically, there is a misconception that the competition authority's primary role is to break monopolies, control prices, and be solely responsible for addressing the cost of living issues. As a result, Israel is working to clarify on its actual functions, which include addressing competition-related issues arising from market behaviour, providing advice on pro-competitive policies, and removing competition barriers. To bridge this perception gap, they are actively communicating their actions and plans across Israel; sharing information about the cases they are handling; and, working to explain what aspects are beyond their control and which other government entities share responsibility for fostering a competitive economy. Israel concluded by mentioning existing challenges such as conveying these messages in simple plain language and the competition authority's concern for possible criticism that it is avoiding responsibility.

The **Chair** agreed that these are key issues and turned to Latvia to ask what kind of feedback it receives on the quarterly and annual reports presented to the Minister of Economy and the Consultative Council of the competition authority.

**Latvia** explained that the Consultative Council consists of representatives of various ministries, of the association of municipalities and of trade associations. The delegate noted that the comments tend to be general but the authority also received feedback about being transparent on the competition authority's response to submissions and complaints. The competition authority was also asked to inform the Consultative Council at the beginning of the year which markets would be prioritised.

Next, the **Chair** noted that in the written contribution from Mexico, COFECE discussed its strategic plans. He commented that, in order to be effective, strategic plans need to be very specific and identify sectors or areas or practises over which the authority would like to concentrate, and all this has to be communicated to the public. With this in mind, he asked Mexico to expand on the differences and evolution of their last three strategic plans.

**Mexico** responded that for COFECE, strategic plans are a road map to comply with its constitutional mandate over a period of four years. The plans have changed overtime to better address the economic, political and social environment. Since the first strategic plan (2014-2017), COFECE has used six criteria to identify priority sectors for competition

policy. These criteria are contribution to economic growth; generalised consumption; transversality; impact on lower income population; regulated sectors; and prevalence and competitive conduct. COFECE added international trends in competition matters as a new criterion in the most recent strategic plan (2021-2025). The current priority sectors are food and beverage, transport and logistics, financial services, construction and real estate services, energy sector, health sector, public procurement, and digital markets. COFECE developed a wide communication campaign, which includes conferences, press releases and social media outlets, to raise stakeholder awareness about these priority sectors.

The ITF, Mexico's telecommunications antitrust authority, added that much of their public communication aims to improve public awareness on the benefits of competition interventions.

The Chair then shifted the discussion to low levels of competition law awareness particularly amongst SMEs. The **Chair** noted that Norway has experience in conducting surveys with businesses, large, medium and small sized companies, with competition lawyers and also with general business lawyers. Focusing on SMEs and their advisers, which are presumably smaller firms that may not have robust competition law experience, could potentially lead to greater awareness and compliance among SMEs. He also asked about the overall effectiveness of their communications activities.

**Norway** replied that legal professionals are a very important stakeholder group for the Norwegian Competition Authority (NCA). Based on surveys of legal professionals, Norway found that competition lawyers have a deeper understanding of competition law when compared to other legal professionals. The NCA targets other legal professionals such as general business lawyers by speaking at breakfast meetings, seminars, roundtables, workshops, and conferences hosted by a variety of legal firms and by writing op-eds published on sites targeting legal professionals. The NCA also hosts an annual law conference that is open to all legal professionals fostering communication and learning between NCA experts and invites academics and lawyers at all levels of the profession.

Norway also engages with trade associations and plans to target other professionals such as accountants to widen the pathways it uses to reach their primary stakeholder group, businesses. In terms of results, surveys conducted following enforcement and advocacy efforts have shown an increase in knowledge of competition law. The NCA also described how targeted communication with municipalities and counties using letters of concern led to a reassessment of restrictive regulations in the grocery market and the taxi market.

Building on the discussion thus far, the **Chair** gave the floor to the Philippines to elaborate on the Champions of Competition Project, one of three communications projects mentioned in their written submission, and to discuss its impact.

As a newer competition authority, the **Philippines** explained that their current communication strategy is still centred on raising stakeholder awareness on the agency's key mandates and the prohibitions under the Competition Act with a view to boosting compliance. Specifically, the Champions of Competition Program seeks to identify individuals or organisations that would aid the Philippines Competition Commission (PCC) to guide industries, gain support of the general public, and promote the PCC and its advocacy work, especially in the crafting of government policies and legislation. The delegate said that the PCC was optimistic that the programme would strengthen the good results already obtained by the authority in terms of relations with the executive and legislative branches of government.

