



EUROPEAN COMMISSION

Management Plan 2014

DG Competition

Contents

PART 1. MISSION STATEMENT	4
PART 2. THIS YEAR'S CHALLENGES.....	5
PART 3. GENERAL OBJECTIVES OF THE POLICY	7
3.1 To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition.....	8
3.2 To contribute to smart, sustainable and inclusive growth by focusing actions on the key priorities of the Europe 2020 Strategy	10
3.3 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	12
3.4 Ensuring the highest standards in the enforcement of competition law	14
PART 4. SPECIFIC OBJECTIVES FOR OPERATIONAL ABB ACTIVITIES.....	17
4.1 ABB activity: "Control of State aid"	17
4.1.1 Better targeted growth-enhancing aid	18
4.1.2 Prevention and recovery of incompatible aid	23
4.2 ABB Activity "Cartels, antitrust and liberalisation"	24
4.2.1 Cartels	25
4.2.2 Other anti-competitive agreements	26
4.2.3 Abuses of a dominant position	29
4.2.4 Anti-competitive practices by Member States	31
4.3 ABB Activity "Merger control"	32
4.4 ABB Activity "Policy coordination, European Competition Network (ECN) and international cooperation"	34
4.4.1 Competition policy	35
4.4.2 Coherent application of EU competition law by national competition authorities and courts	43
4.4.3 Coherent private enforcement of EU competition law	44
4.4.4 International cooperation and convergence	44
PART 5. HORIZONTAL ACTIVITIES	46
5.1 Policy strategy and coordination	46
5.1.1 Strategy: delivering results	46
5.1.2 Competition advocacy and transparency	47
5.2 Administrative support.....	50

ANNEX 1. INDICATIVE PLANNING OF STUDIES (EVALUATIONS AND OTHER STUDIES).....	56
ANNEX 2. COMMUNICATION STRATEGY.....	58

PART 1. MISSION STATEMENT

The mission of the Directorate General for Competition is to enable the Commission to enhance consumer welfare in the EU and efficiently functioning markets by protecting competition and promoting a competition culture. This is done through the enforcement of competition rules and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests.

Competition is not an end in itself. It is an indispensable element of a functioning Single Market guaranteeing a level playing field. It contributes to an efficient use of society's scarce resources, technological development and innovation, a better choice of products and services, lower prices, higher quality and greater productivity in the economy as a whole. Therefore, competition contributes to the wider objectives of promoting strong and sustainable growth, competitiveness, employment creation and tackling climate change. Competition policy therefore contributes to the Europe 2020 Strategy for smart, sustainable and inclusive growth.

DG Competition carries out its mission mainly by taking direct enforcement action against companies or governments 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 by providing disproportionate support for particular companies. It prevents mergers when they would significantly reduce competition. At the same time it helps direct State support to improving competitiveness and/or reducing regional and social disparities and away from aid which distorts competition on the market without any compensating benefit. Typically this positive kind of state support addresses market failures by public aid to R&D, innovation and risk capital, SME's, environmental protection and training and, more generally, achieving the targets set in the EU 2020 strategy.

DG Competition channels its limited resources on 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 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 promotes the private enforcement of EU competition law.

In the international context, DG Competition strives to shape global economic governance by strengthening international cooperation in enforcement activities and making steps towards increased convergence of competition policy instruments across different jurisdictions.

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 law.

PART 2. THIS YEAR'S CHALLENGES

In 2014, DG Competition will continue to use all of its competition policy instruments to actively contribute to Commission initiatives fostering smart, sustainable and inclusive growth in Europe to the benefit of all EU businesses and consumers.¹ It is my belief – strongly supported by academic research – that a fair competition environment in the Internal Market helps companies to become strong and efficient and to compete better on their home markets as well as on European and global markets. Relaxing competition enforcement and calling for protectionism in face of the economic crisis are self-defeating strategies. This is why we will continue to stand by existing competition rules, which will support economic recovery by stimulating innovation and competitiveness.

Competition policy will remain a formidable instrument for exploiting the full growth potential of the Internal Market and achieving the goals of the Europe 2020 Strategy. All our enforcement actions and policy initiatives will continue to be guided by these overarching objectives.

Major policy initiatives to be pursued in 2014

The State aid modernisation we launched in 2012 will be completed in 2014. Modernisation will encourage good aid – such as measures that support the environment and tackle market failures – while discouraging wasteful use of public resources. The reforms will help Member States in re-launching growth and in steering public finances towards growth-enhancing objectives.

