



2014

Annual Activity Report

DG Competition

Foreword by Alexander Italianer, Director-General

2014 marked a new start for Europe. The newly elected European Parliament gave its green light to the new European Commission on the basis of the priorities outlined in President Juncker's Political Guidelines. According to the mission letter addressed to Margrethe Vestager, Commissioner for Competition, competition policy would "contribute, as appropriate, to our jobs and growth agenda, including in areas such as the digital single market, energy policy, financial services, industrial policy and the fight against tax evasion." In 2014, competition policy encompassed all these areas and thus provides a sound foundation to build upon to support the overall policymaking of the European Commission.

One major achievement in the field competition policy in 2014 was the adoption of the Directive on antitrust damages actions. Thanks to the Directive, it will be easier for European citizens and companies to receive effective compensation for the harm caused by antitrust violations, such as cartels and abuses of dominant market positions. Moreover, the new State aid framework is designed to channel government support where it matters most for growth and competitiveness.

Competition policy helps building a genuine Digital Single Market. In the knowledge-based sectors, vibrant competition is essential to stimulate innovation and spread the benefits of technological development among Europe's citizens. In addition, effective enforcement of antitrust and merger policy makes it easier for small businesses to thrive and gain access to markets in sectors dominated by network effects. Finally, the application of State aid rules to the broadband sector helps to provide good coverage at affordable prices.

In the energy sector, competition policy ensures that companies do not maintain or re-erect barriers to protect themselves from competition, hampering the establishment of a European Energy Union. Competition enforcement also helps to ensure fair and non-discriminatory access to energy infrastructure, removes obstacles to market integration, and fosters competition between and within Member States. Moreover, the revised State aid rules on energy and environment assist national governments to better target their support to renewable energy sources, infrastructure investments, and generation capacity.

The Commission has been particularly vigilant in financial services with the main goal of bringing a stable and fairer financial sector back to its core function of lending to the real economy. The creation of the Banking Union is increasing the confidence of European citizens and markets in the European banking system. Enforcement actions coupled with regulatory efforts also focused on tackling anticompetitive practices in financial derivatives and in the payments sector. In 2014, the Commission has tightened its control of fiscal State aid, by using EU competition tools to make sure that EU countries do not help selected multinational companies avoid paying their fair share of taxes.

Finally, in 2014 the Commission investigated and punished several cartels concerning input and intermediate products. Anti-cartel enforcement reduces and – thanks to its deterrent effect – prevents the harm that cartels cause along the supply chain to the detriment of EU's international competitiveness.

Our achievements in enforcement and policy development in 2014 form a solid foundation for meeting the new challenges ahead.

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INTRODUCTION:

The DG in brief

The European Commission, together with the national competition authorities¹, enforces EU competition rules, based on Articles 101-109 of the Treaty on the Functioning of the EU (TFEU), to make EU markets work better, by ensuring that all companies compete equally and fairly on their merits in the internal market. This benefits consumers, businesses and the European economy as a whole. Within the Commission, the Directorate-General for Competition is primarily responsible for these direct enforcement powers.

The mission of the Directorate-General for Competition is to enable the Commission to make markets deliver more benefits to consumers, businesses and the society as a whole, by protecting competition on the market and fostering competition culture. DG Competition does this by enforcing competition rules and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests.

DG Competition carries out its mission mainly by taking direct enforcement action against companies or Member States when it finds evidence of unlawful behaviour – be it anti-competitive agreements between firms, abusive behaviour by dominant companies or attempts by government to distort competition in the internal market by providing some companies undue advantages over others². At the same time, EU competition policy encourages granting of better targeted aid that addresses market failure or equity objectives³. Such aid has a beneficial impact on competitiveness, employment and growth, and thus on the welfare of society as a whole. Finally, EU merger control⁴ aims to prevent the emergence of market structures which impede effective competition or result in the deterioration of market structures where competition is already less effective.

DG Competition channels its limited resources to the most harmful practices in key sectors, and works in partnerships with other policies to support the delivery of other policy objectives in a pro-competitive way at EU and national level. It works in close partnership with national competition authorities and national courts to ensure an effective and coherent application of EU competition law, thereby contributing to a level playing field in the internal market. DG Competition provides guidance about the competition rules and their enforcement to improve legal certainty for stakeholders. It also strives to ensure transparency, due process and predictability for its stakeholders and private enforcement of

¹ For Articles 101 and 102 TFEU only.

² Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 EC, OJ L 1, 4.1.2003, pp. 1-25, Article 106 TFEU.

³ Council Regulation (EU) No 733/2013, of 22 July 2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 EC to certain categories of horizontal State aid, OJ L 204, 31.7.2013, pp. 11-14; See also http://ec.europa.eu/competition/state_aid/modernisation/index_en.html for the State aid Modernisation, Articles 107-109 TFEU.

⁴ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, pp. 1-22.

EU competition law. In the international context, DG Competition strives to shape global economic governance by strengthening international cooperation in competition enforcement and making steps towards increased convergence of competition policy instruments across different jurisdictions. DG Competition aims at maintaining and strengthening the Commission's reputation world-wide and promoting international cooperation.

DG Competition has a two-dimensional instrument-sector matrix organisation and is comprised of ten Directorates (A to H, R and the Chief Economist's team). Five of the ten Directorates (the so-called "Markets and Cases Directorates", i.e. Directorates B to F) have a sectoral focus⁵. Each of these sectoral Directorates is comprised of units specializing in the application of the main competition enforcement instruments (antitrust, merger control and State aid control, respectively) to the given sector. Directorate E also includes a Task Force, which investigates the food supply chain and food prices in more detail.

A separate Directorate (Directorate G) is dedicated to anti-cartel enforcement. Directorate H is responsible for applying most of the horizontal (i.e. non-sector specific) State aid rules, such as those relating to regional aid, R&D&I aid, risk finance aid and fiscal aid. It is also in charge of enforcing recovery decisions and coordinating monitoring. The Directorate also includes a Task Force on Tax Planning Practices. Directorate A is in charge of policy for all competition enforcement instruments, in addition to the European Competition Network, international relations and private enforcement. Directorate R is in charge of document management, human resources management, financial management, IT, logistics and buildings and the management of issues related to security, ethics and business continuity. DG Competition accomplishes its tasks through the use of its human resources (792 staff members on 31.12.2014) and its legal powers. It has no operational budget.

⁵ Sectorial directorates include: Energy and Environment (Directorate B), Information, Communication and Media (Directorate C), Financial Services (Directorate D), Basic Industries, Manufacturing and Agriculture (Directorate E) and Health, Transport, Post and Other Services (Directorate F).

The year in brief

2014 was a very effective year for DG Competition, both with respect to the number of enforcement actions taken and progress made in the main policy initiatives. All competition-enforcement instruments were used to promote growth and competitiveness across the European economy.

Antitrust enforcement deterred and sanctioned the artificial fragmentation of the internal market. Important enforcement decisions were taken in sectors of strategic importance such as financial services, telecoms, the digital economy, energy and pharmaceutical and health services. Ten cartel prohibition decisions were adopted with fines totalling EUR 1.69 billion as well as six antitrust decisions of which four were prohibition decisions with an additional EUR 0.5 billion in fines. Moreover, 300 merger decisions and 866 State aid decisions were taken.

As regards the development of new policy instruments, in 2014, the Commission in effect completed its State Aid Modernisation reform, which was launched in 2012. State aid Modernisation encourages the design of growth-enhancing public spending policy. The Directive on antitrust damages actions, a long-awaited measure by stakeholders and a policy priority for the previous Commission, was also adopted. In the field of antitrust, the Commission adopted a revised Notice on *de minimis*, accompanied by a Staff Working Document providing guidance on restrictions by object, as well as, new rules for the assessment of technology transfer agreements consisting of a revised Technology Transfer Block Exemption Regulation and Technology Transfer Guidelines, as well as a Communication on ten years of enforcement under Regulation 1/2003. In the field of merger policy, the Commission launched a public consultation on proposals to improve merger control at EU level in a White Paper. Finally, international cooperation in policy-making and enforcement helped to tackle the challenges posed to competition policy by globalisation.

EXECUTIVE SUMMARY

The Annual Activity Report is a management report of the Director-General of DG Competition to the College of Commissioners. It is the main instrument of management accountability within the Commission and constitutes the basis on which the Commission takes its responsibility for the management of resources by reference to the objectives set in the management plan and the efficiency and effectiveness of internal control systems, including an overall assessment of the costs and benefits of controls.

Key Performance Indicators (5 most relevant)

Impact indicator	Trend	Target (or milestones)	Latest known results as per Annual Activity Report										
KPI 1. The benchmark for (observable) customer benefits resulting from cartel prohibition decisions	☺	Stable	EUR 1.78-2.64 bn										
			<table border="1"> <thead> <tr> <th></th> <th>2010</th> <th>2011</th> <th>2012</th> <th>2013</th> <th>2014</th> </tr> </thead> <tbody> <tr> <td>Cartel</td> <td>7.2-10.8</td> <td>1.8-2.7</td> <td>1.35-2.0</td> <td>4.89-5.66</td> <td>1.78-2.64</td> </tr> </tbody> </table>		2010	2011	2012	2013	2014	Cartel	7.2-10.8	1.8-2.7	1.35-2.0
	2010	2011	2012	2013	2014								
Cartel	7.2-10.8	1.8-2.7	1.35-2.0	4.89-5.66	1.78-2.64								

Impact indicator	Trend	Target (or milestones)	Latest known results as per Annual Activity Report										
KPI 2. The benchmark for (observable) customer benefits resulting from horizontal merger interventions	☺	Stable	EUR 2.02-5.06 bn										
			<table border="1"> <thead> <tr> <th></th> <th>2010</th> <th>2011</th> <th>2012</th> <th>2013</th> <th>2014</th> </tr> </thead> <tbody> <tr> <td>Merger</td> <td>4.2-6.3</td> <td>4.0-5.8</td> <td>2.2-5.6</td> <td>0.3-0.7</td> <td>2.02-5.06</td> </tr> </tbody> </table>		2010	2011	2012	2013	2014	Merger	4.2-6.3	4.0-5.8	2.2-5.6
	2010	2011	2012	2013	2014								
Merger	4.2-6.3	4.0-5.8	2.2-5.6	0.3-0.7	2.02-5.06								

It is evident from the above graphs that the benchmark for (observable) customer benefits may show considerable variation over time, both as regards cartels and as regards horizontal mergers. The fact that the magnitude of the customer benefits, based on the applied

benchmarking (see footnotes 45 and 76 for a methodological explanation), may vary from year to year does not affect the deterrence effect⁶ of DG Competition's enforcement activities which are, by far, the main source of benefits for customers. Such deterrence effects are, however, excluded from the benchmarking exercise.

As enforcement actions against cartels and merger control are largely driven by the leniency process and notifications by companies, it is not meaningful to identify a numerical target for these indicators. DG Competition's target for stable indicators in this regard means that it does not aim for either an increase or a decrease. It does not aim for stability as such.

Result indicator	Trend	Target (or milestones)	Latest known results as per Annual Activity Report												
KPI 3. The percentage of State aid foreseen by Member States for horizontal objectives of common interest (such as regional development, employment, environmental protection, promotion of research and development and innovation, risk capital and development of SMEs)	☺	Increase	76.4% (2013) ⁷												
		<table border="1"> <caption>Percentage of State aid foreseen by Member States for horizontal objectives of common interest (2008-2013)</caption> <thead> <tr> <th>Year</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>2008</td> <td>67,1%</td> </tr> <tr> <td>2009</td> <td>70,2%</td> </tr> <tr> <td>2010</td> <td>72,0%</td> </tr> <tr> <td>2011</td> <td>74,9%</td> </tr> <tr> <td>2012</td> <td>74,1%</td> </tr> <tr> <td>2013</td> <td>76,4%</td> </tr> </tbody> </table>		Year	Percentage	2008	67,1%	2009	70,2%	2010	72,0%	2011	74,9%	2012	74,1%
Year	Percentage														
2008	67,1%														
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2010	72,0%														
2011	74,9%														
2012	74,1%														
2013	76,4%														

⁶ See also footnote 26.

⁷ The percentages in this graph differ from those presented in the AAR 2013. Previous figures referred to 27 Member States whereas the present figures take account of 28 Member States. Furthermore, Member States can update past expenditure figures which may result in change of the percentages. We have used the latest information as available at http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html

Result indicator	Trend	Target (or milestones)	Latest known results as per Annual Activity Report																			
KPI 4. The overall level ⁸ of crisis aid to the financial sector actually used by Member States, expressed as percentage of EU28 2013 GDP	☺ ⁹	To stop increasing once the financial crisis is over	8.1%																			
		<table border="1"> <thead> <tr> <th>In billion euros</th> <th>2008</th> <th>2009</th> <th>2010</th> <th>2011</th> <th>2012</th> <th>2013</th> </tr> </thead> <tbody> <tr> <td>Accumulated recapitalisation and asset relief</td> <td>129</td> <td>299</td> <td>446</td> <td>481</td> <td>608</td> <td>636</td> </tr> <tr> <td>Outstanding guarantees and liquidity measures</td> <td>423</td> <td>906</td> <td>862</td> <td>650</td> <td>536</td> <td>387</td> </tr> </tbody> </table>		In billion euros	2008	2009	2010	2011	2012	2013	Accumulated recapitalisation and asset relief	129	299	446	481	608	636	Outstanding guarantees and liquidity measures	423	906	862	650
In billion euros	2008	2009	2010	2011	2012	2013																
Accumulated recapitalisation and asset relief	129	299	446	481	608	636																
Outstanding guarantees and liquidity measures	423	906	862	650	536	387																

Result indicator	Trend	Target (or milestones)	Latest known results as per Annual Activity Report
KPI 5. Error rate in financial transactions ¹⁰	☺	Maximum 2%	2014: 0.00% 2013: 0.00% 2012: 0.02% 2011: 0.00%

⁸ DG Competition calculation. Note that this hybrid indicator has been slightly amended compared to the indicator in the Management Plan 2014. The latter incorporated both peak outstanding amount of guarantees and liquidity over the full period 2008-2012 as well as the amount actually outstanding at the end of 2012. In order to avoid any double counting, only the outstanding amount of guarantees and liquidity is shown now. As previously shown is the cumulated amount of capital and impaired assets measures granted by Member States over the full crisis period updated to the period 2008-2013.

⁹ After having reached a peak in 2009 with ca. EUR 906 billion, the outstanding guarantees and liquidity measures provided by Member States clearly demonstrate a steadily declining trend from 2009 onwards reaching its lowest level since the beginning of the crisis in 2008 with ca. EUR 387 billion outstanding at the end of 2013. The same declining trend can be observed for yearly approval and use of recapitalisation and impaired assets measures which register a historical low in 2013 with ca. EUR 30 billion decreased from the peak observed in 2009 with ca. EUR 170 billion. However, while these trends show that the crisis is perhaps less acute today, important amounts of crisis aid have been approved and used in 2014, as well.

¹⁰ Source: European Commission, Financial Transaction Review performed by Internal Audit Capability/IAS audits from 2015 onwards.

Four of the five key performance indicators measure the performance of the main competition policy instruments: antitrust and cartels, mergers and State aid. While these indicators do not pretend to deliver an exhaustive account of DG Competition's work or its impact on markets, they constitute the core quantifiable indicators of the work of DG Competition.