Next the **Chair** turned to Hungary to speak about how the competition authority communicates to Parliament on its yearly activities and assessment, whether there is a

public event on this yearly report with media involvement and what is the outcome of this event.

**Hungary** explained that the annual parliamentary hearings attended by the President of the Hungarian Competition Authority (the GVH) are public and typically occur at a parliamentary standing committee dealing with economic matters. Committee members can question the GVH President about the report and the entire hearing is accessible through the relevant government website. The GVH sees the annual parliamentary hearing as a good opportunity to raise awareness among citizens and businesses of the benefits and importance of fair competition. GVH also has a strong presence in the Hungarian media using press releases, conferences and even press breakfasts to brief about complex cases. Lastly, other channels like Facebook, LinkedIn, YouTube, Twitter or Spotify are used to inform a wider audience of GVH decisions and to promote informed consumer choice. In terms of results, GVH noted that 83% of the Hungarian population had come across competition related news, as reported by European Commission's Euro Barometer Survey on public opinion on competition policy, and that Hungary is one of only three EU countries scoring above the EU average of 74%.

The **Chair** thanked Hungary and gave the floor to Slovenia who is required by law to conduct an annual user satisfaction survey.

**Slovenia** explained that they use their database to build a list of users cutting across all stakeholder groups (merger applicants, lawyers, RFI respondents etc.) and send everyone the same questions on topics ranging from access and utility of website content to the professionalism of their agency officials. Most feedback pertains to turnaround times as users want faster resolutions on competition matters. Given budgetary constraints, the survey is administered by the competition authority itself. The results are published in the annual report making it accessible to all users. The competition authority also has internal presentations of the results with a focus on solutions to improve the results each year.

Next, the **Chair** asked Argentina to describe its public dashboards on enforcement actions.

With the upcoming 100-year anniversary of competition law in **Argentina**, the competition authority is building user-friendly interactive dashboards to feature all decisions delivered by the authority over the years. The dashboard will include the ability to filter by the type of decision delivered, the relevant market and the firm, the geographical scope of the decision, etc., etc.

The **Chair** thanked Argentina, congratulating them on their 100-year anniversary. He turned to Portugal who is very active with initiatives to promote compliance and, like Hungary, also scored higher than the EU average on the European Commission's Euro Barometer Survey.

**Portugal** noted that, in addition to the Euro Barometer results, there are other very encouraging indicators, such as the fact that 2022 was the year with the highest number of leniency applications since the authority was established in 2003. The delegate explained that the '20 years - 20 cities' initiative aims to organise regular meetings on antitrust and competition policy in 20 cities (all district capitals and the autonomous Regions of Azores and Madeira). Although the target audience for the round of meetings between 2023 and 2025 is SMEs, the first sessions were also attended by representatives from business associations, courts and public procurement bodies.

The **Chair** thanked Portugal and gave the floor to Singapore.

**Singapore** conducts a stakeholder perception survey every two years and publishes the findings on their website. In terms of results based on the most recent 2022 survey, 58.4% of businesses are aware of the Competition Act compared to 29.8% in 2019 and 42% of

businesses are now more likely to report anti-competitive practices compared to just 15.1% in 2019. Past outreach with public procurement officers resulted in information on possible bid-rigging conduct. Singapore's multifaceted approach to raise awareness of the benefits of competition includes regular outreach sessions and dialogues, public essay competitions, and the use of many platforms and tools, including website and social media updates, quarterly newsletters, infographics, manga, comic book series, as well as short animated videos. Lastly, Singapore stated that their most recent focus is on post enforcement advocacy efforts at businesses and trade associations in the relevant industry in which enforcement action was taken.

Next, the **Chair** gave the floor to France and asked them if their public complaints procedure on public procurement has led to any bid rigging cases and, if so, whether any firms have sought compensation for damages.