In the area of antitrust policy, DG Competition will continue to work on the on-going review of the Technology Transfer Block Exemption Regulation and the accompanying guidelines. This initiative aims to improve the framework conditions for the licensing of technology for production, which can help to stimulate innovation and growth.

In the area of mergers, DG Competition has reflected on ways to further simplify certain procedures and information requirements under the current EU Merger Regulation. The goal was to streamline procedures, ease the administrative burden and cut red tape for businesses. Following the adoption of the simplification package by the College at the end of 2013, we will work on its practical implementation. This will aim at achieving the intended benefits for businesses and at the same time allow DG Competition to focus its resources, so that it can place even more emphasis on problematic merger cases. Beyond Merger simplification, DG Competition has also launched further reflexion on a possible future review of the EU Merger Regulation. Such a revision could in particular concern: (i) a possible enforcement gap regarding the acquisition of non-controlling minority shareholdings; (ii) the process for case referrals between the Commission and Member States. DG Competition will draft a White Paper setting out concrete reform proposals for publication before the end of the current mandate of the Commission.

Sectoral priorities

In 2014, DG Competition will continue to prioritise its enforcement on sectors that are most relevant for growth. We will remain particularly active in the financial services

¹ Strategic objectives of the Commission as presented by President Barroso in the State of the Union address 2013 of 11 September 2013 and reflected in the Commission Work Programme 2014.

sector, due its systemic importance and its role in providing access to finance to the real economy. Both the on-going restructuring of banks and investigations of anti-competitive behaviours (such as the manipulation of reference benchmarks) will continue.

The liberalisation process in a number of key sectors, in particular in network industries, will continue to be reinforced through the necessary enforcement activities, so as to effectively strengthen market integration and underpin the completion of a true Single Market.

We will also remain vigilant in the pharmaceutical sector, where our cases aim in particular at the fair access to the generic medicines market, thereby helping to make health care affordable to EU citizens.

In 2014, we will continue our fight against cartels, which artificially inflate costs and represent a hindrance to economic growth. In 2013 we imposed €1.8 billion in fines against nineteen undertakings in four cartel decisions. All of these decisions originated from leniency applications, which proves the effectiveness of the leniency system. We will continue to work constructively with other competition enforcement agencies to tackle international cartels. The wire harness cartel decision adopted by the Commission in July 2013 was the result of such fruitful international cooperation from start to finish.

Cooperation

The increased convergence of competition regimes worldwide is a prerequisite for the effectiveness and success of EU competition enforcement in a globalised economy. DG Competition will therefore continue to promote international convergence both bilaterally and in international venues such as the International Competition Network, the OECD or Unctad, and will continue to closely cooperate with the competition authorities of the Member States, gathered in the European Competition Network (ECN).

Key performance indicators

We will focus on four performance indicators that are essential for measuring the policy performance of DG Competition. While these do not pretend to deliver an exhaustive account of DG Competition's work or its impact on markets, they constitute the core quantifiable indicators reflecting our work. These indicators include (1) the benchmark for (observable) customer benefits resulting from cartel prohibition decisions²; and (2) the benchmark for (observable) customer benefits resulting from horizontal merger interventions³. We aim for these two indicators to remain stable. As regards State aid control, key indicators include (3) the percentage of State aid foreseen by Member States for horizontal objectives of common interest;⁴ and (4) the overall (cumulative) level of crisis aid to the financial sector actually used by Member States, expressed as percentage of GDP⁵. While the aim for the third indicator is to increase, we expect the fourth indicator to stop increasing once economic recovery progresses. The fifth indicator relates to DG Competition's internal control objective. We aim to keep the error rate in financial transactions under 2 per cent.⁶

² €1.35 to €2.0 bn. in 2012.

³ €2.2 billion to €5.6 billion in 2012.

⁴ 85.1% in 2013.

⁵ 16.44% in 2013.

⁶ 0.02% in 2013.

PART 3. GENERAL OBJECTIVES OF THE POLICY

The general objectives of DG Competition are i) to enhance consumer welfare and efficiently functioning markets in the EU by protecting competition; ii) to contribute to smart, sustainable and inclusive growth by focusing actions on the key priorities of the Europe 2020 Strategy; iii) to promote competition culture in the EU and worldwide by contributing to competition friendly EU legislation and convergence and cooperation between competition authorities across the globe; and iv) to ensure the highest standards in the enforcement of competition law.