For the purposes of an annual review of its cartel and merger enforcement, DG Competition provides for a quantitative assessment of the results achieved by the Commission in protecting competition. The benchmark for the (observable) customer benefits resulting from Commission decisions attempts to estimate the benefits to consumers from cartel prohibition decisions and horizontal merger interventions. Thus to assess the impact of its cartel and merger enforcement on the market each year, DG Competition is monitoring the benchmark for (observable) customer benefits resulting from cartel prohibition decisions (KPI 1) and the benchmark for (observable) customer benefits resulting from horizontal merger interventions (KPI 2) as explained above.

The key performance indicators for State aid control are the percentage of State aid granted by Member States for horizontal objectives of common interest (KPI 3) and the overall cumulative level of crisis aid to the financial sector actually used by Member States, expressed as percentage of GDP (KPI 4). While the aim for the third indicator is to increase, the fourth indicator should stop increasing once economic recovery progresses. The rationale for indicating the percentage of State aid granted by Member States for horizontal objectives of common interest (KPI 3) is to show the level of State aid granted at horizontal objectives of Community interest, such as regional development, employment, environmental protection, promotion of research and development and innovation, risk capital and development of SMEs. The key performance indicator relating to the overall level of crisis aid to the financial sector actually used by Member States (KPI 4) measures the gradual phasing out of crisis aid measures of temporary nature and the linked risk of competition distortion in the financial services. This is important because since the beginning of the European financial crisis, EU countries have provided EUR 671 billion in capital and repayable loans and EUR 1288 billion in guarantees to financial institutions in distress, subject to EU State aid rules. Between 2007 and 2014, DG Competition has taken more than 450 State aid decisions, determining the restructuring or orderly resolution of 112 European banking institutions¹¹.

The final key performance indicator, the error rate in financial transactions (KPI 5), is important for DG Competition to ensure that the total amount of any financial operation authorised during the reporting year, which would not be in conformity with the applicable contractual or regulatory provisions, does not exceed 2% of the total expenditure.

¹¹ See *Competition State aid brief: State aid to European banks: returning to viability* of February 2015, available at http://ec.europa.eu/competition/publications/csb/csb2015_001_en.pdf

As it is not necessarily meaningful to identify specific numerical targets for competition enforcement, most of the other indicators for antitrust, mergers and State aid enforcement have been defined as trends (stable, increase, decrease, no target).

As far as merger and State aid enforcement is concerned, DG Competition's activities are largely driven by notifications by companies and Member States. It is therefore not meaningful to identify a numerical target (no target) as this depends on actions beyond the control of the Commission. As far as antitrust and cartel enforcement is concerned, it would not be meaningful to formulate a numerical target (no target), as such target would depend on the number of infringements and the willingness of parties or market players involved to disclose such infringements through the leniency programme, whistleblowing, complaints or the availability of information to the Commission to detect infringements ex officio. However, most competition enforcement agencies publish the number of decisions (intervention rate) to give a benchmark for the level of activity and output per instrument also for deterrence purpose.

Policy highlights of the year (executive summary of part 1)

The objectives of competition policy relate to the efficient use of society's scarce resources, technological development and innovation, a better choice of products and services, lower prices, higher quality and greater productivity¹² in the economy as a whole. Competition policy therefore contributes to the Europe 2020 Strategy of the Commission for smart, sustainable and inclusive growth both directly, by its contribution to the smooth functioning of markets, and indirectly by helping Member States improve on the outcome on a number of markets of specific interest for the future of Europe.

In 2014, the Commission effectively completed the ambitious reform of the State aid, by reviewing several guidelines and regulations, with significant simplification and improvements in the State aid control system. The long-awaited Directive on antitrust damages actions was also adopted in 2014. DG Competition was active in many sectors of the economy prioritised in the Europe 2020 Strategy of the Commission. Notably, the Commission assessed the financial services sector (bank restructuring in programme countries and other State aid cases; financial sector, including VISA, Euro interest rate derivatives, Yen interest rates derivatives and Swiss Franc interest rates derivatives (spreads and derivatives) cartel cases), energy sector (power exchanges, Gazprom, UK capacity market), in ICT (Google, Samsung, Motorola, Slovak Telekom), transport sector (Sky Team, Alitalia/Etihad, Container shipping, rail-road link infrastructure project, trucks) as well as pharmaceutical sector (Perindopril (Servier)).

In 2014, the number of Commission decisions and preliminary concerns expressed (Statement of Objections and Preliminary Assessments) in the field of antitrust and cartel enforcement amounted to 28, above average of the most recent years. In antitrust, six Commission decisions were adopted with fines totalling EUR 499 million consisting of four prohibition decisions in the energy, ICT, pharmaceutical and telecoms sectors (OPCOM/Romanian Power Exchange, Motorola, Perindopril (Servier), Slovak Telekom). Moreover, two commitment decisions were adopted in the field of financial services and ICT (Visa MIF, Samsung) as well as two Statements of Objections in the energy and basic industries sectors (BEH electricity, Refrigerants). As for cartel enforcement, ten Commission decisions were adopted with fines totalling EUR 1.69 billion.

In 2014, 300 merger decisions were taken by the Commission including 18 interventions by the Commission. In total, the Commission took 13 decisions with commitments following first phase investigation (11 in 2013) and five decisions with commitments following an in-depth review (two in 2013). There was no case where the Commission had to prohibit a notified transaction. In one instance, the Commission had to impose a fine on a notifying party that had implemented the transaction before it was cleared (Marine Harvest/Morpol).

In 2014, also 866 State aid decisions were taken in various sectors of the economy.

¹² The Contribution of Competition Policy to Growth and the EU2020 Strategy, IP/A/ECON/ST/2012-25, available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/492479/IPOL-ECON_ET\(2013\)492479_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/492479/IPOL-ECON_ET(2013)492479_EN.pdf)

Key conclusions on resource management and internal control effectiveness (executive summary on part 2 and 3)

In accordance with the governance statement of the European Commission, the staff of DG Competition conducts its operations in compliance with the applicable laws and regulations, working in an open and transparent manner and meeting the expected high level of professional and ethical standards.

The Commission has adopted a set of internal control standards, based on international good practice, aimed to ensure the achievement of policy and operational objectives. As required by the Financial Regulation, the Director-General has put in place the organisational structure and the internal control systems suited to the achievement of the policy and control objectives, in accordance with the standards and having due regard to the risks associated with the environment in which it operates.

DG Competition has assessed the effectiveness of its key internal control systems during the reporting year and has concluded that the internal control standards are effectively implemented. Furthermore, DG Competition has taken measures to further improve the efficiency of its internal control systems in the area of Staff allocation and mobility, Objectives and performance indicators, Evaluation of Activities as reported in Part 3.

In addition, DG Competition has systematically examined the available control results and indicators, as well as the observations and recommendations issued by internal auditors and the European Court of Auditors. These elements have been assessed to determine their impact on the management's assurance as regards the achievement of control objectives. Please refer to Part 2 for further details.

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately monitored and mitigated; and necessary improvements and reinforcements are being implemented. The Director-General, in his capacity as Authorising Officer by Delegation has signed the Declaration of Assurance.

Information to the Commissioner

The main elements of this report and assurance declaration have been brought to the attention of Commissioner Margrethe Vestager, responsible for competition policy.

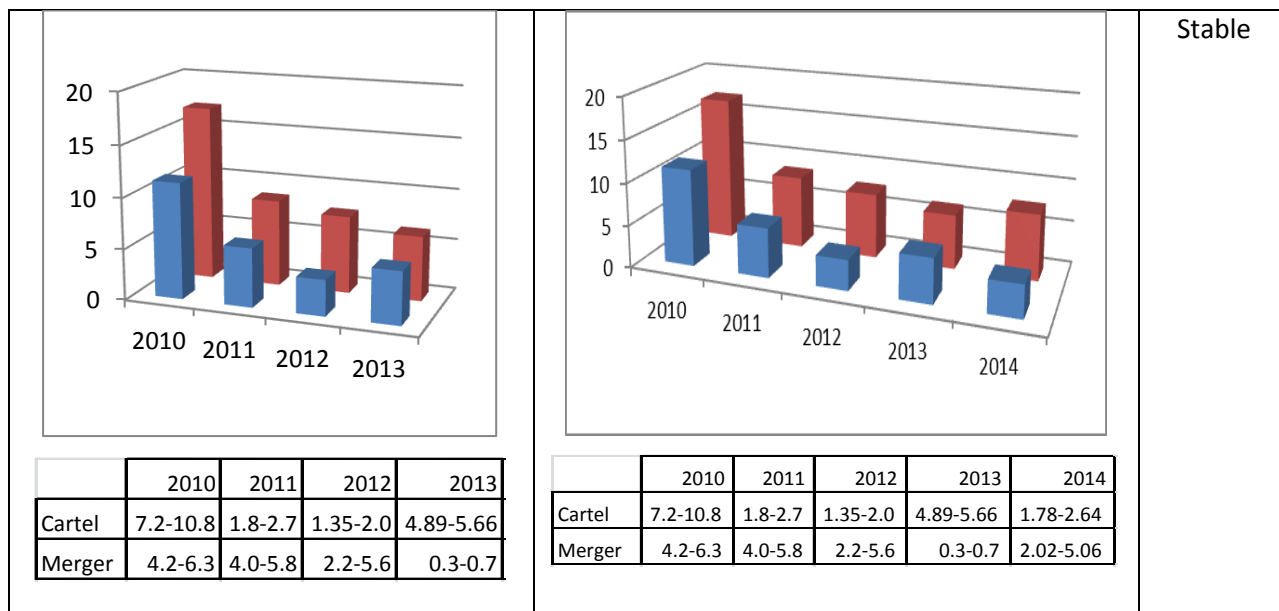
1. POLICY ACHIEVEMENTS

1.1 Achievement of general and specific objectives

1.1.1 Policy area Competition policy: To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition

Policy area: Competition policy		<input type="checkbox"/> Spending programme
General objective 1: To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition		<input checked="" type="checkbox"/> Non-spending
<u>Impact indicator 1</u> : Benchmark for the observable customer benefits resulting from the application of (selected) competition policy tools (combined for cartels and horizontal mergers) ¹³ Source: DG Competition Calculation		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>

¹³ Reported in this graph are the upper and lower end of the sum of the estimates for customer savings with respect to cartel and horizontal merger prohibitions. For a more detailed explanation of the methodology, see footnotes 45 and 76. It is important to underline that these estimates cover only a part of DG Competition's work and therefore underestimate the actual impact of DG Competition's enforcement activities. Significant customer benefits also arise from the Commission's enforcement action against abuses of a dominant position and anti-competitive vertical agreements. However, due to important structural differences among these cases DG Competition does not apply a single, generalised benchmark to these types of practices. Such a generalised benchmark can neither be applied to DG Competition's activities in the area of State aid, anti-competitive practices by the Member States, or policy coordination, European Competition Network and international cooperation activities. Furthermore, the above benchmark cannot account for: (i) customer benefits in terms of better quality or wider choice, as only customer benefits that can be quantified in monetary terms are captured; (ii) other effects of competition policy, such as productivity gains or impact on jobs; or (iii) any possible pass-on to final consumers as this would require a very comprehensive assessment of market dynamics throughout the value chain downstream of the markets concerned by the Commission's decision. Importantly, the figures reported above also do not take account of the considerable deterrent effect of our policy and enforcement activities.



Stable

Output indicator 2: Intervention rate¹⁴

Source: DG Competition case management systems Natasha, CMS

<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
27 (2013)	34 ¹⁵	No target

Impact indicator 3: Success rate before the European Courts in competition cases
(Legal Service statistics as reported annually to the Global Competition Review)

<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
79% (SA); 90% (AT and mergers) (2012)	87% (SA); 75% (AT and mergers) (2013) ¹⁶	70%

¹⁴ As far as merger and State aid enforcement is concerned, DG Competition's activities are largely driven by notifications by companies and Member States. It is therefore not meaningful to identify a numerical target. As far as antitrust and cartel enforcement is concerned, it would not be meaningful to formulate a numerical target as such target would depend on the number of infringements (which could be lower than the target) and the willingness of parties or market players involved to disclose these through the Leniency Programme, whistleblowing, complaints or the availability of information to the Commission to detect infringements *ex officio*.

¹⁵ The 34 interventions consist of six antitrust interventions (of which four prohibition decisions and two commitment decisions), ten cartel interventions (eight settlement decisions and two prohibition decisions) and 18 merger interventions (13 phase I decisions with remedies, five phase II decisions with remedies) in 2014.

¹⁶ Success rate referring to the year 2013, as reported to the Global Competition Review 2014.

1.1.2 Policy area Competition policy: To contribute to smart, sustainable and inclusive growth by focusing actions on the key priorities of the Europe 2020 Strategy

Policy area: Competition policy General objective 2: To contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
<u>Result indicator 1:</u> Percentage of antitrust and cartel decisions related to Europe 2020 initiatives (i.e. Digital agenda, Innovation Union, Industrial Policy, Resource efficient Europe, deepening the Single Market and Economic governance) Source: DG Competition calculation		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
100% (2013)	100% (2014)	Stable
<u>Result indicator 2:</u> Percentage of State aid foreseen by Member States for horizontal objectives of common interest (such as regional development, employment, environmental protection, promotion of research and development and innovation, risk capital and development of SMEs) Link: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
74.1% (2012)	76.4% of non-crisis aid to industry and services (2013)	Increasing

1.1.3 Policy area: Competition policy: To promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe

Policy area: Competition policy General objective 3: To promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
<u>Output indicator 1:</u> Number of substantial replies to Commission inter-service consultations Source of data: DG Competition calculations based on CIS-NET statistics		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
211(2013)	850 (2014) ¹⁷	Stable

¹⁷ Replies in which DG Competition either gives a negative reply or a positive reply under the condition that its reservations are taken into account. In 2014, the number was significantly higher than before due to the ISCs relating to ESI/EFSI and related programmes. ESI Fund DGs started the preparation of the approval

<u>Output indicator 2</u> : Percentage of DG Competition personnel (in FTEs) dedicated to inter-service consultations and impact assessments of other DGs Source: DG Competition calculation		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
0.78% (2013)	0.80% (2014)	Stable
<u>Output indicator 3</u> : Number of Impact Assessment Steering Groups of other Commission DGs in which DG Competition participates Source: Internal		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
11 IASGs (2013)	15 (2014) ¹⁸	Stable
<u>Output indicator 4</u> : Percentage of DG Competition personnel (in FTEs) dedicated to advocacy Source: DG Competition calculation		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
1.82% (2013)	2.88% (2014)	Stable

process for the operational programmes for the period 2014-2020. In a first step, the Commission adopts decisions on 28 Partnership Agreements (PA, one for each MS). The approval process involves two or three ISCs for each PA. DG Competition provided very substantial input in these PAs, and more in particular in the chapter on the "ex-ante conditionalities" (involving a detailed assessment of the provisions to ensure an adequate control of State aid under ESI Fund programmes. In a second step, the Commission adopts decisions approving several ESI Fund operational programmes (OP) for each Member State (involving ERDF, ESF and EAGGF actions). In total some 500 OPs are to be adopted in 2014-2015. For each OP, normally three ISCs are conducted. DG Competition reacted on each ISC (assessment of adequacy of State aid control arrangements in OPs and coherence of arrangements in OPs with provisions set out in PAs, assessment of compliance of text of draft OPs with State aid rules and assessment of provisions in the draft Commission decisions for each OP).