**France** described how competitive intelligence guides investigative efforts in the public procurement field. Agents from the Directorate General of Competition, Consumers and Fraud Repression (DGCCRF) are located throughout the country and establish relationships with public purchasers. These relationships help gather information on company practices and possible anti-competitive behaviour, covering a wide range of small to large companies and contracts. France emphasised that about a third of all detected anti-competitive practices involve public procurement. Regarding compensation for anti-competitive practices, France follows European directives to ensure fair and motivated compensation and significant decisions by the Conseil d'État (the highest administrative court in France) in March 2020 have also influenced compensation policies. France described the example of a successful case where compensation proceedings resulted in a substantial reimbursement of €2,000,000 for anti-competitive behaviour. While an appeal has been lodged, for France, the case illustrates the benefits of compensation policies.

The Chair thanked France and gave the floor to the **European Union**.

The **EU** described two of its newest methods to engage with the public and showcase the benefits of competition policy. The first one is an online webcast debate series where a top speaker from DG Competition discusses issues of competition policy with experts from the legal, economic, academic and stakeholder community. The first episode on Article 102 (abuse of dominance) reached more than 3 200 people, and all four episodes in 2023 together had some 7 600 views. The second initiative is hosting live (and live-streamed) debates in midsize European towns amongst civil society, business and political stakeholders and the public. At these events, participants talk about the concrete benefits of competition policy and how competition makes markets work for people. The media impact of those events is significant.

The Chair thanked the EU and moved the discussion to how competition authorities can effectively communicate the qualitative benefits of competition. He gave the floor to the **US** to discuss impact assessment particularly in terms of non-price effects, and the resulting challenges about communicating these effects to courts.

The **US** noted that their studies often focus on price effects because they can be observed more easily. When there is evidence of price effects there has likely been a more general loss of competition that may manifest itself in non-pricing ways as well. There is growing evidence on quality metrics from hospital mergers. Hospital pricing is complex and the underlying issue is the market power created by consolidation. Attempts to control this market power through price regulation may lead to reduced innovation and lower investment in quality and patient services. Studies have shown that hospital consolidation can lead to adverse effects on clinical quality measures such as mortality rates and medical procedure complications. There are examples where courts have accepted the potential for

non-price harm from healthcare mergers, and one example the Sanford Health / Mid Dakota Clinic challenge several years ago. Further to this, the US Federal Trade Commission (FTC) representative also described ongoing retrospective studies conducted by its Bureau of Economics to assess the non-price harms resulting from healthcare mergers. One of these studies is looking at how physician mergers impact healthcare outcomes on Medicare patients and the extent to which that impact depends on the level of concentration. These studies aim to demonstrate, through empirical evidence, the importance of considering non-price competition and its impact on healthcare outcomes, particularly in markets with increased concentration. Although the studies are time consuming and expensive, the delegate said the studies allow them to move beyond price effects and comment on the qualitative harm when addressing the public and the courts.

The DOJ added that it also emphasises non-price aspects of competition in public statements and enforcement decisions and does not shy away from bringing cases where non-price competition is at stake. For example, the DOJ recently challenged the proposed acquisition by Simon & Schuster of Penguin Random House, alleging that the acquisition would allow the publishers to exert outsized influence over which books are published in the United States and how much authors are paid for their work. The court agreed and blocked the merger.

The Chair thanked the US and gave the floor to the first guest speaker, **William Kovacic**.

**Professor Kovacic** began his presentation by describing the process of formulating a communication strategy. He noted that competition authorities are situated in the middle of a diverse audience that includes the academic community and think tanks, elected officials, the bar and courts, the larger public and advocacy groups within it, media organisations, business, and other regulators, pointing out that somewhat different techniques have to be used to reach each of them. He also emphasised the importance of internal audiences and said that it is crucial to make clear to employees what the organisation wants to do, what it expects, and what it sees as good work. In that way, the process of developing an impactful communication strategy forces organisations to identify its goals and how those goals will be realised.

As explained by Professor Kovacic, a solid communication strategy is also the means through which competition authorities can garner support, build credibility and demonstrate their legitimacy and worth. Without the backing to increase budgets or update laws, the objectives of the communication road map cannot be achieved. The idea of an organisational brand was put also forth by Professor Kovacic, who believes that a good communication strategy builds a brand that external observers respect. Furthermore, over time, the organisational brand or reputation becomes a vital element in the organisation's overall success. Noting the range of communication strategies presented at the roundtable thus far, the speaker argued that every communication initiative targeting an outside audience should identify a short list of anticipated benefits to the organisation itself (i.e. why are we doing this and what do we expect to gain?).