The general objectives are in line with objectives set out in the Treaty for competition policy, strategic objectives defined by the Commission⁷ as well as key priorities of Europe 2020 Strategy and other tools of the Commission employed for generating growth and jobs in the EU. Through pursuing the general objectives, competition policy will contribute to further improvement of the functioning of the Single Market, a key lever for competitiveness and growth, and delivery on the flagship initiatives set out in the Europe 2020 Strategy, in particular on "Innovation Union", "Digital agenda", "Resource efficient Europe", "Industrial policy" and "Agenda for new skills and jobs".

The four general objectives mutually reinforce each other. Competition policy contributes to well-functioning markets which further enhance growth. Competition policy also contributes to consumer welfare which links to the smart and inclusive growth objective of the Commission. In addition, well-functioning markets also promote sustainability of growth: efficient resource allocation entails, among other factors, that production takes place in due respect of natural resource scarcity and negative spill overs. Increasing resource efficiency is a key to securing growth and jobs in Europe. It will bring major economic opportunities, improve productivity, drive down costs and boost competitiveness. Undistorted competition also fosters competitiveness in a global context: healthy competition is a precondition for European firms to effectively compete on a global basis. Competitive Single Market prepares European companies to do business on global markets and to succeed.

Policy actions undertaken at EU level have contributed to restoring confidence and creating the basis for returning to a growth path. Leaving behind the legacy of the crisis and re-launching the European economy requires public policies that create the best conditions for growth both at national and EU level. This includes further structural adjustments that increase competition, an efficient allocation of resources and productivity growth. Smart, sustainable and inclusive growth remains at the core of Europe's policy agenda. Boosting competitiveness across the EU is paramount for reaching that objective. In line with this approach, also the Annual Growth Survey of the last years has indeed highlighted the need for structural reforms to come at the forefront of the EU's policy agenda. Regulation and competition policy go together. Competition-friendly regulation and competition create the conditions for investments and innovation, which enhances consumer welfare, efficiently functioning markets and contributes towards more convergence. Markets with competition-friendly regulation thereby also contribute better to growth.

⁷ Strategic objectives of the Commission as presented by President Barroso in the State of the Union address 2013 of 11 September 2013.

Finally, the above 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.

3.1 To enhance consumer welfare and efficiently functioning markets in the EU by protecting competition

The objective at the heart of EU competition policy is to enhance consumer welfare and efficiently functioning markets by protecting competition from market distortions whether originating from Member States (distortive State aids) or market players including public undertakings with special or exclusive rights (distortive unilateral or coordinated behaviour), or mergers that would significantly impede effective competition. Efficient markets require undistorted competition. Undistorted competition on the market enhances consumer welfare, which rests on dynamic efficiency, i.e. the proper balance between static efficiency (including productive and allocative efficiency) and the development of better technologies for the future.

DG Competition prioritises its actions to maximise the impact on the functioning of markets. Enhancing market efficiency also requires a focus on sectors with the greatest relevance for the competitiveness of EU economy and the greatest – direct or indirect – effect on consumers. Therefore, tackling anti-competitive practices in key sectors such as financial services, ICT, energy, transport and pharmaceuticals, where increased competition will also have beneficial spill-over effects on many other downstream sectors, aims at maximising the contribution of competition policy towards the EU's overall objectives. Competition enforcement thus complements the Commission's flagship initiatives in the Europe 2020 strategy and efforts aimed at exploiting the full potential of the Single Market. Enhancing consumer welfare also means that priority must be given to the most serious competition infringements such as cartels, especially in sectors close to final consumers, for example the automotive industry. This also implies that the Commission uses its State aid instruments to ensure that Member States do not over-compensate incumbents for the net cost of public service missions, such as postal services.

While State aid is in general harmful, as it distorts incentives in markets, it may enhance consumer welfare by addressing a market failure or an equity concern. The Treaty recognises this dichotomy and State aid control aims to prevent Member States from issuing aid unless the proper conditions are met. The on-going State aid Modernisation package aims at fostering growth-enhancing policies with a focus on "good aid". Aid to research and development, aid that protects the environment, aid to facilitate access to finance for SMEs and aid that attracts investment to weaker regions are all examples of "good aid". At the same time, aid that reduces growth, such as aid to keep failing companies on the market, should be avoided. State Aid Modernisation also aims for a better prioritised enforcement, streamlined rules and more compliance.