- ¹⁸ Impact Assessment Steering Group (IASG) on the update of the copyright acquis (DG CNECT)
 IA on the revision of Regulation 868/2004 (DG MOVE)
 IA on the AGRI Guidelines and AGRI Exemption Regulation (DG AGRI)
 IASG on Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (DG MARE)
 IASG on Consumer Protection Cooperation (CPC) Regulation Review (DG SANTE)
 IASG on Modernisation of the EU-Mexico Agreement (DG TRADE)
 EU-Japan TSIA Steering Committee (DG TRADE)
 IASG for the delegated acts of MiFID II and MiFIR (DG FISMA)
 IASG for the delegated Act of UCITS V (DG FISMA)
 IASG on the non-bank resolution directive (DG FISMA)
 IASG for the delegated acts and for an implementing act of MAR (DG FISMA)
 Ex-Post Evaluation of the Financial Assistance Programme for the Recapitalisation of Financial Institutions in Spain (DG ECFIN)
 Ex-Post Evaluation of the Financial Assistance Programme for the Recapitalisation of Financial Institutions in Ireland (DG ECFIN)
 IASG for Unfair Trading Practices organised (DG GROW)
 IASG on Access and availability of multimodal travel and traffic data (DG MOVE)

Impact indicator 5: Percentage of positive replies in surveys conducted among citizens on their attitude towards competition		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
82% better prices (2010) 82% better choice (2010)	84% better prices ¹⁹ (2014) 86% better choice (2014)	Increasing
More specific indicators on advocacy in international context in section 1.1.8. below.		

1.1.4 Ensuring the highest standards in the enforcement of competition law

Policy area: Competition policy		<input type="checkbox"/> Spending programme
General objective 4: Ensuring the highest standards in the enforcement of competition law		<input checked="" type="checkbox"/> Non-spending
Result indicator 1: GCR – based indicator: stars rating ²⁰		
Source of data: http://globalcompetitionreview.com/surveys/1001/rating-enforcement-2014		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
5 stars (2013) (scale 1-5)	5 stars (2014) (scale 1-5)	Maintain
Result indicator 2: Legal soundness of decisions ²¹		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
5.1 out of 7 (scale 1-7) (2010)	5.3 out of 7 (scale 1-7) (2014)	Increase by 2015
Result indicator 3: Market knowledge		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
4.8 out of 7 (scale 1-7) (2010)	5.0 out of 7 (scale 1-7) (2014)	Increase by 2015

¹⁹ According to Flash Eurobarometer 403 "Citizens' perception about competition policy" (March 2015) most EU citizens have positive views about the effects of competition between companies. 86% agree that competition allows for more choice for consumers, while 84% agree that competition between companies allows for better prices for consumers. On these two issues, opinions have not varied greatly since 2009 (FL264). A large majority agree that competition between companies encourages innovation and economic growth (82%), while a slightly lower proportion agree that competition allows for higher quality goods and services (74%); 24% disagree with this statement. 74% say that effective competition has a positive impact on them as a consumer, while one in five (19%) say that the impact is negative. See http://ec.europa.eu/competition/publications/reports/surveys_en.html

²⁰ <http://globalcompetitionreview.com/surveys/1001/rating-enforcement-2014>

²¹ For indicators 2-9, Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (December 2014), Aggregate Report, comprising perceptions of professional stakeholders (including companies, lawyers, economic consultancies, business and consumer associations, national competition authorities and member States ministries involved in enforcement, policy or advocacy activities of DG Competition in 2010-2013) published at: http://ec.europa.eu/competition/publications/reports/surveys_en.html

Result indicator 4: Quality of economic analysis		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
4.9 out of 7 (scale 1-7) (2010)	4.9 out of 7 (scale 1-7) (2014)	Increase by 2015
Result indicator 5: Informing in a timely manner		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
4.6 out of 7 (scale 1-7) (2010)	4.9 out of 7 (scale 1-7) (2014)	Increase by 2015
Result indicator 6: Stakeholder consultation on new rules		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
5.2 out of 7 (scale 1-7) (2010)	5.5 out of 7 (scale 1-7) (2014)	Increase by 2015
Result indicator 7: Impact on the markets		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
4.8 out of 7 (scale 1-7) (2010)	4.8 out of 7 (scale 1-7) (2014)	Increase by 2015
Result indicator 8: Timeliness of decisions		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
4.1 out of 7 (scale 1-7) (2010)	4.0 out of 7 (scale 1-7) (2014)	Increase by 2015
Result indicator 9: Promotion of competition culture		
<u>Baseline</u>	<u>Current Situation</u>	<u>Target</u>
4.7 out of 7 (scale 1-7) (2010)	4.9 out of 7 (scale 1-7) (2014)	Increase by 2015
Output indicator 10: Average time required to produce antitrust and cartel decisions ²²		
<u>Baseline</u> (2009-2013)	<u>Current Situation</u> (2010-2014)	<u>Target</u>
3.49 years: AT commitment decisions 4.86 years: AT prohibition decisions 4.18 years: Cartel settlement decisions ²³ 5.17 years: Cartel prohibition decisions	3.77 years: AT commitment decisions 3 years: AT prohibition decisions 3.6 years: Cartel settlement decisions 4.88 years: Cartel prohibition decisions	Decrease

²² These indicators refer to the average duration for decisions adopted in 2010-2014 from registration date to decision date. The number of cases is small and the settlement cases include cases that were at first investigated under the regular procedure, increasing substantially their average length.

²³ The average length of procedures for cartel settlement decisions is calculated from a population that includes cases that have been dealt with at first as regular cases, sometimes for years.

Output indicator 11: Average time required to produce State aid decisions

<u>Baseline</u> (2013)	<u>Current Situation</u> (2014)	<u>Target</u>
Complaints: 15.39 months Notified cases (no objection/no aid): 4.21 months ²⁴	Complaints: 18.73 months Notified cases (no objection/no aid): 6.17 months	Decrease

The general and operational objectives are all served by ensuring competition policy enforcement of the highest of standards. A fair, impartial, efficient and transparent enforcement of competition policy strengthens the ability to deliver results with respect to consumer welfare, efficient markets, growth and advocacy. An efficient, well-functioning and transparent enforcement system also increases compliance with competition rules and allows market players to obtain relief and compensation where needed. The staff of DG Competition is committed to adhere to the highest standards of professionalism, intellectual rigour and integrity so as to ensure the highest standards in the enforcement of competition policy. DG Competition also strives to ensure transparency, due process and predictability for its stakeholders and private enforcement of EU competition law. Maintaining and strengthening the Commission's reputation world-wide is also defined as a priority for the new Commission in the field of competition policy.

DG Competition compares over time its performance in this context. In 2014, it conducted, for the second time, *Eurobarometer Standard Qualitative Study*. In the survey professional stakeholders provided views on some key quality parameters²⁵ related to DG Competition's work. There was widespread agreement among stakeholders that DG Competition's impact on the market is significant by promoting competition, raising awareness for competition rules and acting as deterrent²⁶. The Study finds the sectorial focus of the activities of DG Competition well balanced²⁷, which also corresponds to sectors where European citizens²⁸

²⁴ There are many different types of State aid cases out of which two have been selected for this purpose. The 2009-2014 average for the indicators are respectively 23.91 and 15.79 months.

²⁵ These parameters include i) *Soundness of legal and economic analysis* (clarity and comprehensibility of decisions, predictability of decisions, predictability of fines imposed, understanding the markets and quality of economic analysis) ii) *Transparency and procedural fairness* (level of transparency of DG Competition's work, listening and informing in a timely manner, publication of non-confidential versions of decisions, stakeholder consultations on new rules, observance of procedural rules and burden on businesses and organisations), iii) *Economic effectiveness* (effectiveness of detection policy, deterrent effect of fines, impact of existing antitrust rules on planned business transactions, timeliness of decisions, focus on the right sectors, adaptation to the technological changes and globalisation, Impact on the markets, use of settlements in cartel cases and commitment decisions in antitrust cases, enforcement of decisions and contribution to the EU's economic growth) and iv) *Communication and promotion of competition culture* (clarity and comprehensibility of external communication, choice of communication and media channels and promotion of competition culture and policy convergence at the international level).

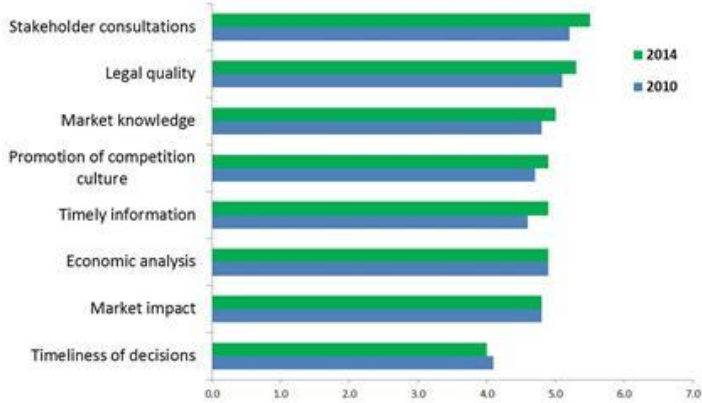
²⁶ Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (December 2014), Aggregate Report p. 35-36, 42-43, http://ec.europa.eu/competition/publications/reports/surveys_en.html

²⁷ Eurobarometer Standard Qualitative Study – DG Competition Stakeholder Survey (December 2014), Aggregate Report p. 40, http://ec.europa.eu/competition/publications/reports/surveys_en.html

²⁸ Flash Eurobarometer 403 – Citizens' perceptions about competition policy (March 2015), p. 7, at

identify competition concerns. DG Competition aims to continuously increase its level of performance in this respect and plans to conduct these surveys again in 2019 to obtain updated information.

DG Competition Stakeholder Survey 2014 – results 2014/2010



http://ec.europa.eu/competition/publications/reports/surveys_en.html. According to the survey, across the EU as a whole, problems resulting from a lack of competition are most likely to have occurred in the energy sector (28%), followed by transport services (23%), pharmaceutical products (21%), telecommunications and Internet sector (18%), food distribution (14%) and financial services (12%).

1.1.5 ABB activity “Control of State aid”

Specific objective 1: Better targeted growth-enhancing aid		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Result indicator 1 : Overall level of non-crisis State aid granted by Member States to industry and services; expressed as percentage of GDP Source of data: State aid Scoreboard and DG Competition calculation; http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
0.51% (2012)	0.49% of GDP (2013) ²⁹	Decrease

²⁹ Source: State aid Scoreboard 2014. The State aid Scoreboard is the Commission's benchmarking instrument for providing a transparent and publicly accessible source of information on the State aid expenditure in the EU and the Member States. The information is based on the annual reports provided by Member States pursuant to Article 6(1) of Commission Regulation (EC) 794/2004 and comprises expenditure granted by Member States through existing aid measures which fall into scope of Article 107(1) TFEU. Link: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html This indicator attributes a positive value to the overall decrease of state aid. Such a general aim has however to be understood as a long term objective, which may allow for deviations to cater for Member States different needs and preferences as to the use of state aid to promote growth and jobs, provided the aid fulfils the compatibility conditions set by the Commission. The need to sustain structural reform or specific action for cohesion and competitiveness may push a Member State to allow for more aid in a given moment, as long as it is in the Community interest. The effectiveness of prevention activities is hard to measure. Member States may already have adjusted their behaviour in line with the State aid rules established by the Commission – it is not easy to find an indicator measuring behaviour which did not take place. Furthermore, certain behaviour (or inaction) can also be attributed to internal considerations (e.g. budgetary constraints). Also, even during the investigation by the Commission of notified aid, certain adjustments may occur in the light of pre-notification meetings or questions asked by the Commission services. Again, no precise indicator exists to measure such corrective actions occurring during the life of the procedure. Finally, it would give a wrong picture if one only looks at the total amount of incompatible aid which is being recovered as indicator, since far from being "prevented", this aid has been granted and is still with the beneficiaries concerned, distorting competition and trade, until full recovery has taken place. Hence, it seems methodologically sounder to set an objective benchmark against which to track the performance of the Commission, which in particular if tracked over time (to correct for possible temporary fluctuations to take account of the different needs of Member States at some point in time) should give an idea of the impact that the Commission has had in preventing "bad" aid for which sectoral aid is used as a benchmark here. To that effect the average figure of sectoral aid as % of GDP in the 5 year period before the Lisbon agenda is used as absolute benchmark for measuring the impact that State aid control has had in preventing "bad" aid.

Result indicator 2: Overall level of crisis aid to the financial sector actually used by Member States. 1) Outstanding guarantees and liquidity measures for 2013; 2) cumulative recapitalisations 2008-2013		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
4.15% (2012) 4.68% (2008-2012)	3% 5.1% ³⁰	Phasing out as soon as economic recovery allows
Result indicator 3: Percentage of State aid earmarked by Member States for horizontal objectives of common interest (such as regional development, employment, environmental protection, promotion of research and development and innovation, risk capital and development of SMEs)		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
74.1% (2012)	76.4% of non-crisis aid to industry and services (2013) ³¹	Increase
Result indicator 4: Success rate before the European Courts in competition cases		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
79% (2012)	72% (2013)	70%
Output indicator 5: Number of opening decisions		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
45 (2013)	28 ³²	-

State aid can distort competition by giving some companies undue advantages over others. Therefore, the Commission applied increased scrutiny in order to tackle cases of "bad" aid, i.e. public interventions that are not in line with State aid rules and which are considered not to contribute to common interest objectives and economic growth. Where aid is granted, DG Competition seeks to ensure that it addresses market failures or equity objectives that have a beneficial impact on competitiveness, employment and growth, and thus on the welfare of society as a whole.

State aid control in the areas of energy and environment is an important part of competition policy, as it contributes to creating conditions for sustainable use of resources and thereby to fulfilling the Europe 2020 goals. In 2014, Member States continued to extensively promote renewable energy generation to achieve the national renewables and CO₂ reduction targets by 2020. In 2014 the Commission adopted new Guidelines on State aid for environmental protection and energy³³, which entered into force in July. The new guidelines support Member States in reaching their 2030 climate and energy targets while addressing market distortions that may result from subsidies granted to renewable energy sources. The

³⁰ Source: see footnote 29. Both as a percentage of EU28 2013 GDP. DG Competition calculation. State aid in the context of the economic crisis is defined as aid on which the Commission took a decision based on Article 107 (3) b TFEU and, in 2008 and 2009, a limited number of crisis related cases assessed on the basis of Article 87 (3) c EC (now Article 107 (3) c TFEU) and the rescue and restructuring guidelines.

³¹ Source: see footnote 29

³² As far as State aid (and merger) enforcement is concerned, DG Competition's activities are largely driven by notifications by companies and Member States. It is therefore not meaningful to identify a target.