The expert then moved on to discuss how competition authorities can do the work set out in their communication strategies. He believes that approaching communication as a teaching effort is best. This requires using vivid and clear examples and avoid starting with assertions that the message is complex which sounds elitist and widens the gap between a competition authority and its audience. Another method is to rely on a list of 10 "greatest hits" or success stories that can be tailored to the particular target audience.

With respect to public consultations, Professor Kovacic cautioned that these processes can inadvertently raise expectations of the competition authority to provide solutions to the issues at hand. To avoid miscommunication, authorities should establish the purpose of the

consultations, understand the limits of the resulting action plan, and manage public expectations from the outset. Having said that, the speaker added that public consultations are an opportunity to find what he calls cooperating agents or other partners in government that can help move the needle forward on priorities. To do this, think about which agencies have the deepest interest in working with you and communicate what you can do to make their work better (for example, strategic partnerships with procurement authorities). Also, while difficult, Professor Kovacic advocates for communication activities that involve interacting with stakeholders that hold negative views of competition authorities and what competition stands for. These interactions demonstrate that there is a role for them, nonetheless.

Lastly, the expert underlined the value of good partnerships with academics and universities as these institutions and their students can support competition authorities by carrying out research and other studies that help to inform their work. In closing, he talked about how every public interaction or publication is a teaching opportunity not to be wasted by competition authorities. It is a moment to broadcast priorities and to emphasise why they matter.

The **Chair** thanked Professor Kovacic and shifted the discussion to the use of simple language. The Chair gave the floor to Ukraine noting that the Antimonopoly Committee (AMCU) made an effort to communicate with a certain emphasis the most important cases and asked about the role of the media.

**Ukraine** underscored the significance of fair and transparent public procurement even during challenging times like war. While there is a need for swift delivery of goods and services, maintaining transparency and fair competition in the procurement process is still important. Ukraine explained that at the outset of the war, there were exceptions to regular procurement procedures allowing direct purchases from suppliers without competitive bidding. While this expedited procurement, the practice was recognised as potentially more expensive for the government and detrimental to the economy. Therefore, efforts were made to reintroduce competition into public procurement, with exceptions only for military necessities. In Ukraine, the Antimonopoly Committee and other stakeholders work to detect and stop bid rigging in tenders, ensuring that unfair advantages are not gained during the war. One key aspect of this work is to inform the public about such cases and to hold companies accountable by disqualifying those found guilty of bid rigging from bidding for three years. Ukraine explained that there were instances of banned companies continuing to participate despite this ban. As government run registers are not available or very limited under current wartime conditions, the media played a crucial role in uncovering and communicating this information to raise public awareness and subsequent rejection of bids from disqualified companies.

The **Chair** thanked Ukraine and turned to Canada to talk about how a shift to plain language has changed their day-to-day work. The Chair also asked if the scales measuring the complexity of a language, described in their written submission, can be used for languages other than English.

**Canada** started by explaining the two scales that underpin efforts to use plain language more and more. The Flesch Reading Ease and the Flesch-Kincaid Grade Level are tools that allow anyone to measure readability. The Flesch Reading Ease scores text between 1 and 100. The higher the score, the easier it is to read. The Flesch-Kincaid Grade Level shows how many years of formal education a person would need to understand written content by evaluating the approximate grade level of a text.

For Canada, it is very important to reduce the grade level and enhance the ease of reading when communicating with Canadians so they can understand the Bureau's work and to



promote a culture of competition in Canada. Canada referred to a side-by-side text comparison in their submission which illustrates the stark differences in readability of sample text from their Transparency Bulletin.

To answer the Chair's question, Canada indicated that the two scales are only for English but that a French language tool called Scolarius does similar assessments. At the Competition Bureau, the majority of its documents are first drafted in English so the tools are applied to the English versions with subsequent translation into French. Lastly, Canada said they have an internal editorial board to drive the plain language initiative and a style guide that is available both in English and French.

The **Chair** asked whether Canada used language specialists to rewrite materials. **Canada** answered that there is a group of staff with extensive plain language training responsible for re-writing technocratic documents in plain language.

The Chair thanked Canada and gave the floor to media expert **Padraic Convery**.