The more harmful anti-competitive practices are, the greater the need there is for competition policy to intervene. Cartels belong to the most harmful restrictions of competition and therefore high priority continues to be given to the effective detection, prosecution and deterrence of cartels. For the same reasons, other anticompetitive

agreements, abuses of dominant positions and anti-competitive mergers must also continue to be targeted by enforcement action.

Furthermore, by keeping markets open, EU competition policy ensures that the benefits of globalisation are passed through to European consumers. EU competition policy also protects European consumers against the potentially harmful aspects of globalisation by targeting international cartels, mergers and abusive practices of firms of any nationality that harm European consumers.

For the purposes of an annual review of its cartel and merger enforcement as well as competition advocacy more generally, DG Competition provides for a quantitative assessment of the results achieved by the Commission in protecting and increasing 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 interventions⁸. Based on this benchmarking exercise, the observable customer benefits from cartel decisions adopted in 2012 were in the range of €1.35 billion to €2.0 billion⁹. As for the benchmarking of the observable customer benefits derived from the Commission's intervention in the form of a decision prohibiting a horizontal merger or clearing such a merger subject to remedies, the range was from €2.2 billion to €5.6 billion for 2012.¹⁰ It should be emphasised that this benchmark does not include any benefits stemming from better quality or wider choice, other effects of competition policy, such as productivity gains or impact on jobs, any possible pass-on to final consumers in the case of intermediary goods or services, or any deterrent effects.

It is important to stress that the above estimates cover only a part of the enforcement activities of DG Competition, cartels and horizontal mergers, and therefore underestimate the actual impact of EU competition enforcement on consumers. Enforcement action against abuses of dominant positions and other anti-competitive agreements as well as liberalisation and State aid control also engender substantial consumer benefits but for these types of practices, no single generalised benchmark is available (due to the greater heterogeneity of cases). Therefore, DG Competition rather carries out selected individual ex-post case studies. The same applies to DG Competition's activities concerning policy coordination, European Competition Network and international cooperation activities.

⁸ The benchmarking exercise is based on a number of assumptions, which are further explained in Sections 4.2 and 4.3 and is therefore just one method (among other potential approaches, none of which can be considered comprehensive or absolute) to arrive at a quantitative estimate.

⁹ The approach followed to benchmark the observable customer benefits from terminating 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. This methodology is further explained in Section 4.2, in particular in footnote 54. The figure for the customer benefits relating to cartel decisions adopted in 2013 will be provided in the 2013 AAR.

¹⁰ The methodology for benchmarking the observable customer benefits deriving from the Commission's horizontal merger decisions is explained in Section 4.3, in particular in footnote 59. The figure for the customer benefits relating to horizontal merger decisions adopted in 2013 will be provided in the 2013 AAR.

General objective 1: To enhance consumer welfare in the EU and efficiently functioning markets by protecting competition		Spending programme × Non-spending
Indicator 1: Benchmark for the observable customer benefits resulting from Commission decisions prohibiting cartels and from corrective horizontal merger decisions		
Baseline: EUR 3.55-7.6 bn. (2012; i.e. EUR 1.35-2.0 bn for cartels; EUR 2.2-5.6 bn for horizontal mergers)	Target: stable level	
Indicator 2: Intervention rate ¹¹		
Baseline: 27 (2013) ¹²	Target: No target	
Indicator 3: Success rate before the European Courts in competition cases ¹³		
Baseline: 79% (SA); 90% (AT and mergers) (2012)	Target: 70%	

3.2 To contribute to smart, sustainable and inclusive growth by focusing actions on the key priorities of the Europe 2020 Strategy

Competition enforcement and advocacy ensure that private and public restrictions do not hold back competition to the detriment of the achievement of the internal market and of the competitiveness of the EU economy, especially in key sectors for the internal market and the Europe 2020 Strategy.

The Global Competitiveness Report of the World Economic Forum defines competitiveness as "*the set of institutions, policies, and factors that determine the level of productivity of a country*".¹⁴ According to the European Competitiveness Report of the European Commission, at the roots of competitiveness are the institutional and microeconomic policy arrangements that create conditions under which businesses can emerge and thrive, and individual creativity and effort are rewarded.¹⁵ Competition policy instruments fully fit both descriptions. Also the European Parliament's study¹⁶

¹¹ 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 target. As far as antitrust and cartel enforcement is concerned, it would not be possible 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 or complaints or the availability of information to the Commission to detect infringements *ex officio*.