³³ Communication from the Commission on State aid for environmental protection and energy 2014-2020, OJ C 200, 28.6.2014, pp. 1-55

Commission decision aims to promote a gradual move to market-based support to avoid over-compensation and competitive distortions through the renewables support schemes.

The Commission also simplified procedures to implement certain aid measures, by including several categories of environmental and energy aid measures in the revised General Block Exemption Regulation³⁴.

Although the situation in the financial markets improved markedly, DG Competition has been involved over the past years in a large number of cases, overseeing the restructuring of 111 banks – equivalent to around one quarter of Europe’s banking sector in terms of assets – out of these, 66 banks were deemed viable (of which 52 were restructured) and 33 were orderly liquidated. As of December 2014, nine cases are still pending.³⁵ State aid decisions were also taken with respect to transport, services of general economic interest and other sectors.

Specific objective 2: Effective prevention and recovery of incompatible State aid		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Result indicator 1: Percentage of "bad"-type of State aid ³⁶		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
0.06% (2012)	0.05% of GDP ³⁷ (2013)	Decrease
Result indicator 2: Percentage of incompatible aid recovered		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
76.3% (31.12.2013)	51% (31.12.2014) ³⁸	Increase

³⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 TFEU, OJ L 187, 26.6.2014, pp. 1-78

³⁵ See Competition State aid brief: State aid to European banks: returning to viability of February 2015, available at http://ec.europa.eu/competition/publications/csb/csb2015_001_en.pdf

³⁶ Sectoral aid (rescue and restructuring, sectoral development and closure aid)

³⁷ DG Competition calculation. This is a planning assumption. As State aid activity is driven partially by notifications, it is not meaningful to provide a numerical target for this indicator. The effectiveness of prevention activities is hard to measure, see also footnote 29.

³⁸ DG Competition calculation. This indicator can be influenced by several factors such as recent decisions not yet implemented, annulment of a decision by the European courts, and in particular, by the fact that with respect to aid schemes the aid amount is quantified only during the recovery procedure. That is why also an effective indicator based on DG Competition's activity regarding recovery of incompatible aid is relevant. While more illegal aid was recovered by the end of 2013, the stock of new cases which await recovery of illegal aid further increased during the same period.

Output indicator 3: Percentage of cases closed or brought to Court within two years		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
55.36% (31.12.2013)	48% (31.12.2014) ³⁹	Increase
Output indicator 4: Scope of aid schemes investigated as part of ex-post monitoring of existing Member State schemes		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
62 aid schemes investigated corresponding to 33% of Member States expenditure under existing aid schemes (2013)	75 (2014) ⁴⁰	Increase

In order to ensure that aid granted under existing aid schemes (without being individually notified and examined by the Commission) effectively complies with State aid rules, DG Competition performs since 2006 a systematic, sample based, ex-post control (so-called "monitoring exercise"). Initially, DG Competition reviewed each year a sample of 20-30 schemes. To further improve the effectiveness of this control, the scope of the monitoring exercise has been systematically enlarged from 2010 onwards and covered 75 block-exempted or approved schemes in 2014. The exercise covers all Member States, all main types of aid and, since 2014, one third of Member States expenditure under existing schemes over a period of 3 monitoring exercises.

When unlawful aid is declared incompatible, the Commission is obliged to ask for its recovery by the Member State who granted it in order to restore the situation in the market prior to the granting of the aid in order to ensure that the level-playing field in the internal market is maintained. Further progress was made in 2014, to ensure that recovery decisions are enforced effectively and immediately. By 31 December 2014, the amount of illegal and incompatible aid recovered from beneficiaries had increased to EUR 9.6 billion⁴¹, from EUR 7.3 billion in December 2004⁴². In 2014, the Commission adopted 18 new recovery decisions and ensured the recovery of about EUR 301 million by the Member States. At the end of 2014, the Commission had 57 pending active recovery cases (compared to 94 cases at the end of 2004).

As a guardian of the Treaty, the Commission may use all legal means at its disposal to ensure that Member States implement their recovery obligations, including launching infringement

³⁹ Member States are responsible for the immediate and effective implementation of the Commission's recovery decisions. In practice however, this procedure may take more than the four months deadline now laid down in standard recovery decisions, either because the case is complex, or because of a failure by the Member State to implement the decision. In the latter case, the Commission can launch proceedings under Article 108(2) TFEU (ex-Article 88(2) EC) before the European Court of Justice against the Member State concerned for failure to implement the recovery decision. This indicator therefore reflects that, within two years, either relevant action has been taken by the Member State to implement the recovery decision (i.e. the case is closed) or the Commission is pursuing actively the effective implementation of its decision (i.e. by bringing a case to Court).

⁴⁰ DG Competition calculation.

⁴¹ Reference is the period from 1 January 2000 until 31 December 2014.

⁴² Reference is the period from 1 January 2000 until 31 December 2004.

procedures. In 2014, the Court of Justice condemned two Member States pursuant to Article 108(2) TFEU (Italy and Germany)⁴³ and one Member State pursuant to Article 260(2) TFEU (Spain)⁴⁴.

As evidenced above, the policy managed by DG Competition is on course to meet its multiannual objectives for this objective and has achieved the annual performance indicators or outputs and milestones in the reporting year.

1.1.6 ABB activity "Cartels, antitrust and liberalisation"

<p>Specific objective 3: Detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices with a view to protecting consumer welfare</p>		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
<p>Relevant general objective: To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.</p>		
<p>Impact indicator 1: Benchmark for the observable customer benefits resulting from Commission decisions prohibiting cartels</p>		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>

⁴³ C-547/11, judgment of 5.6.2014, concerning the decisions 2006/323/EC and 2007/375/EC (SA.12186 Exemption from excise duty for the production of aluminium in Sardinia, Italy); C-572/12, judgment of 11.9.2014, concerning the decision 2011/471/EU (SA.16212 Biria Gruppe, Germany)

⁴⁴ C-184/11, judgment of 13.5.2014, concerning the continuous failure to implement the Commission's recovery decision and after the court judgments C-485/03 joined C-486/03, C-487/03, C-488/03, C-489/03 and C-490/03 (judgments on 14.12.2006) in regard of Article 108(2) TFEU

EUR 4.89-5.66 bn (2013)	EUR 1.78-2.64 bn (2014) ⁴⁵	Stable
Output indicator 2: Intervention rate		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
11 (2013)	10 (2014) ⁴⁶	No target
Impact indicator 3: Success rate before the European Courts in antitrust, cartel and merger cases		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
Ca. 90% (2012)	75% (2013) ⁴⁷	70%

According to Article 101 TFEU, anti-competitive agreements are "prohibited as incompatible with the internal market". Cartels are the gravest of such anti-competitive agreements and a high priority for DG Competition. Cartels typically reduce or eliminate competition between undertakings taking part in them with a view to raising prices and profits, without any objective countervailing benefits.

DG Competition's effective enforcement record against hard core cartels continued in 2014. The Commission adopted ten cartel decisions imposing fines of EUR 1.69 billion. The decisions adopted sanctioned a cartel of producers of flexible polyurethane foam (PU Foam⁴⁸), a market sharing cartel between power spot exchanges in the energy sector (Power exchanges⁴⁹), cartels in financial derivatives (Swiss Franc Interest rates derivatives

⁴⁵ DG Competition calculation. The approach followed to benchmark the observable customer benefits from stopping a cartel (prevented harm) consists in multiplying the assumed increased price brought about by the cartel (called the "overcharge") by the value of the affected products or markets and then by the likely duration of the cartel had it remained undetected. A 10% to 15% overcharge is assumed. This is conservative when compared to the findings of recent empirical literature which report considerably higher median price overcharges for cartels. In order to estimate what the likely duration of the cartel would have been if it had continued undetected, a case-by-case analysis was carried out. This analysis focussed on the particular circumstances of each case and an assessment of important quantitative indicators, including the specific market conditions, the lifespan of the cartel, the ease of reaching and renewing cartel agreements as well as the potential reactions of outsiders (such as new entrants). The cartels are classified into three categories: "unsustainable", "fairly sustainable" "very sustainable". It is assumed that the cartels in the first category would have lasted one extra year in the absence of the Commission's intervention, the cartels in the second category three years, and the cartels in the third group six years. The assumptions concerning the likely duration of the cartels are made prudently to establish a lower limit rather than to estimate the most likely values. Finally, the estimates obtained are also conservative because other consumer benefits, such as innovation, quality and choice are not taken into account.

Financial services

The consumer benefit calculation for the cartels is based upon the termination of the cartels in their entirety (some parties have settled; for others the proceeding against them is ongoing). Moreover, the methodology for the calculation of the consumer benefits has been adjusted to reflect the specificities of the financial markets, namely the calculation of overcharge. This adjustment led to a substantial decrease in the consumer benefits compared to the calculation with the default parameters used for non-financial industries.

⁴⁶ See footnote 14

⁴⁷ Success rate as reported annually to the Global Competition Review. Refers also to mergers and is identical to the indicator for mergers.

⁴⁸ Case AT.39801 *Polyurethane Foam*, Commission decision of 29 January 2014

⁴⁹ Case AT.39952 *Power exchanges*, Commission decision of 5 March 2014

(spreads)⁵⁰ and Swiss Franc Interest rates derivatives (derivatives)⁵¹), in automotive bearings⁵² and steel abrasives⁵³, a long running cartel in respect of power cables⁵⁴, a cartel of canned mushroom producers in Europe⁵⁵, a cartel of smart card chips producers⁵⁶ and a cartel of producers of paper envelopes in Europe⁵⁷. Moreover, ten Statements of Objections were adopted (Automotive Bearings⁵⁸, Steel abrasives⁵⁹, Mushrooms⁶⁰, Euro Interest Rate Derivatives⁶¹, Yen Interest Rates Derivatives (YIRD)⁶², Swiss Franc Interest Rate derivatives⁶³, Swiss Franc interest rate derivatives (RBS-JP Morgan)⁶⁴, Envelopes⁶⁵, Trucks⁶⁶, Steel abrasives (Pometon)⁶⁷). The Commission also continued to receive a constant flow of immunity and leniency applications, close to the long term trend of around two applications per month. The Commission has thus commenced a number of other investigations and laid the groundwork for future enforcement.

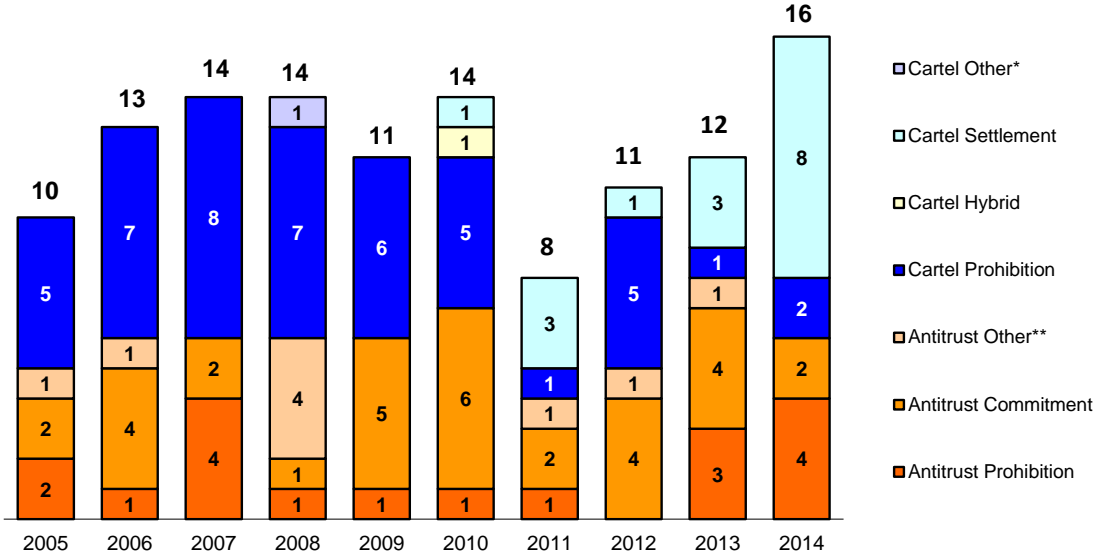
Case name	Adoption date	Fine imposed (EUR)	Undertakings concerned	Procedure
PU Foam	22/01/2014	114 077 000	5	settlement
Power exchanges	05/03/2014	5 979 000	2	settlement
Automotive bearings	19/03/2014	953 306 000	6	settlement
Steel abrasives	02/04/2014	30 707 000	4	settlement
Power cables	02/04/2014	301 639 000	18	normal
Mushrooms	25/06/2014	32 225 000	3	settlement
Smart card chips	03/09/2014	134 048 000	4	normal
Swiss Franc Interest rates derivatives (spreads)	21/10/2014	32 355 000	4	settlement
Swiss Franc Interest rates derivatives (derivatives)	21/10/2014	61 676 000	2	settlement
Paper envelopes	10/12/2014	19 485 000	5	settlement

- ⁵⁰ Case AT.39924 *Swiss Franc Interest rates derivatives (spreads)*, Commission decision of 21 October 2014
- ⁵¹ Case AT.39924 *Swiss Franc Interest rates derivatives (derivatives)*, Commission decision of 21 October 2014
- ⁵² Case AT.39922 *Automotive bearings*, Commission decision of 19 March 2014
- ⁵³ Case AT.39792 *Steel abrasives*, Commission decision of 2 April 2014
- ⁵⁴ Case AT.39610 *Power Cables*, Commission decision of 2 April 2014
- ⁵⁵ Case AT.39965 *Mushrooms*, Commission decision of 25 June 2014
- ⁵⁶ Case AT.39574 *Smart card chips*, Commission decision of 3 September 2014
- ⁵⁷ Case AT.39780 *Paper envelopes*, Commission decision of 10 December 2014
- ⁵⁸ Case AT.39922 *Automotive Bearings*
- ⁵⁹ Case AT.39792 *Steel abrasives*
- ⁶⁰ Case AT.39965 *Mushrooms*
- ⁶¹ Case AT.39914 *Euro Interest Rate Derivatives*
- ⁶² Case AT.39861 *Yen Interest Rate Derivatives (YIRD)*
- ⁶³ Case AT.39924 *Swiss Franc interest rates derivatives*
- ⁶⁴ Case AT.39924 *Swiss Franc interest rates derivatives (RBS-JP Morgan)*
- ⁶⁵ Case AT.39870 *Envelopes*
- ⁶⁶ Case AT.39824 *Trucks*
- ⁶⁷ Case AT.39792 *Steel abrasives (Pometon)*

In addition to cartels, other agreements between companies can give rise to competition concerns and can also have negative effects on consumers. Anti-competitive agreements in key input sectors, such as ICT and other network industries (i.e. transport and energy) as well as healthcare, affect the related input costs and hence the competitiveness of various other sectors.

In 2014, the Commission adopted six decisions concerning anticompetitive practices by companies with fines totalling EUR 499 million: four prohibition decisions (OPCOM/Romanian Power Exchange⁶⁸, Motorola⁶⁹, Perindopril (Servier)⁷⁰, Slovak Telekom⁷¹). Moreover two commitment decisions were adopted (Visa MIF⁷², Samsung⁷³). In addition, in 2014, the Commission adopted two Statements of Objections in on-going investigations (BEH electricity⁷⁴, Refrigerants⁷⁵).