**Padraic Convery** focused on the benefits of strong media ties and how competition authorities can weave their competition discourse into big news stories that reach the public. In his opinion, the public is competition authorities' biggest customer because competition provides three things that everybody wants: prosperity, jobs, and competitive prices for goods and services. With this in mind, the expert believes that competition authorities need to understand that media outlets are their most powerful allies for getting the message to the public. Press releases and other forms of publishing are important, social media is important, but they are not enough on their own.

According to the speaker, every competition story needs to be centered on the main three objectives of economic growth, job creation and increased price competition. It is not easy to catch the media's attention on competition matters so he suggested finding a hook in existing news on somewhat related issues that already have widespread coverage. For example, linking logistics industry reform to media coverage on the supply chain crunch during the height of the COVID crisis. Competition authorities must also make senior leaders available to the media for interviews so that journalists are motivated and can sell the story to their editors with a certain level of clout.

Lastly, Padraic Convery talked about the role of communication teams. He believes teams must be well connected and engaged with the media outlets. In his view, the public is the main customer, not internal 'higher ups' or officials in other government bodies so competition authorities should focus their communication efforts externally on things that matter to the public.

The **Chair** opened the floor for comments or questions to the guest speakers.

**Chinese Taipei** asked William Kovacic how to manage risk in media announcements on ongoing investigations.

**Professor Kovacic** talked about striking a balance. While one wants to inform and engage business decision makers, they should avoid drawing powerful conclusions, especially in the early stages of an inquiry. Authorities should save more emphatic statements for formal steps like filing charges, issuing complaints, or obtaining indictments, as these indicate significant progress in the case.

The **Chair** observed that many authorities are obliged to reveal when they open an investigation, such as Italy who must also state the facts that led them to open the investigation. **Kovacic** added that factual media announcements can lead to other businesses coming forward with new information also furthering the case.

At this juncture, the **Chair** moved to the next part of the roundtable discussion on competition impact assessment.

## 2. Evaluating the impact of competition interventions

The **Chair** introduced the second topic by recapping the origins of the OECD Guide for assessing the impact of competition authorities' activities. The project started about 10 years ago and the main goal was to give rise to ex post evaluations on concluded competition cases to assess the outcome of competition decisions. At the same time, the OECD proposed a methodology to measure the impact of competition interventions ex ante. Most importantly, the OECD methodology included parameters that became de facto standards used by many competition authorities. These figures are a reduction of 10% of prices in cartels, 5% reduction in abuse cases, 3% record reduction in prices for every block to merger. The Chair explained that the goal of this part of the discussion would be to assess whether these figures are still valid and whether they can be corroborated, even though the number of jurisdictions doing ex post assessment is still quite low despite the importance and benefit of such evaluations.

With that, the **Chair** gave the floor to Brazil to share their recent impact assessment experience.

For **Brazil**, the primary benefit of antitrust intervention in a cartel is to interrupt the overcharging of prices by cartelists. To quantify this overcharge, CADE uses a percentage of the turnover in the cartelised market compared to a benchmark of a competitive market. Although CADE has conducted ex post assessments for specific cases, it does not have a general pattern or figures for all cases. Instead, CADE prefers to rely on common ex ante pattern figures from the OECD for estimating overcharges.

Brazil explained that one reason for not routinely conducting ex post investigations is the trade-off between workforce limitations and incentives to do so. The federal antitrust law in Brazil states that antitrust fines cannot be imposed in smaller amounts than illegal earnings of the cartelists, which is intended to incentivise companies to avoid engaging in collusion schemes. However, the burden of proof for convictions in administrative proceedings is high and there is ongoing debate about the precision of economic estimation of damages, methods which has also influenced CADE's approach.

The **Chair** thanked Brazil and gave the floor to Italy. He asked if Italy's findings from a 2019 study looking at ex post assessment of mergers confirmed OECD figures for the ex-ante evaluation of benefits.

**Italy** explained that the competition authority conducted an ex-post assessment of its merger remedies, focusing on structural remedies and asset divestitures imposed during a 10-year period for approximately 15 mergers. The methodology involved surveys directed at asset buyers to evaluate profitability, competitive performance, the completeness of divested assets as a viable business, and asset value preservation during divestiture. While the study's results are not public, they informed the creation of an internal operating manual which emphasises aspects such as divestiture timing, proactive asset identification, and suitable buyer criteria.