¹² The 27 interventions consist of eight antitrust interventions (of which three prohibition decisions, one non-compliance decision and four commitment decisions), four cartel interventions (three settlement decisions, one prohibition decision) and 15 merger interventions (11 phase I decisions with remedies, two phase II decisions with remedies, two prohibitions) in 2013.

¹³ Success rate as reported annually to the Global Competition Review.

¹⁴ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf

¹⁵ http://ec.europa.eu/enterprise/policies/industrial-competitiveness/industrial-policy/files/european_compet_report_2011_part1_en.pdf

¹⁶ 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)

"The Contribution of Competition Policy to Growth and the EU 2020 Strategy" from 2013 concludes: *"Competition plays a crucial role in promoting productivity and innovation as drivers of economic growth. This means that competition policy, which intensifies competition, will stimulate growth."*

DG Competition prioritises its enforcement actions in key sectors such as financial services, ICT, energy, transport and pharmaceuticals, where increased competition will also have beneficial spill-over effects on many other downstream sectors, and aims at maximising the contribution of competition policy towards the EU's overall objectives. Competition enforcement thus complements the Commission's flagship initiatives in the Europe 2020 Strategy and efforts aimed at exploiting the full potential of the Single Market.

The State aid control helps Member States target their aid better, substituting "bad aid" by "good aid", which addresses market failures in the interest of growth and jobs, such as regional investment aid, aid that addresses market failure (research and development and innovation, training, environmental protection, risk capital or aid to small and medium-sized enterprises) and equity concerns. In the context of the financial and economic crisis, state aid control policy serves as a crisis resolution tool. State aid control contributes to a coordinated reaction to threats that have emerged and prevents subsidy races between Member States. It also contributes to the necessary restructuring in the financial sector and ensures that public funds are used efficiently. State aid control thus contributes to budget sustainability and financial stability. This role of the State aid control instrument will continue in 2014, with the increased importance for severing the link between the banks and the sovereign and organising the transition towards the Banking Union through the application of the revised banking communication, with a focus on revised burden sharing requirements.

EU competition policy also through its antitrust and merger control policies and focus on enforcement actions in key sectors of the Single Market contributes to competitiveness and growth as it drives innovation and an efficient use of resources. A relentless enforcement of competition rules forces markets to provide consumers with the best choice in terms of low prices, high quality and variety of goods and services. Competition policy enforcement can also lower the input prices for intermediary products or services by terminating cartels, other anticompetitive agreements and abuses of dominant positions in these markets, thereby making businesses using these products and services more competitive. Importantly, such benefits do not entail a budgetary cost, which is of much relevance in times of austerity. Through opening markets and keeping them open competition policy contributes to improved economic efficiency, and thereby to increased productivity and economic growth. Finally, DG Competition's advocacy efforts and promotion of a competition-friendly regulatory environment contributes to the "better regulation" agenda of the European Commission and makes the European Union more competitive and a more attractive place to invest.

However, while being direct, the causal link between competition policy and the economic growth is not exclusive, since the latter is dependent on a number of further factors outside the control of competition policy. The same is true for the contribution that competition policy brings to achieving several European Union's key objectives and headline targets, including the ones according to which 75% of the working age population should be employed and 3% of the EU's GDP should be invested in R&D. Therefore, while the contributions of competition policy cannot be directly inferred from a series of indicators, structural policies, of which competition policy is one, influence growth. Many studies show that competition friendly product and service market reforms

aimed at increasing competition result in the GDP increasing by several percentage points.

Competition policy instruments need to be fully exploited so that markets perform at their best and support the Europe 2020 Strategy of the European Union and other initiatives taken by the Commission and the Member States to restart growth. Opening up distorted markets through the enforcement of the competition rules and better regulation is vital in times of economic downturn.