Chart: An overview of cartel and antitrust interventions 2005-2014



* Rejection of complaint ** Rejection of complaint, procedural infringement, penalty payment
 Source: Directorate-General for Competition

As evidenced above, the policy managed by DG Competition is on course to meet its multiannual objectives for this objective and has achieved the annual performance indicators or outputs and milestones in the reporting year.

⁶⁸ Case AT.39984 *OPCOM/Romanian Power Exchange*, Commission decision of 5 March 2014
⁶⁹ Case AT.39985 *Motorola*, Commission decision of 29 April 2014
⁷⁰ Case AT.39612 *Perindopril (Servier)*, Commission decision on 9 July 2014
⁷¹ Case AT.39523 *Slovak Telekom*, Commission decision of 15 October 2014
⁷² Case AT.39398 *Visa MIF*, Commission decision of 26 February 2014
⁷³ Case AT.39939 *Samsung*, Commission decision of 29 April 2014
⁷⁴ Case AT.39767 *BEH electricity*
⁷⁵ Case AT.39822 *Refrigerants*

1.1.7 ABB Activity "Merger control"

Specific objective 4: Prevention of anti-competitive effects of mergers with a view to protecting consumer welfare		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Impact indicator 1: Benchmark for the observable customer benefits resulting from corrective horizontal merger decisions of the Commission		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
EUR 0.3-0.7 bn (2013)	EUR 2.02-5.06 bn (2014) ⁷⁶	Stable
Impact indicator 2: Success rate before the European Courts in antitrust, cartel and merger cases		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
Ca. 90% (2012)	75% (2013) ⁷⁷	70%
Output indicator 3: Intervention rate		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
15 (2013)	18 ⁷⁸	No target

In 2014, the number of received merger notifications increased compared to the last four years. Overall, the Commission received 303 notifications and 35 referral requests under the Merger Regulation. In eight cases the Commission opened in-depth investigations (i.e.

⁷⁶ DG Competition calculation. The approach followed to benchmark the observable customer benefits from the Commission's intervention in the form of a prohibition of a horizontal merger or an approval of such a merger subject to conditions consisted in predicting the change in consumer surplus. The prevention of anticompetitive effects such as the negative impacts on innovation and choice are not taken into account, even though some cases are also largely based on non-price effects, especially effects on innovation. In practical terms, the calculation of the predicted change in consumer surplus arising from the Commission's intervention in each product market is based on three factors: (i) the total size (by value) of the product market concerned, (ii) the likely price increase avoided and (iii) the length of time that this market would have taken to self-correct either by the arrival of a new entrant or by the expansion of existing competitors. The expected price increase is set at 3-5%, a value in line with current academic literature, albeit a conservative estimate. The lower boundary of the estimate is based upon a 3% price increase lasting for two years, the higher boundary upon a 5% price increase for a duration depending on the barriers to entry of the affected market. The stable target is a planning assumption. As the merger control activity is driven by notifications, it is not meaningful to provide a numerical target for this indicator.

⁷⁷ Success rate as reported annually to the Global Competition Review. Refers also to antitrust and is identical to the indicator for antitrust.

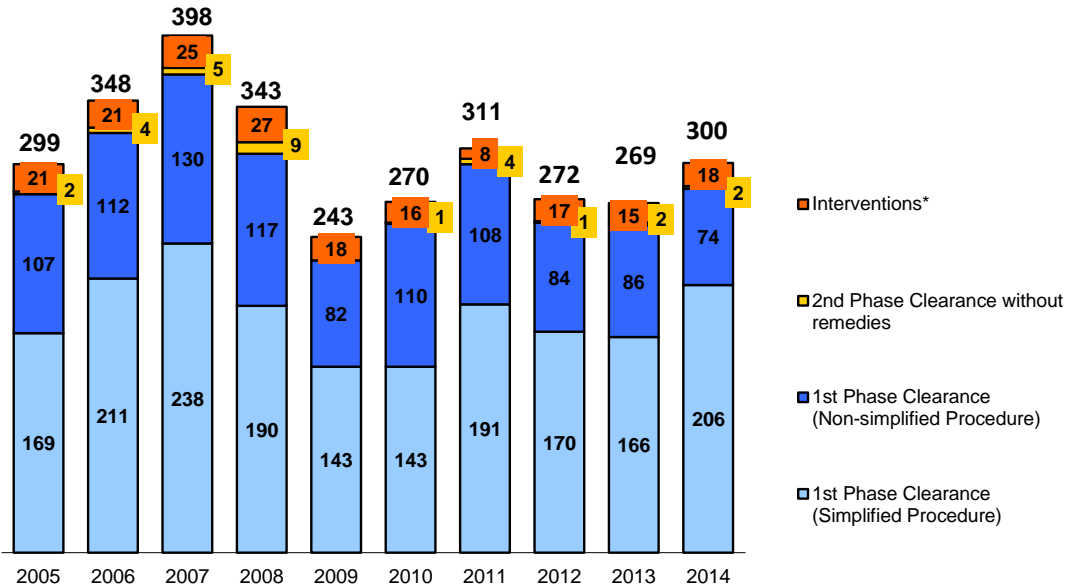
⁷⁸ This figure consists of the number of Commission decisions in phase I approving the concentration ("clearance") subject to conditions ("commitments"), approving the concentration subject to conditions in phase II (in-depth investigation), prohibiting the concentration and aborted phase II cases.

second phase), covering several sectors such as media, basic industries, pharmaceuticals and energy.

The number of decisions (300)⁷⁹ and the number of interventions (18)⁸⁰ increased in 2014 compared to 2013 (269 and 15 respectively). In 2014, five decisions were concluded in second phase with commitments⁸¹, compared to two in 2013 and 13 mergers were approved subject to commitments in first phase (compared to 11 in 2013). There was no case where the Commission had to prohibit a notified transaction. In one instance, the Commission had to impose a fine on a notifying party that had implemented the transaction before it was cleared⁸². The *ex-ante* notification system ensures that the Commission can assess mergers before they are implemented – a key safeguard that protects direct customers and final consumers from the harm anticompetitive mergers could create.

The recent trend that transactions become more complex has continued in 2014. The review of, in particular, the second phase investigations generally requires sophisticated quantitative and qualitative analyses involving large amounts of data.

Chart: An overview of merger enforcement 2005-2014



* Includes prohibitions: one in 2007, 2011 and 2012 and two in 2013
 Source: Directorate-General for Competition

As

⁷⁹ In addition, 1 decision was taken under Article 14 Merger Regulation and 1 decision under Article 7(3) Merger Regulation

⁸⁰ Interventions in merger cases include prohibition decisions and mergers cleared subject to commitments.

⁸¹ Cases COMP/M.6905 *Ineos/Solvay/JV*, Decision of 8 May 2014; COMP/M.6992 *Hutchison 3G UK/Telefónica Ireland*, decision of 28 May 2014; COMP/M.7018 *Telefónica Deutschland/E-Plus*, decision of 2 July 2014; COMP/M.7061 *Huntsman/Rockwood*, decision of 10 September 2014; COMP/M.7000 *Liberty Global/Ziggo*, decision of 10 October 2014

⁸² Case COMP/M.7184 *Marine Harvest/Morpol*, decision of 23 July 2014.

evidenced above, the policy managed by DG Competition is on course to meet its multiannual objectives for this objective and has achieved the annual performance indicators or outputs and milestones in the reporting year.

1.1.8 ABB Activity "Policy coordination, European Competition Network (ECN) and international cooperation"

Policy coordination, European Competition Network and international co-operation

<p>Specific objective 5: Maintain EU competition law instruments aligned with market realities and contemporary economic and legal thinking</p> <p>Relevant general objectives: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.</p>		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
<p>Output indicator 1: Number of legislative or non-legislative instruments to be adopted in 2014 Source of data: Commission Work Programme 2014</p>		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
6 (2013)	9 (2014) ⁸³	No target
<ul style="list-style-type: none"> • European Parliament and Council Directive 2014/104/EU of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ L 349, 6.12.2014); • Commission Regulation (EU) No 316/2014 of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements (OJ L 93, 28.3.2014); Communication from the Commission, Guidelines on the application of Article 101 of the Treaty on the Functioning of the European Union to technology transfer agreements (OJ C 89, 28.3.2014); • Commission Regulation (EU) No 697/2014 of 24 June 2014 amending Regulation (EC) No 906/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) as regards its period of application (OJ L 184, 25.6.2014). • Communication from the Commission, Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice) (OJ C 291, 30.8.2014); 		

⁸³ Including one item from previous Commission Work Programme (Communication from the Commission, Guidelines on State aid to promote risk finance investments, 2014/C 19/04) and one outside the Work Programme for 2014 (Commission Regulation (EU) No 697/2014 of 24 June 2014 amending Regulation (EC) No 906/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) as regards its period of application).

- Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014);
- Communication from the Commission, Guidelines on State aid to airports and airlines, 2014/C 99/03 (OJ C 99, 4.4.2014);
- Communication from the Commission, Framework for State aid for research and development and innovation, 2014/C 198/01 (OJ C 198, 27.6.2014);
- Guidelines on State aid for environmental protection and energy (OJ C 200/1, 28.6.2014);
- Communication from the Commission, Guidelines on State aid to promote risk finance investments, 2014/C 19/04 (OJ C 19, 22.1.2014)

The Directive on antitrust damage actions⁸⁴ was adopted and entered into force in 2014. The Member States will have to implement the directive into their national legal systems by 27 December 2016. The Commission will actively assist Member States in their implementation efforts. The objective of this legislative initiative is to ensure effective damages actions before national courts for breaches of EU antitrust rules in a coherent manner across the EU and to clarify the interrelation of such private actions with public enforcement by the Commission and the national competition authorities, notably as regards the protection of leniency programmes, in order to preserve the central role of public enforcement in the EU.

In 2014, the Commission adopted new rules for the assessment of technology transfer agreements under EU antitrust rules. It consists of a revised Technology Transfer Block Exemption Regulation (TTBER), which exempts licensing agreements from antitrust rules, and the Technology Transfer Guidelines, which provide further guidance on the application of the rules⁸⁵. Licensing agreements can benefit the economy in several ways and the revised regime continues to reflect that licensing is in most cases pro-competitive. The new rules replaced the previous TTBER and Guidelines, with effect as of 1 May 2014. The Commission also adopted a revised Notice on Agreements of Minor Importance (De Minimis Notice),⁸⁶ accompanied by a Staff Working Document providing guidance on restrictions of competition by object⁸⁷. The 2014 De Minimis Notice, like the 2001 De Minimis Notice, defines what the Commission considers not to be an appreciable restriction of competition under Article 101 TFEU by reference to market share thresholds. The accompanying

⁸⁴ European Parliament and Council Directive 2014/104/EU of 26 November 2014 on certain rules governing actions for damages under national law for infringements of competition law provisions of the Members States and of the European Union, OJ L 349, pp. 1-19 available at http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L 2014_349_R_001&from=EN

⁸⁵ Commission Regulation (EU) NO 316/2014 of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements (TTBER), OJ L 93, 28.3.2014, pp. 17-23, and Communication from the Commission – Guidelines on the application of Article 101 of the Treaty on the Functioning of the European Union to technology transfer agreements (Guidelines), OJ C 89, 28.3.2014, pp. 3-50

⁸⁶ Communication from the Commission, Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice), OJ C 291, 30.8.2014, pp. 1-4

⁸⁷ http://ec.europa.eu/competition/antitrust/legislation/de_minimis_notice_annex.pdf

Guidance on restrictions by object helps companies to assess whether their agreements benefit from the market share-based safe harbour.

In 2014, the Commission in effect completed its ambitious State Aid Modernisation (SAM) reform⁸⁸, which was launched in 2012, and aimed to contribute to the broader EU agenda for fostering growth while contributing to Member States' efforts towards budgetary consolidation. Only one building block of SAM still needs to be put in place, namely a Commission's guidance on the notion of State aid, following important evolutions in case law and enforcement practice. SAM provides for more efficient decision making and procedures for granting growth-supporting aid that is not distortive to market functioning in the EU. Among the key objectives of the reform are tangible cuts in red tape, the promotion of a better use of limited public resources by Member States and of a higher contribution to aid measures to growth. If successfully implemented, the reform will contribute to better allocation of public resources and promote higher efficiency and better quality of policy interventions.

As a result of the reform, a significantly larger number of smaller and unproblematic measures should be exempted from prior notification, in exchange for strengthened controls at Member States' level, greater transparency and better evaluation of the impact of aid.

In addition, in the area of merger control, the 'merger simplification initiative' package adopted in December 2013 became applicable as of 1 January 2014. The package included the amendment of the Merger Implementing Regulation⁸⁹ and the adoption of a new Notice on Simplified Procedure⁹⁰. The changes aimed at making EU merger review procedures simpler and lighter for stakeholders and to save costs. In July 2014, the Commission launched a public consultation on proposals to improve merger control at EU level outlined in a White Paper "Towards more effective EU merger control"⁹¹.

⁸⁸ A comprehensive overview of State Aid Modernisation available at DG Competition webpage: http://ec.europa.eu/competition/state_aid/modernisation/index_en.html

⁸⁹ Commission Implementing Regulation (EU) No 1269/2013 of 5 December 2013 amending Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings

⁹⁰ Notice on a simplified procedure for treatment of certain mergers under the Merger Regulation

⁹¹ White Paper "Towards more effective EU merger control", COM(2014) 449 final available at http://ec.europa.eu/competition/consultations/2014_merger_control/mergers_white_paper_en.pdf

Specific objective 6: Coherent application of EU competition law by national competition authorities		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition.		
Output indicator 1: Number of cases signalled to the European Competition Network		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
ca. 120 (2013)	194	No target
Output indicator 2: Number of envisaged enforcement decisions and similar case consultations in the European Competition Network		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
approx. 70 (2013)	101	Stable
Output indicator 3: Percentage of working time of DG Competition's personnel (in FTEs) allocated to the European Competition Network		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
1.02% (2013)	1.25% (2014)	Stable

Regulation 1/2003 empowers the Commission, National Competition Authorities (NCAs) and national courts to apply Articles 101 and 102 TFEU to agreements and practices that are capable of affecting trade between Member States. In 2014, the work on the European Competition Network focused on enhancing the functioning and convergence of the enforcement frameworks in the Member States. In July 2014, the Commission adopted a Communication on "Ten Years of Antitrust Enforcement under Regulation 1/2003: Achievements and Future Perspectives"⁹². This Communication took stock of the enforcement record by the Commission and the NCAs.

⁹² Communication from the Commission of 9 July 2014, *Ten Years of Antitrust Enforcement Under Regulation 1/2003: Achievements and Future Perspectives*, COM/2014/0453 available at <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20140453.do>

Specific objective 7: Ensure coherent private enforcement of EU competition law		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Output indicator 1: Number of amicus curiae briefs Article 15(3) per year		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
1 (2013)	3 ⁹³	Increasing (mid-term), zero (long term)
Result indicator 2: Number of demands for opinion Article 15(1) per year		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
4 (2013)	2 ⁹⁴	Increasing (mid-term), zero (long term)
Result indicator 3: Number of judges trained per year		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
2068 (2012)	624(2013) ⁹⁵ (A new 7-year programming period has started in 2014)	Increasing (mid-term), stable level (long term)

⁹³ Pursuant to Article 15(3) of Regulation 1/2003, the Commission, acting on its own initiative, may submit written observations ("amicus curiae" observations) to courts of the Member States where the coherent application of Article 101 or 102 TFEU so requires. With the permission of the court in question, it may also make oral observations. This has happened once in 2013.