With respect to competition impact assessment, Italy has been conducting impact assessments since 2011 and started publishing the results in its annual reports in 2021. Over an eight-year period (2015-2022), customer savings totalled EUR 8 billion. The methodology aligns with the OECD guide, applying standard assumptions to cases involving cartels, abuse of dominance, and mergers. Italy decided to also include

commitment decisions, provided there is a clear theory of harm disclosed in the decision to initiate proceedings. In closing, Italy welcomed further insights into the type of competition intervention that might be appropriate to include in their assessment.

The Chair thanked Italy and turned to **Fabienne Ilzkovitz** for a discussion of deterrence in the context of competition interventions and related competition impact assessments.

**Professor Ilzkovitz** opened her intervention with a comment on the discussion on communication, noting that it is important to be able to demonstrate the benefits of competition policy, and so there is a clear link between an effective communication strategy and a good evaluation of the benefits of competition policy. The speaker's remarks centred around two approaches for assessing the impact of competition policy: the customer savings approach and the macro modelling approach. Professor Ilzkovitz emphasized the importance of having reliable tools to measure the benefits of competition interventions.

First, the customer savings approach estimates the direct effects of competition interventions on prices in affected markets. Professor Ilzkovitz recommends using a simple and stable methodology that makes comparisons over time easier. There is some degree of uncertainty on the parameters used in the estimation and she recommended providing ranges of results to highlight this uncertainty, using conservative assumptions and being transparent about them. Having said that, the macro modelling approach is superior as it goes beyond direct effects to consider indirect and deterrent effects of competition interventions. Specifically, it uses a dynamic stochastic general equilibrium model (Quest 3 developed by the European Commission) to assess the macroeconomic impact including the deterrent effects.

The presentation included an example based on applying a permanent markup shock to describe the direct and deterrent effects of competition policy interventions by the European Commission. The model is calibrated using the data of the consumer savings methodology, so there is a link between the two approaches. The results indicate significant increases in GDP over time. Using data on the competition policy interventions of the European Commission over the period 2012 – 2021, the model estimates a 0.6% increase in GDP after five years and more than 1% in the long term.

Professor Ilzkovitz explained the logic of the simulation, as follows: the strength of competition policy is measured by the important decisions taken by the European Commission in the area of mergers, antitrust and cartels. These decisions lead to reduction in prices and in markup. These reduction in prices stimulates demand, which will lead to an increase in the production capacity of firms and investment of firms. This will increase productivity and ultimately this will lead to an increase in GDP and employment. While the approach has many benefits, it also has its limitations. It requires many assumptions and only allows to measure the effects of one transmission channel, that is a reduction in the markup.

Professor Ilzkovitz asserted that reputation and interactions with market players play a crucial role in enhancing deterrent effects, especially for small cases. The novelty of the model presented is that deterrence is modelled as a diffusion of information about competition interventions, and this approach takes into account both the role of the competition authority and of market players in this process. There are three main elements which have an impact on deterrence: first the initial level of deterrence in the market or the reputation of the competition authority; the sensitivity of the market players to the external signal, which is sent by the competition authority; and finally the strength of the internal interactions between market players. In concluding her intervention, the speaker advocated for calibrating the macroeconomic model with additional data and knowledge from new case results, particularly those that measure the non-price effects of competition policy

interventions (for example, the impact of an increasing productivity, which would integrate innovation effects).

The Chair thanked Fabienne Ilzkovitz and encouraged competition authorities to share information, when possible, and learn from such studies and evaluations especially since very few jurisdictions have sufficient resources to conduct ex post assessments.

Next, the **Chair** asked Lithuania whether their obligation to demonstrate a EUR 5 benefit to the economy for every euro allocated to the competition authority is legislated or voluntary and also asked for some details on effects in respect of a real estate agent cartel case referenced in their submission.

**Lithuania** answered that the obligation to demonstrate a EUR 5 benefit to the economy is self-imposed. With respect to assessment, currently the competition authority conducts ex ante only, which helps to prioritise between cases and select those that bring the most benefit. This was also the case with the real estate agent cartel case. Lithuania will consider ex post assessments should additional resources allow it, pointing out that the competition authority is in the midst of developing a new 5-year strategic plan and is consider to expand the factors it considers in its assessment.