⁹⁴ Pursuant to Article 15(1) of Regulation 1/2003, courts of the Member States may contact the Commission to ask it to transmit to them information in its possession or to give its opinion on questions concerning the application of EU competition rules. The Commission has received four such requests in 2013.

⁹⁵ Data for 2013 are provisional as DG Competition is currently checking the final reports of the training projects under the 2012 call. We will update this figure for 2013 by March 2016.

Specific objective 8: Ensure compensation for victims of EU competition law infringements		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Result indicator 1: Number of actions brought		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
9 (2013)	No data (2014) ⁹⁶	Increasing (mid-term), stable level (long term)

Specific objective 9: Strengthened international cooperation in enforcement activities and increased convergence of competition policy instruments across different jurisdictions; establishment of well-functioning competition regimes in candidate countries and potential candidate countries		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Output indicator 1: Number of third countries with whom the EU has 1st generation competition agreements		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
4 (2013)	4 (2014)	4 (medium term)

⁹⁶ The 2013 baseline was calculated on the basis of publicly available information (the Commission gathered as much information as possible through specialised information services, stakeholders as well as the press). Due to the noted increase in damages actions, publicly available information is no longer considered to adequately measure the number of antitrust damages actions brought. Moreover, damages claims can also be dealt with in out-of court proceedings, such as mediation, arbitration or other forms of settlement of which publicly available data is scarce. The indicator 'number of damages actions brought' has therefore been dropped for future Management Plans, including DG Competition Management Plan 2015.

Output indicator 2: Number of third countries with whom the EU has 2nd generation competition agreements		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
0 (2013)	1 (2014) ⁹⁷	2 (medium term)
Output indicator 3: Number of Memorandum of Understanding with competition authorities in third countries		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
4 (2013)	4 (2013)	4 (medium term)
Output indicator 4: Number of third countries with whom the EU has free trade agreements containing competition/State aid clauses		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
3 (2013)	10 (2014)	19 (medium term)
Output indicator 4bis: Total number of third countries with whom the EU has negotiated or is negotiating trade agreements containing competition/State aid clauses		
<u>Baseline</u> ⁹⁸	<u>Current situation</u>	<u>Target</u>
30 (2013)	30 (2014)	36 (medium term)
Output indicator 5: Number of contributions to OECD, ICN and UNCTAD		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
27 (2013) 15 (OECD), 9 (ICN), 3 (UNCTAD)	21 (2014) 13 (OECD), 5 (ICN), 3 (UNCTAD)	15-20 (medium term)
Output indicator 6: Number of candidate countries with whom accession negotiations on the competition chapter have been opened		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
0 (2013)	0	3

In 2014, DG Competition continued to actively engage at the international level, including negotiating of Free Trade Agreements (FTAs) aiming to include competition and State aid provisions in those agreements in order to ensure a level playing field for European and foreign companies. In 2014, the negotiations with the US on a Transatlantic Trade and Investment Partnership Agreement (TTIP), launched in 2013, were one of the priorities for DG Competition's international efforts. DG Competition continued to follow closely the negotiations with Japan which were launched in 2013. In 2014, DG Competition also focused its efforts on intensive negotiations with Vietnam. Also at the bilateral level, DG Competition's technical cooperation activities with the Chinese competition authority are most notable and will continue under the on-going cooperation programme (EUCTP⁹⁹). A significant programme for technical cooperation with the Indian competition authorities,

⁹⁷ Switzerland.

⁹⁸ Following previous double counting, this figure has been revised from 33 to 30.

⁹⁹ EU-China - Trade Project II

CITD¹⁰⁰, signed in 2013, effectively started in 2014 and will run until 2018. On 1 December 2014, the Cooperation Agreement on the application of Competition laws between the EU and Switzerland came into force. As for enlargement negotiations, the screening of the Serbian legislation took place in 2014. DG Competition also assisted Montenegro to fulfil the Opening benchmarks of the competition negotiations.

Policy Strategy and Coordination

<p>Specific objective 10: Implement the Commission planning and programming so that DG Competition delivers its policy objectives, contributing to the overall Commission strategy in an effective, timely, efficient and accountable manner</p> <p>Relevant general objectives: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition; to contribute to smart, sustainable and inclusive growth by focusing on the key priorities of the Europe 2020 Strategy; to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.</p>		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
<p>Output indicator 1: Timely preparation and delivery of the various elements of the Strategic Planning and Programming cycle (CWP, MP and AAR) Source: http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf http://ec.europa.eu/atwork/synthesis/amp/doc/comp_mp_en.pdf http://ec.europa.eu/atwork/synthesis/aar/doc/comp_aar_2013.pdf</p>		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
100% (2013)	67% (2014) ¹⁰¹	All documents within the deadline
<p>Output indicator 2: Delivery rate (adoption by the College) of initiatives included in the Commission Work Programme and in the Catalogue Source: http://ec.europa.eu/atwork/pdf/execution_report_2013.pdf</p>		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
58% (2013)	100% (2014) ¹⁰²	100% for the Commission Work Programme

¹⁰⁰ Capacity Building Initiative for Trade Development programme

¹⁰¹ DG Competition calculation. Of these three documents, one was submitted after the deadline.

¹⁰² DG Competition calculation.

Output indicator 3: Positive Opinions of the Impact Assessment BoardSource: http://ec.europa.eu/smart-regulation/impact/key_docs/docs/iab_report_2013_en.pdf

Baseline	Current situation	Target
71% (2013)	100% (2014) ¹⁰³	100% positive opinions, resubmission rate below Commission average

DG Competition prioritises its actions in order to maximise its impact on the functioning of markets. Prioritisation entails a careful selection of sectors which are the most important for the competitiveness of the EU economy and the functioning of which has the greatest - direct or indirect – effect on consumers, and of the most appropriate tools (enforcement, soft law, (sectoral) regulation, competition advocacy) to achieve such an impact. In order to ensure timely and effective resolution of opened proceedings, DG Competition follows progress in each enforcement case, monitors workload, outputs, and working time, and allocates resources and cases accordingly. Also, DG Competition constantly assesses its performance, structures and processes to make sure that it is effectively delivering its objectives. Strategic planning within DG Competition, in accordance with the Commission Strategic Planning and Programming cycle, ensures that its policy proposals and enforcement acts pass efficiently through the Commission decision making system.

In 2014, DG Competition's evaluation function became fully functional. It supported the start-up phase of several evaluations by operational units¹⁰⁴, ensured quality control of interim deliverables and organised trainings to build up further evaluation capacity. DG Competition published a five-year indicative evaluation plan.¹⁰⁵ It also continued its evaluations started in previous years, for instance regarding two merger cases in the telecoms sector.

¹⁰³ DG Competition calculation. In 2014 DG Competition submitted in total five Impact Assessment proposals that received positive opinion of the Impact Assessment Board. Of these five proposals, one was resubmission of a 2013 proposal, thus it is not counted for 2014. See: http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2014_en.htm

¹⁰⁴ Evaluation of the access to file/complaints system in Antitrust, Evaluation of State aid decisions in the area of Rescue and Restructuring Aid, Study on the impact of competition policy interventions in the energy sector, Study of an evaluative nature regarding the Training of Judges Programme, Meta-study regarding all evaluations done about merger cases interventions in Europe, Study estimating the macro-economic impact of competition policy interventions.

¹⁰⁵ Please see pages 56-57 of the Management Plan 2014, available at http://ec.europa.eu/atwork/synthesis/amp/doc/comp_mp_en.pdf

Competition advocacy and transparency

Specific objective 11: Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level (AGS+European Semester)		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Output indicator 1: Review of competition aspects of initiatives adopted and implemented at EU level		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
211 (2013)	850 (2014) ¹⁰⁶	Stable
Output indicator 2: Number of country specific recommendations promoted and co-monitored by DG Competition		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
47 (2013)	43 (2014) ¹⁰⁷	Increase in the indicator's level.

Specific objective 12: Timely response to questions from Members of the European Parliament		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Relevant general objectives: to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		
Output indicator 1: Timely preparation of the replies to EP questions		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
100% (2013)	100% (2014) ¹⁰⁸	All documents within the deadline

¹⁰⁶ Number of substantial replies to Commission inter-service consultations: replies in which DG Competition either gives a negative reply or a positive reply under the condition that its reservations are taken into account. DG Competition calculation.

¹⁰⁷ The country-specific recommendations include many recommendations that concern competition as well as a sector (banking, energy, etc.). These are all included here: AT:2, BE:1, BG:1, CZ:1, DE:3, DK:1, EE:1, ES: 4, FI:1, FR: 3, HR:1, HU: 3, IE:1, IT:3, LT:2, LV:2, PL:1, PT:4, RO:1, SE:1, SI:4, SK:1, UK:1 (Note: the programme countries have not been reviewed under the EU2020 process and do not have any CSRs).

¹⁰⁸ DG Competition calculation that indicates how many replies were prepared within the advanced internal deadline of DG Competition.

Specific objective 13: Timely and effective handling of requests for information under Regulation 1049/2001 Relevant general objectives: to promote competition culture in the EU and worldwide by contributing to the competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; ensuring the highest standards in the enforcement of competition law.		<input type="checkbox"/> Spending programme <input checked="" type="checkbox"/> Non-spending
Output indicator 1: Respect of the time-limits for replies		
<u>Baseline</u>	<u>Current situation</u>	<u>Target</u>
85% (2013)	87% (2014) ¹⁰⁹	DG Competition will aim at a full respect of time limits

This activity also includes competition advocacy and transparency efforts on the side of DG Competition, which contribute to a pro-competitive regulatory framework at EU and national level (Annual Growth Survey, European Semester). The Commission's "smart regulation" rules require that DGs perform (ex-ante) impact assessments of all new or amended instruments necessary "for the most important Commission initiatives and those which will have the most far-reaching impacts". Since 1971, DG Competition produces a detailed report on its activities in its Annual Competition Report to the European Parliament, the Council, the European Economic and Social Committee and Committee of Regions, and engages in a structured dialogue with other institutions. DG Competition engages with the European Parliament, in particular the Economic and Monetary Affairs Committee (ECON), on a multitude of topics and strives to provide timely and effective replies to parliamentary questions.

As evidenced above, the policy managed by DG Competition is on course to meet its multiannual objectives for this objective and has achieved the annual performance indicators or outputs and milestones in the reporting year.

1.1.9 ABB activity: Administrative support for the Director-General for Competition

Human resources management

Specific objective 14: Recruit, train, assess, monitor, motivate and retain highly qualified staff and promote equal opportunities within DG Competition		
<u>Result indicator 1:</u> Average vacancy rate Source: Sysper		
Baseline (2013)	Current situation (December 2014)	Target:
8.7%	7.5%	Less than 8%

¹⁰⁹ DG Competition calculation.

<u>Result indicator 2</u> : Turnover (% of permanent staff leaving the DG before three years in the DG). Source: Sysper		
Baseline (2013)	Current situation (2014)	Target:
4%	2.8%	Less than 4%.
<u>Result indicator 3</u> : Equal opportunities (gender balance) Source: Sysper		
Baseline (2013)	Current situation (2014)	Target:
33.3% female senior managers 34.9% female middle managers	36.4% female senior managers 39.0% female middle managers	At least 35% female senior and middle managers
<u>Result indicator 4</u> : Overall job satisfaction Source: Commission staff Survey 2014		
Baseline (2013)	Current situation (2014)	Target:
71% positive opinion	75% positive opinion	Over 73% positive opinion
<u>Output indicator 5</u> : Average number of training days attended Source: Internal		
Baseline (2013)	Current situation (2014) ¹⁰⁵	Target:
5.2 days/year	5.2 days/year	6 days/year

As set out in its mission statement, people are the greatest asset of DG Competition. In its high-skill knowledge-intensive work environment, the success of DG Competition is the success of the people and the synergy of their expertise, experience and skills.

The real challenge of our HR management is how to use the talent in DG Competition even better and how to make it attractive for its most talented colleagues to develop their potential within the DG.

Financial management

Specific objective 15: Implement and maintain an effective internal control system, ensure sound financial management and guarantee the legality and regularity of the underlying transactions.		
Result indicator 1: Budget execution with respect to budget appropriations Source: European Commission, ABAC		
Baseline (2013)	Current situation (2014)	Target:
98.87%	95.03%	Maintain close to 100%
Result Indicator 2: Payments executed within contractual limits Source: European Commission, ABAC		
Baseline (2013) ¹¹⁰	Current situation (2014) ¹⁰⁶	Target:
91.09%	88.31%	Maintain close to 100%
Result Indicator 3: Error rate on financial transactions Source: European Commission, Financial Transaction Review performed by Internal Audit Capability/IAS audits from 2015 onwards		
Baseline (2013)	Current situation (2014)	Target:
0%	0%	Maintain below 2%
Result Indicator 4: Transactions made in accordance with financial circuits Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
100%	100%	Maintain 100%
Result Indicator 5: Budget coverage of first-level ex-ante control Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
100%	100%	Maintain 100%

In light of the multiannual financial framework (MFF) adopted in 2013, DG Competition showed administrative restraint in 2014. The aim of reaching a nominal freeze of all non-salary related expenditure, including expenditure subject to indexation, was attained by DG Competition on most budget lines.

¹¹⁰ Our average for payment execution within contractual limits is traditionally 98%. However, in 2013 and 2014, there was a general lack of payment appropriations throughout the Commission, which meant that many payments were delayed and paid after the contractual limit.

Management of ICT & Document management

Management of ICT

Specific objective 16: IT rationalisation in the Commission – Sub domain for Case Management Systems (led by DG Competition)		
<u>Result indicator 1:</u> Identification and analysis of business requirements common to DGs participating in the Case Management Rationalisation project and purchasing the appropriate tools		
Baseline (2013)	Current situation (2014)	Target
5% completion	75% completion	60% completion in 2014
Specific objective 17: Efficient support to competition investigations by providing software solutions facilitating collaboration between the members of a case team		
<u>Result indicator 1:</u> Deployment of a resilient and scalable Collaborative Platform solution integrating existing powerful search tools		
Baseline (2013)	Current situation (2014)	Target
15% completion	100% completion	100% completion in 2014
Specific objective 18: Efficient exchange of information with Member States in the State Aid (SA) policy area		
<u>Result indicator 1:</u> Deployment of the Genis Information Systems and implementation of new notification forms in line with the State aid modernisation package		
Baseline (2013)	Current situation (2014)	Target
10% completion	100% completion	100% completion in 2014

Document management

Specific objective 19: Provide an effective and comprehensive document management tool integrated with DG Competition case-management applications and offering the specific functionalities required by competition case-handling		
<u>Result indicator:</u> Integration of EDMA (DG Competition's document management system) with DG Competition's case management applications, including integration with Hermes/ARES		
Baseline (2013)	Current situation (2014)	Target
Implementation of a Collection feature Implementation of a Reply function	Implementation of the archiving module of HAN (HERMES-ARES-NOMCOM) for DG Competition files according to SG schedule	

Specific objective 20: Enhance paperless document exchanges (e-Commission) with 3rd parties		
<u>Result indicator:</u> Incrementing paperless document exchanges with ECN using the ECN-ET system		
Baseline (2013)	Current situation (2014)	Target:
No document exchange for Merger cases; 80% of document exchange for Antitrust cases	Approx. 95% of document exchange between DG Competition and the ECN for both Antitrust and Merger cases	
<u>Result indicator:</u> Incrementing the paperless document exchanges with 3 rd parties by using eTrustEx		
Baseline (2013)	Current situation (2014)	Target:
Development of eTrustEx finalised 0 documents exchanged	Pilot phase ongoing < 30% of document exchange with third parties use eTrustEx ¹¹¹	e-TrustEx operational 30% of document exchange with 3 rd parties to use eTrustEx by end 2014
Specific objective 21: Well-functioning of case management applications according to users' needs (Natacha, ISIS, CMS, CHOPIN)		
<u>Output indicator:</u> Number of training/coaching sessions/year		
Baseline (2013)	Current situation (2014)	Target:
32	35	30
Specific objective 22: Application of DG Competition's archiving system with E-Domec rules		
<u>Result indicator:</u> Implementation status of E-Domec archiving rules		
Baseline (2013)	Current situation (2014)	Target
Timely transmission of files to the Historical Archives at the end of their DUA (<i>durée d'utilité administrative</i>)	Maintain the timely transmissions of files to the Historical Archives at the end of their DUA	

Competition enforcement is evidence based and evidence is found increasingly in electronic documents. Information systems which contribute to an efficient management of

¹¹¹ Mainly due to the fact that third parties need specific access rights to be able to use eTrustEx.

competition activities as well as document management itself constitute essential support functions for DG Competition's daily operations.

Since 2013, in collaboration with DGs TRADE, OLAF, AGRI and MARE, DG Competition is leading the development of a new Case Management system to contribute to the modernisation and rationalisation of case and document management in the Commission. In addition to reinforcing further the security of DG Competition's sensitive case data, this new system will importantly improve ICT and Document Management support to case teams, among others because it will be more adapted for handling (very) voluminous case files.

In 2014, the IT and Document Management units worked very closely not only so as to assure continued support services to DG Competition's investigative units based on the existing IT solutions. Even more importantly, they pursued work on the design and construction of the future systems supporting DG Competition activities in general.

Internal audit, control and risk management

Specific objective 23: Effective assessment of the compliance, efficiency and effectiveness of the control systems in place		
Result Indicator 1: Time to address pending critical/very important recommendations after acceptance		
Source: DG Competition statistics		
Baseline (2013)	Current situation (2014)	Target:
2 months	36 days ¹¹²	No critical/very important recommendations left pending without an action plan for more than 1 month after acceptance

This activity consists of assessing the compliance, efficiency and effectiveness of the control system in place by assisting the Director-General and management in controlling risks and monitoring compliance, providing an independent and objective opinion on the quality of management and internal control system and making recommendations in order to improve the efficiency and effectiveness of operations and to ensure economy in the use of resources.

¹¹² IAS audit 2014.

Ethics, security, business continuity and environmental management

Specific objective 24: Knowledge and respect by staff of DG Competition's Code on Ethics and Anti-Fraud Strategy		
<u>Result Indicator 1</u> : Number of ethical and fraud incidents (sanctions by IDOC or OLAF) Source: IDOC or OLAF		
Baseline (2013)	Current situation (2014)	Target:
No incident	No incident	No incident
<u>Output indicator 2</u> : Attendance at newcomers' ethics training Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
80%	85%	Close to 100%

Specific objective 25: Knowledge and respect by staff of DG Competition's security rules and incident reporting procedures		
<u>Result Indicator 1</u> : Number of reported inadvertent disclosures of confidential information by staff Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
9 reported incidents	8 reported incidents	Reduction of inadvertent disclosures of confidential information
<u>Output indicator</u> : Attendance at newcomers' induction training Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
85%	85%	Close to 100%

Specific objective 26: Effective management of business continuity based on a fully implemented and tested Business Continuity Plan		
<u>Output indicator</u> : Critical staff and their back-up having attended business continuity training Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
80%	80%	85%
<u>Output indicator</u> : Updated contact details in the NOAH IT Business Continuity Application Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
93%	95%	Close to 100%

Specific objective 27: Improvement of DG Competition's environmental performance		
<u>Result Indicator 1</u> : Green office supplies		
Source: OIB and internal		
Baseline (2013)	Current situation (2014)	Target:
55% of office supplies	60% of office supplies	60% of office supplies
<u>Output indicator</u> : Paper consumption		
Source: Internal		
Baseline (2013)	Current situation (2014)	Target:
7.26M sheets	7.2M sheets	7M sheets

In 2014, DG Competition started to implement its Anti-Fraud Strategy, reviewed its Security Guidelines and drafted a new Business Impact Analysis. It also continued to organise specific training sessions to newcomers on ethics, security and business continuity.

As evidenced above, the policy managed by DG Competition is on course to meet its multiannual objectives for this objective and has achieved the annual performance indicators or outputs and milestones in the reporting year.

1.2 Example of EU-added value and results/impacts of projects or programme financed

Not applicable.

1.3 Economy and efficiency of spending and non-spending activities.

According to the financial regulation (Article 30), the principle of economy required that the resources used by the institution in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of efficiency concerns the best relationship between resources employed and results achieved.

The respect of these principles is continuously pursued through the implementation of internal procedures and predefined practices. These procedures ensure that activities are executed in an efficient manner (e.g. the different workflows contribute to the efficient cooperation between staff, units, etc...) and according to the principle of economy (e.g. the procurement rules ensure procurement in optimal conditions).

DG Competition is continuously fine-tuning its internal arrangements in order to improve the efficiency and economy of its operations. The following two initiatives show how these principles are implemented in our DG:

1.3.1 Example 1: Access to file and antitrust complaints

In 2014, DG Competition started to evaluate, in partnership with external consultants, whether the antitrust procedural rules on access to file and on complaints still correspond to the needs that they are supposed to address and whether they do so in an efficient manner.

With regard to access to file, this evaluation aims to provide DG Competition with better information on the respective costs and benefits of the traditional access to file method set out in the Notice on the rules for access to the Commission file¹¹³ and other methods to provide access to parts of the file mentioned in the Notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU¹¹⁴, namely data rooms and confidentiality rings.

With regard to complaints, this evaluation aims to assess whether the current system of antitrust complaints, including the procedure for rejecting such complaints, meets the needs of complainants (in terms of being able to draw DG Competition's attention to alleged infringements) and DG Competition (in terms of optimal resource allocation and being able to detect cases that lead to final decisions).

1.3.2 Example 2: State aid Modernisation (SAM)

In 2014, the Commission in effect completed its ambitious State Aid Modernisation (“SAM”) reform¹¹⁵, which was launched in 2012¹¹⁶ and aimed at promoting good aid that supports growth while contributing to Member States' efforts towards budgetary consolidation. Only one building block of SAM still needs to be put in place, namely a Commission's guidance on the notion of State aid, following important evolutions in case law and enforcement practice.

SAM provides for more efficient decision making and procedures for granting growth-supporting aid that is not distortive to market functioning in the EU. Among the key objectives of the reform are tangible cuts in red tape, the promotion of a better use of limited public resources by Member States and of a higher contribution of aid measures to growth. If successfully implemented, the reform will contribute to better allocation of public resources and promote higher efficiency and better quality of policy interventions.

As a result of the reform, a significantly larger number of smaller and unproblematic measures should be exempted from prior notification, in exchange for strengthened controls at Member State level, greater transparency and better evaluation of the impact of aid. According to Commission's estimates, three-quarters of today's State aid measures and some two-thirds of aid amounts could be covered by the new GBER. That proportion could increase to 90% of all aid measures provided Member States use the GBER to the full extent. This means that only cases with the biggest potential to distort competition in the Single Market will remain for ex-ante assessment (notification). This increased use of the GBER will have a strong impact on aid beneficiaries and on granting authorities, leading to faster

¹¹³ Commission Notice on the rules for access to the Commission file in cases pursuant to Articles 81 and 82 of the EC Treaty, Articles 53, 54 and 57 of the EEA Agreement and Council Regulation (EC) No 139/2004, OJ C 325, 22.12.2005, pp. 7-15

¹¹⁴ Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU, OJ C 308, 20.10.2011, pp. 6-32

¹¹⁵ For a complete overview, see http://ec.europa.eu/competition/state_aid/modernisation/index_en.html

¹¹⁶ Communication of 8 May 2012 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU State Aid Modernisation (SAM), COM(2012) 209 final

access to the aid (through avoidance of the notification process) and reduction of administrative burden (simpler conditions, e.g. for demonstrating the incentive effect).

The State Aid Modernisation also implies a greater role for Member States in State aid control, including in designing State aid measures to fit the rules (particularly the GBER), taking responsibility for compliance of the aid they grant, and making the transparency and evaluation requirements work. The new partnership arrangements with Member States are built on a pro-active support of Member States by the Commission through advocacy work and trainings.

Throughout the State Aid Modernisation process, the Commission followed a consistent approach in establishing new Guidelines containing the criteria for assessing State aid compatibility. A key objective was to encourage Member States to ensure that aid granted is addressing the key market failures and bottlenecks. The common approach to compatibility helps to ensure that aid is well designed to meet its objective and that competition distortions remain limited. The main principles behind the common approach:

- *"Big on big, small on small"* as SAM introduced higher thresholds for notifying aid aimed at addressing the well-known market failures (R&D&I aid, SME access to finance, regional aid). New categories of aid have been exempted from notifications, such as culture, sports, natural disasters, local infrastructures.
- *Focus on criteria that matters.* The new guidelines provide for effect-based analysis of large projects, bringing public intervention closer to best market practices. The guidelines also include criteria for supporting large infrastructure projects in the common EU interest, in a way that they do neither crowd-out private investments, nor results in undue distortions of competition and trade in the Single Market.

2. MANAGEMENT OF RESOURCES

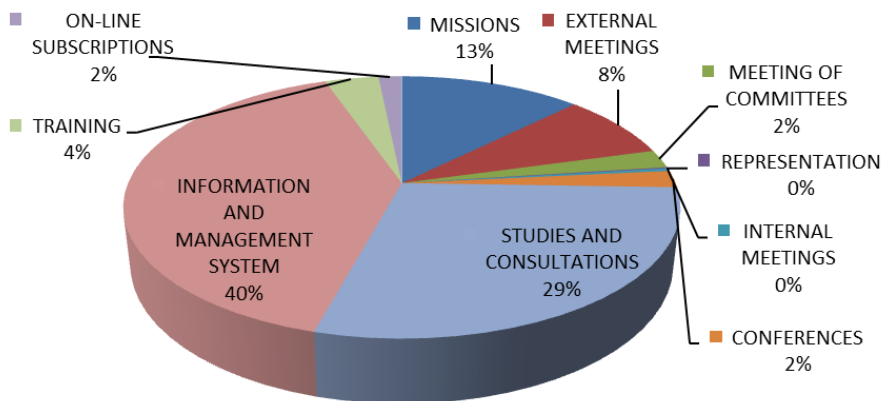
Assurance is an objective examination of evidence for the purpose of providing an assessment of the effectiveness of risk management, control and governance processes. This examination is carried out by management, who monitors the functioning of the internal control systems on a continuous basis, and by internal and external auditors. Its results are explicitly documented and reported to the Director-General. The reports produced are:

- financial reports on budget execution, expenditures, payment delays, procurement and contract management;
- contribution of the Internal Control Coordinator, including the results of internal control monitoring at the DG level;
- the opinion and the observations of the Internal Audit Capability (IAC);
- the observations and the recommendations reported by the Internal Audit Service (IAS); and,
- the observations and the recommendations reported by the European Court of Auditors (ECA).

This section reports the control results and other relevant elements that support management's assurance on the achievement of the internal control objectives¹¹⁷. It is structured in two separate sections: (1) the DG's assessment of its own activities for the management of its resources and (2) the assessment of the results of internal and external audits, including the implementation of audit recommendations.

Competition policy is implemented through enforcement and involves predominantly procedural (case-handling) and advocacy activities. DG Competition managed in 2014 a relatively modest administrative budget of EUR 7.23 million (of which EUR 5.07 million was related to procurement) under direct centralised management. The budget covered the administrative costs in support of DG Competition's operations such as mission costs, expert groups, advisory committees, conferences, studies, consultations, expert advice, IT (including corporate rationalisation) and training (see graph for the budget distribution in 2014). Financial management is therefore not a critical challenge for the DG's operations.

¹¹⁷ Effectiveness, efficiency and economy of operations; reliability of reporting; safeguarding of assets and information; prevention, detection, correction and follow-up of fraud and irregularities; and adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programs as well as the nature of the payments (Article 32 FR).



To optimise the use of its human resources and manage its budget in the most efficient manner, DG Competition operates a centralised circuit for its administrative expenditures. The role of the operational units/Directorates is important, in particular with respect to operational initiation and verification. A close and constant liaison with members of the Finance Team of Unit R2 is however essential throughout the expenditure life cycle. These arrangements allow for a more responsive organisation without jeopardising the effectiveness of internal controls.

In such an environment, services, like DG Competition, rely on ex-ante controls as well as on ex-post controls; for efficiency purposes the latter take the form of a year-end audit performed by the Internal Audit Capability and designed to review procurements, financial transactions and the effectiveness of the internal control system.

2.1 Management of human and financial resources by DG Competition

This section reports and assesses the elements identified by management that support the assurance on the achievement of the internal control objectives. Annex 5 outlines the main risks together with the control processes aimed to mitigate them and the indicators used to measure the performance of the control systems.

Financial management and control is grouped around three core processes: 1) Procurement (from the assessment of needs to the selection of the suppliers – award decision), 2) Financial operations (from establishing the financial commitment to payment, contract monitoring and ultimately recoveries) and 3) Supervisory measures (including ‘ex-post’ controls and management checks).

Control effectiveness as regards legality and regularity

DG Competition has set up internal control processes aimed to ensure the adequate management of the risks relating to the legality and regularity of the underlying transactions, and the nature of payments. The control objective is to ensure that the Director-General has reasonable assurance that the total amount of any financial operation authorised during the reporting year, which would not be in conformity with the applicable

contractual or regulatory provisions, does not exceed 2% of the total expenditure. In 2014, the error rate was zero.

In order to reach this conclusion, DG Competition reviews the reporting of exceptions and non-compliance events, defined as control overrides or deviations from policies and procedures, and the results of the ex-post controls and supervisory activities.

All procurement stages as described in Annex 5, are therefore subject to a supervisory desk review prior to the signature of the contract. Moreover, 100% of our transactions are subject to ex-ante initiation and verification in accordance with the financial circuit. In 2014 38% of the executed budget was subject to a supervisory desk review after the signature of the contract. None of these controls unveiled errors with impact on compliance. During the reporting year there was one recorded exception, which had no impact on the legality and regularity of the transaction. Furthermore, there were no complaints from unsuccessful contractors, no legal proceedings initiated against the Commission and no cases received from the Ombudsman.