The **Chair** thanked Lithuania and asked Romania about the analysis they carry out and if they have any ex-post evaluation on the results of their competition interventions surmising that perhaps the OECD methodology is not appropriate for minor cartel cases with minimal price effects.

**Romania** acknowledged that because their current impact assessments primarily focus on first-round effects on prices, the benefits of competition are likely underestimated. In the past, case handlers did ex ante assessments on price effects which involved evaluating both minimum and maximum impacts, as well as the stability of the anti-competitive practice without the competition authority's intervention. However, due to subjectivity and discrepancies in these assessments, the competition authority decided in 2019 to rely on the OECD methodology.

At the moment, the competition authority does not conduct ex post evaluations of their interventions. Romania explained that most of their cases involve infringements by object, where assessing effects is not mandatory. However, in some instances, companies subject to infringement by object claims have gone to court, arguing that the effect of their anti-competitive practices in the market was minimal. In such cases, the competition authority had to calculate effects to address these claims, which could be seen as a form of ex post analysis. As is the case in other jurisdictions, for Romania conducting ex post assessment is also a matter of resource allocation and human resources within the competition authority.

The **Chair** thanked Romania noting that there are two different approaches, that is sanctions for deterrence without a link to effects of the specific anti-competitive practice or sanctions that consider the effect of damages. Turning to Greece where the competition authority's activities are assessed every three years by an expert panel, the Chair asked whether ex post assessment plays a role in the process and what key performance indicators are assessed by the panel.

**Greece** clarified that the expert panel review was newly legislated in 2022 so the key performance indicators are still being developed based on objective quantitative and qualitative data. Greece added that the competition authority conducts assessments of the overall impact of its decisions on the economy in terms of estimated consumer surplus based on the OECD methodology published in 2014.

Next, the **Chair** gave the floor to Spain to share the results of a study undertaken to assess ex post the impact of the competition authority's decisions on market developments.

**Spain** explained that the study, financed by the European Commission, aimed to assess the impact of competition advocacy and market unity reforms in Spain by analysing the degree of compliance with the competition authority's policy recommendations (i.e. advocacy interventions). In terms of results, between 2013 - 2019, the authority adopted more than 500 decisions regarding regulatory reports, market studies, and court challenges, totalling over 2500 recommendations. In aggregate terms, the rate of compliance with the authority's recommendations was slightly above 60%. However, this rate varies depending on the type of intervention. Another interesting result was that local authorities tend to comply more than national or regional governments.

A secondary objective of the project resulted in a methodology to assess the economic impact of advocacy actions, where it could be applied to specific cases. The ex ante methodology follows some of the principles of the OECD guide and is based on assumptions about impact. Although it focuses on prices, it also takes account of other outcomes for consumers and citizens. Specifically, the methodology was applied to 12 individual cases in very different markets (public procurement, FinTech, private hire, among others) which showed an aggregate economic impact of over EUR 2 billion. However, Spain recognised that it is difficult to ascertain whether a particular regulatory change can be attributed via causal links to the competition authority's advocacy efforts. Nevertheless, for Spain, quantification is helpful to convince the government on the potential benefits of complying with their recommendations.

The **Chair** thanked Spain and asked Bulgaria how many advocacy reports are issued annually and what sectors have been addressed.

**Bulgaria** answered that in the period 2012 - 2020, the CPC adopted an average of 22 opinions per year involving a range of sectors (food, hotel, retail were mentioned as examples) and shared three success stories in which the CPC managed to convince the relevant authorities not to introduce anti-competitive regulations.

The **Chair** thanked Bulgaria and asked Türkiye how they calculate the impact of their decisions and whether an ex-post assessment informed their decision to use a lower percent effect on pricing.

**Türkiye** clarified that their use of a conservative benchmark was based on experience with impact assessment. The authority uses two benchmark durations, one based on OECD guidance and another conservative benchmark of one year.

The **Chair** thanked Turkey and turned his attention to the UK. The Chair observed that, similar to Lithuania, the UK also has high targets in terms of quantifying the benefit of competition interventions and wondered whether this leads to small markets being neglected for enforcement action. The Chair also explained that the UK's impact assessments are reviewed by an external consultant which, in his view, is a good practice. The Chair then gave the floor to the UK asking what happens if the consultant disagrees with the competition authority.