The analysis of the available control results has not unveiled any weakness which could have a material impact as regards the legality and regularity of financial operations. It is therefore possible to conclude that the control objective has been achieved.

Control efficiency and cost-effectiveness

The principle of efficiency concerns the best relationship between resources employed and results achieved. The principle of economy requires that the resources used by the institution in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price. This section outlines the indicators used to monitor the efficiency of the control systems, including the benefits of these controls. It should be noted that DG Competition continuously reviews its control strategy to ensure the cost-effectiveness of controls.

Procurement procedures are to a large extent a regulatory requirement which cannot be curtailed and our controls comply with the baseline requirements of the Financial Regulation (FR). Fixed costs, to ensure baseline controls and compliance, are therefore intrinsic parts of public procurement. DG Competition operates under a limited procurement budget and acquires highly specialised consultants and service providers in support of its operations. The services procured are therefore not repetitive in nature and are limited to between 15 and 25 contracts per year. Most procurements therefore concern amounts lower than EUR 60 000 and only two to five procurements are carried out for amounts above the threshold laid down in the directive on public procurement. Furthermore, DG Competition procures for its operations on-line databases, training consultants and IT-services, mainly under framework contracts. In 2014, a total of 112 procedures with an average contractual value of EUR 45 200 were launched and supervised. 90% of these procedures were made under existing framework contracts and 10% were made as low value procurements.

For efficiency reasons, DG Competition has separated operational and financial control and applies a centralised financial circuit, with a strong financial support role. This allows detecting and rectifying mistakes immediately during the transaction process. The errors are of immaterial nature and mainly consist of omissions, such as not joining the adequate

supporting documents to the file. In such environment, it would not be efficient to install further means of control in order to calculate the benefits of control efficiency and cost-effectiveness. It is therefore not possible to estimate the volume of errors prevented and detected, or to quantify the related benefits. Nevertheless, it is estimated that the total costs for the controls applied were effective, as the prevention of potential errors in procurement procedures is less expensive than costs of potential litigations and/or legal proceedings.

To measure the efficiency of our controls, DG Competition relies on the indicators mentioned in Annex 5. In 2014, all planned procurements were approved by senior management as being in line with the DG's objectives and priorities. One procedure at a value of EUR 300 000 had to be cancelled and re-launched, due to the inability of the contractor under a framework contract to perform the services required. Despite the lack of payment credits on one budget line sub-delegated to DG Competition (ISA appropriations), the average payment delays in 2014 were 26.06 days and 88.31% of all payments were executed within the contractual limit. However, if the invoices related to the ISA appropriations are disregarded, the average payment delays were 16.27 days with a payment execution within the contractual limits of 99.44%. Moreover, the average registration delay for an invoice was 1.7 days, well below the Commission target of 5 days.

In addition, there are a number of non-quantifiable benefits resulting from the controls aimed to ensure that the financed projects contributed to the achievement of the policy objectives. The benefits of controls in non-financial terms cover: better value for money, deterrence, efficiency gains, system improvements and, as mentioned above, compliance with regulatory provisions.

Overall, during the reporting year the controls carried out by DG Competition for the management of the budget appropriations were efficient and cost effective. The necessity of these controls is undeniable, as a significant proportion of the appropriations would be at risk in case they would not be in place.

Fraud prevention and detection

Anti-Fraud Strategy

In 2013 DG Competition has developed its Anti-Fraud Strategy as foreseen in the Commission's overall Anti-Fraud Strategy¹¹⁸. The Strategy complements the DG's Code on Ethics and Integrity and takes into account the DG's relatively limited administrative budget and absence of operational budget.

The actions taken in 2014 are as follows:

- Update of the DG's Code on Ethics and Integrity in light of the new Staff Regulations (notably as regards revolving doors).

¹¹⁸ COM(2011) 376 24.6.2011.

- The review of the DG's Security Guidelines (formally adopted by Senior Management on 26 January 2015) took into account the risk of fraud.

- A financial Authorising Officer by Sub-Delegation participated in the course on Fraud Prevention organised by DG Budget and subsequently reported to a meeting of DG Competition's Financial Correspondents. In parallel, a member of the DG's Internal Audit Capability followed a specific course on internal audit and fraud.

- Meetings took place with the three competition instruments representatives (Antitrust, Mergers and State aid) to discuss fraud-related risks.

In addition, DG Competition continued its participation in OLAF's Fraud Prevention and Detection Network, and joined the newly created Working Group on Conflicts of Interests.

The 2014 Action Plan foreseen in the Anti-Fraud Strategy has been reviewed and reported to the Director-General on 18 December 2014.

Anti-Fraud controls

The controls aimed at preventing and detecting fraud are not fundamentally different from those intended to ensure the legality and regularity of transactions. Each year, DG Competition assesses the risk of fraud in the context of its risk management exercise. The fraud risks are mitigated by specific controls. Activities and operations at a higher risk of fraud are subject to more in-depth monitoring and control. During the reporting year, no case of fraud was transmitted to OLAF/IDOC for investigation. In addition, during the same period, OLAF has not initiated any case concerning the activities of DG Competition based on other sources of information.

Both OLAF and IDOC report annually on the follow up of their investigations.

Other control objectives

Recruit, train, motivate and retain highly qualified staff and promote equal opportunities within the DG

- Average vacancy rate: 7.5% in 2014. The target was to be less than 8%.

- Turnover: 2.8% of statutory staff leaving the DG before three years in the DG in 2014. The target is less than 4%.

- Equal opportunities: 36.4% female senior managers and 39.0% female middle managers on 31 December 2014. The target was 35% female senior and middle managers.

- Overall job satisfaction: 75% positive opinion in Commission staff survey in 2014. The target was to have over 73% positive opinion.

Knowledge and respect by staff of DG Competition's security rules and incident reporting procedures

- Number of inadvertent disclosures of confidential information by staff: 8 reported incidents in 2014, which is a reduction compared to previous years. The target is to reduce the number of incidents further.

Effective management of business continuity based on a fully implemented and tested Business Continuity Plan

- Critical staff and their back-up having attended business continuity training: 80%. The target was 85%.

Control results do not lead to the identification of any weakness that may have a significant impact on the assurance.

2.2 Budget implementation tasks entrusted to other DGs and entities.

Not applicable.

2.3 Assessment of audit results and follow up of audit recommendations

This section reports and assesses the observations and conclusions reported by auditors which could have a material impact on the achievement of the internal control objectives, and therefore on assurance, together with any management measures taken in response to the audit recommendations.

2.3.1 IAC reports

In 2014 four audit reports were finalised (Audit on Business Continuity Programme (BCP) phase II, Audit on the handling and reporting of information security incidents, Audit on the monitoring of State aid granted, Review of financial transactions 2014).

Based on the results of its audits the IAC's opinion is that the internal control system in place provides reasonable assurance regarding the achievement of the business objectives set up for the processes audited. No critical recommendations were issued and the only two very important recommendations raised during these audits were closed during the follow-up carried out early 2015.

Ten audits were followed-up in 2014 and early 2015. Following the assessment of the status of all audit recommendations sent for review by the auditees, the auditors closed 32 recommendations out of which 11 were classified as very important (VI). The auditors drew the attention of the management to two of the VI recommendations closed: one relating to the awareness-raising of all critical staff about the changes made in the recently adopted Business Continuity Plan and what is expected from them in case of crisis, action which remains to be performed. The other one relates to the Judges Training programme; once the

results of the study will be known (expected in 2016), the definition of the programme's objectives and indicators, their monitoring and the overall analysis of the efficiency of the programme will have to be set-up and followed in detail by DG Competition's management.

The IAC also states that no information has been brought to its attention that would warrant making a reservation in this report.

The IAC recalls that the Commission called on the IACs in the respective DGs to complete their work programme for 2014 and provide their respective Directors-General with the IAC opinion on the state of control for 2014 by the end of February 2015 at the latest, the date at which the internal audit function in the individual DGs would cease to exist.

2.3.2 IAS reports

In 2014/early 2015 the IAS followed-up its 2012 audit on the "Management and monitoring of staff allocation" as well as its 2013 audit on the "Effectiveness of HR management to support the financial crisis in DG COMP". In both cases the IAS concluded that all recommendations made were adequately and effectively implemented. DG Competition was included in the scope of the audit on the "Administrative processes supporting the implementation of the European Semester (ES) across the Commission". IAS has no specific issues for DG Competition to report on.

2.3.3 ECA reports

End 2014 the ECA followed-up its Special report (n° 15) regarding its audit of the handling of State aid cases by DG Competition issued end 2011. The Preliminary Findings issued by the ECA early 2015 indicate a large level of implementation of the recommendations issued.

3. ASSESSMENT OF THE EFFECTIVENESS OF THE INTERNAL CONTROL SYSTEMS

The Commission has adopted a set of internal control standards, based on international good practice, aimed to ensure the achievement of policy and operational objectives. In addition, as regards financial management, compliance with these standards is a compulsory requirement.

DG Competition has put in place the organisational structure and the internal control systems suited to the achievement of the policy and control objectives, in accordance with the standards and having due regard to the risks associated with the environment in which it operates.

The DG's annual review of its implementation of the Internal Control Standards (ICS-15) was based on an initial desk review by the ICC staff, followed by discussions with relevant horizontal units responsible for the implementation of the 16 ICS. In DG Competition, the selection for the ICSs to be prioritised during the next year is based on the risk assessment exercise, the IAC and IAS audit reports, and the Internal Control Coordinator's process review. Senior Management validates the selection of priorities during the preparations for the management plan. As largely a non-spending DG, the inherent risks of DG Competition rather relate to procedures leading to Commission decisions in the field competition policy, handling of confidential information as well as attracting and maintaining highly qualified staff.

For 2014, ICS 3, 5 and 14 were prioritised and are detailed below.

ICS 3 – Staff allocation and mobility

In 2014, DG Competition reviewed its resource allocation and mobility so as to match more closely its resources with the policy priorities. Based on policy priorities, workload and time management indicators, DG Competition undertook several internal redeployments. On the basis of this analysis, DG Competition also requested additional resources.

Moreover, DG Competition encourages flexible use of resources in particular within its instrument networks ("décloisonnement").

In addition, the existing DG Competition workload and performance indicators by instrument (antitrust, cartels, mergers and State aid) were further fine-tuned in 2014. Also within the respective instrument areas the weighting system for the specific instrument (State aid and Antitrust) allowed for staff to be moved or to be detached from one unit to another. The weighting system compares the workload by looking at past output as well as at expected future work. A specific weight is attached to all future cases thus making it possible to compare the expected workload of different cases on a sound basis.

Time has proven the effectiveness of the workload indicators to the extent that the move of staff allowed for a more equal workload across instrument areas/units. The workload is re-evaluated on a regular basis to lead to an even better repartition of workload amongst staff if needed.

DG Competition will continue to develop coherent methodologies for allocation of staff across instruments (antitrust/cartels/mergers/State aid/policy) according to the objectives and priorities of DG Competition.

In 2014, DG Competition continued to participate in the multi-annual Human Resources (HR) planning pilot, coordinated by DG HR. The Strategic HR Plan serves as a tool to plan human resources needs and developments in a three-year horizon (2015-2017). The HR Plan is divided in two parts: (1) the political and business priorities of the DG and their implications for its staffing, and (2) the HR objectives of the DG and how they will help to achieve its business objectives. The Plan includes a gap analysis between the available resources and the projected needs for resources.

ICS 5 – Objectives and performance indicators

Further to the efforts of the Commission to strengthen performance management culture and setting of objectives and related performance indicators at the Commission level, DG Competition reviewed and amended in 2014 its general and specific objectives and related indicators as set out in its Management Plan for 2015.

In view of its objective to ensure "*highest standards in the enforcement of competition law*", which now is a specific objective in Management Plan 2015 under horizontal activities, DG Competition conducted for the second time DG Competition Stakeholder Survey 2014 (Standard Qualitative Eurobarometer Study, December 2014, first survey in 2010), to compare over time performance related perceptions from its professional stakeholders (companies, lawyers, economic consultants, business and consumer associations, national competition authorities and Member States ministries) who were involved in its enforcement, policy or advocacy activities in 2010-2013. The results of the survey are published together with Flash Eurobarometer 403 Citizen Survey on citizens' perception on competition policy (March 2015).

DG Competition will continue to reflect on its objectives and performance indicators to further improve performance monitoring and reporting in line with the Commission's efforts to further strengthen its performance management culture.

ICS 14 – Evaluation of Activities

In 2014, DG Competition's evaluation function became fully functional. It supported the start-up phase of several evaluations by operational units, ensured quality control of interim deliverables and organised trainings to build up further evaluation capacity. DG Competition published a five-year indicative evaluation plan. It also continued its evaluations started in previous years, for instance regarding two merger cases in the telecoms sector.

DG Competition will continue to develop and strengthen the evaluation activities of DG Competition, the newly created evaluation function, evaluation network, methodologies and practices as well as training also in view of the planned forthcoming evaluations.

In conclusion, the internal control standards are effectively implemented.

4. MANAGEMENT ASSURANCE

This section reviews the assessment of the elements reported in Parts 2 and 3 and draw conclusions supporting of the declaration of assurance and namely, whether it should be qualified with reservations.

The information reported in part 2 and 3 stems from the results of management and auditor monitoring contained in the reports list. These reports result from a systematic analysis of the evidence available. This approach provides sufficient guarantees as to the completeness and reliability of the information reported and results in a complete coverage of the budget delegated to the Director-General of DG Competition.

The intrinsic risk for administrative expenditure managed by DG Competition, including procurement, is relatively low because of the limited budget as well as the centralised and direct mode of budget implementation. The risks are effectively mitigated by means of controls put in place. The AOD's best estimation of the risks relating to the legality and regularity for the expenditure authorised during the reporting year (EUR 6.34 million) is between 0% and 2%, which implies an amount at risk of below EUR 126 000.

Further assurance is obtained by the risk management process put in place, and the very limited number of significant exceptions and non-compliance reports reported in 2014. Management has obtained satisfactory evidence that the internal control system in its entirety is implemented effectively in the DG.

Results from audits during the reporting year give an overall positive feedback and did not include any critical findings. The residual risk from audit recommendations remaining open from previous years is not considered to have an impact on the declaration of assurance.

DG Competition has put in place suitable control measures to limit risks of errors and guarantee that assets and information are safeguarded, and to prevent, detect and correct fraud and irregularities. Where necessary, improvements of the overall control strategy and processes were made in the course of the year.

In conclusion, management has reasonable assurance that, overall, suitable controls are in place and working as intended; resources assigned to the DG have been used for their intended purposes and in accordance with the principles of sound financial management and those of legality and regularity; risks are appropriately monitored and mitigated and necessary improvement and reinforcements are being implemented. Furthermore, it is also possible to conclude that the internal control systems provide sufficient assurance with regards to the achievement of the other internal control objectives.

DECLARATION OF ASSURANCE

I, the undersigned, Alexander Italianer

Director-General of DG Competition

In my capacity as authorising officer by delegation,

Declare that the information contained in this report gives a true and fair view¹¹⁹.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the internal audit capability, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here which could harm the interests of the institution

Brussels, 27 March 2015

(signed)

Alexander Italianer

¹¹⁹ True and fair in this context means a reliable, complete and correct view on the state of affairs in the DG.