The **UK** first explained that the competition authority still works on small cases making reference to a 2017 price fixing cartel involving real estate agents in Somerset county, which resulted in a fine reflective of the size of the businesses involved. Given the local and national media attention, reputational damage and disqualifications, the UK pointed out that this case also connected back to the earlier discussion on deterrence.

Next, the UK explained their case prioritisation principles which consider strategic significance, risks and resources required and impact, both the direct and indirect effects

on consumer welfare, as well as the wider economic impacts of the competition intervention. The goal is to deliver £10 of direct financial benefits to consumers for every one pound of taxpayers' money. In the last three years, they have exceeded this target, delivering over GBP 20 in direct benefits for every GBP 1 spent.

Lastly, the UK appoints independent, experienced academics to review their assessments and confirm the accuracy of impact calculations. If issues or inconsistencies are identified, the competition authority revises their calculations based on feedback from academic experts and reaches agreement on changes.

The **Chair** thanked the UK and moved to comment on the EU submission which uses a methodology similar to that of the OECD. The Chair noted that the benefits attributed to cartels in the EU submission appear to be limited, possibly due to the smaller size of cartels or markets. The EU was asked to comment on this and to indicate whether EU ex-post evaluation studies support the OECD figures and assumptions used in its methodology.

The **EU** first clarified that impact assessment is just one part of their evaluation work which also includes ex post evaluations and assessing the state of competition. The EU has three ongoing ex post studies: one on the effects of merger entry, the other on antitrust remedies, and the third on killer acquisitions in pharma. Acknowledging the scepticism about the validity of its methodology and whether the reported figures such as the estimated EUR 13-22 billion in customer savings annually are too good to be true, the EU explained that their approach involves three key components: the annual customer savings exercise, macro-level analysis, and an ad hoc study on deterrence. Also, while the estimates may look big, they concern markets having a very significant turnover in Europe, such as tobacco with EUR 270 billion and cars with EUR 450 billion.

While the method provides expected benefits and not observed ones, it is grounded in ex post evaluation literature and the assumptions are derived from studies. Their assumptions are conservative, especially for cartels and mergers, and figures are based on empirical evidence. The delegate noted that the estimates on antitrust are especially complex because there is a lot of variation between cases, ranging from vertical agreements to abuse cases, and they can have very different effects. The EU believes that their methodology is robust and reliable because it continually improves with the accumulation of more ex-post studies, which are used to refine assumptions. In closing, the EU said that there are reasons to consider a revision of the OECD guidance, such as the evolving empirical literature and existing gaps in the methodology. However, in their view, the core principles remain sound and the methodology is clear and flexible and its stability allows comparability over time.

Before moving to discussing possible updates to the OECD methodology, the Chair commented that there is a question as to how cases are categorised and included in the data set. For example, certain behaviour could be a violation of provisions about horizontal agreements rather than price fixing as defined by law, and definitions change over time.

At this point, the Chair gave the floor to the **Secretariat** to talk about next steps.

The OECD guide on impact assessments was published over nine years ago. Given the evolving practices of competition authorities, many of which were presented at the roundtable or detailed in submissions to the OECD, it may be an opportune time to revisit the OECD methodology, to gather input from competition authorities and to consider possible adjustments or revisions, particularly in the area of price effects assumptions.

Although there are potential risks associated with revising the methodology, such as creating structural breaks that hinder the comparability of new results with old ones, there is also a risk is that the methodology will become obsolete altogether. Competition authorities were asked to respond to a set of questions in the issue paper distributed by the

Competition Division. The responses will inform whether and how the OECD methodology should be revised.

In closing, the **Chair** circled back to the need for greater clarity and specificity in applying assumptions when conducting impact assessment of competition cases. The Chair mentioned that he is not keen to increase the price reductions assumptions in the OECD methodology, since those estimates are be applied to cases with very different impact. In his view, competition authorities can specifying the types of cases where these assumptions are applicable. That said, the Chair agreed that antitrust cases often have long-term effects on prices and markets so assessing them through impact assessment estimates is complicated, an observation also made by several competition authorities throughout the roundtable discussion.