General objective 2: To contribute to smart, sustainable and inclusive growth by focusing actions on the key priorities of the Europe 2020 Strategy		Spending programme × Non-spending
<u>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)		
Baseline: 100% (2013)	Target: stable level	
<u>Indicator 2:</u> Percentage of State aid foreseen by Member States for horizontal objectives of common interest ¹⁷		
Baseline: 85.1% (2013)	Target: increasing	

3.3 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

It is important for DG Competition to promote competition culture in the EU and worldwide as better understanding of the advantages of competition further contributes to better functioning of markets. Knowledge of the benefits of competition is essential for citizens to exploit their opportunities as consumers, for businesses to compete on the merits and for policy makers to bring initiatives that support smart, sustainable and inclusive growth as well as to be efficient and non-distortive market operators.

Fostering a competition culture directly contributes to making markets work better for the benefit of consumers and business. Better understanding of the advantages of competition enables consumers to make informed choices between products and services offered. It encourages businesses to refrain from anti-competitive agreements or behaviour. It makes public administrations realise how competition can contribute to addressing wider economic problems. In times of economic slowdown, it is particularly important that policy makers understand the beneficial effects of competition on growth and the harm that could result from a relaxation of the competition rules.

According to a Eurobarometer survey¹⁸, more than 80% of EU citizens consider that competition between companies can lead to better prices and to more choice. Also, 70% of EU citizens are of the opinion that companies should not be allowed to make agreements on prices. Finally, two-thirds of EU citizens agree that companies that receive financial aid from governments might have an unfair advantage over their competitors. DG Competition plans to conduct the survey again in 2014 to obtain

¹⁷ See below under Better targeted growth-enhancing aid.

¹⁸ Flash EB N°264 - EU Citizens' perceptions about competition policy (November 2009, published in October 2010, http://ec.europa.eu/competition/publications/reports/surveys_en.html).

updated information. According to a Eurobarometer survey conducted in 2010¹⁹, the majority of the surveyed stakeholders of DG Competition perceive its activities to have a beneficial effect, namely that they increase firms' compliance with the law and make the markets more competitive.

Therefore, DG Competition will continue to advocate for competition friendly EU legislation at the Commission level and competition enhancing reforms as one factor among several contributing to more growth and facilitating the achievement of the Europe 2020 objectives. In the December 2013 Communication, the Commission undertook to complete the on-going review of the EU legal framework for copyright, with a view to a decision in 2014 on whether to table legislative reform proposals. In 2014, DG Competition will work closely with DG Internal Market and Services to contribute its significant experience in dealing with copyright-related restrictions to any review of EU's copyright acquis.

Competition and a policy protecting and promoting the competitive process are also key elements of the Memoranda of Understanding signed between the European Commission, the European Central Bank and the International Monetary Fund with Greece, Ireland, Portugal and Cyprus. Alongside to structural reforms, the adjustment programmes for these countries focus on product market reforms in key sectors of the economy. These reforms involve regulatory change favourable to competition as well as improved competition law enforcement regime, so as to increase the effectiveness and efficiency of the respective national frameworks.

In the years to come, DG Competition will continue to increase the level of acceptance of the benefits of competition policy and enforcement in its advocacy work also on international fora such as the Competition Committee of OECD, International Competition Network (ICN) and Unctad.

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		Spending programme × Non-spending
<u>Indicator 1</u> : Number of substantial replies to Commission inter-service consultations ²⁰		
Baseline: 211 (2013)	Target: stable level	
<u>Indicator 2</u> : percentage of DG Competition personnel (in FTEs) dedicated to inter-service consultations and impact assessments of other DGs		
Baseline: 0.78% (2013)	Target: stable level	
<u>Indicator 3</u> : Number of Impact Assessment Steering Groups of other Commission DGs in which DG Competition participates		
Baseline: 11 IASGs ²¹ (2013)	Target: stable level	

¹⁹ Eurobarometer a Qualitative Survey – DG Competition Stakeholder Study (July 2010, published in October 2010, http://ec.europa.eu/competition/publications/reports/surveys_en.html).

²⁰ Replies in which DG Competition either gives a negative reply or a positive reply under the condition that its reservations are taken into account.

²¹ Participation or association with the following ten IASGs:

<u>Indicator 4: percentage of DG Competition personnel (in FTEs) dedicated to advocacy</u>	
Baseline: 1.82% (2013)	Target: stable level
<u>Indicator 5: % of positive replies in surveys conducted among citizens on their attitude towards competition</u>	
Baseline: 82% ²² (2010)	Target: increasing by 2015
Reference is made to indicators relating to ECN and ICN in section 4.4.2 below	

3.4 Ensuring the highest standards in the enforcement of competition law

DG Competition aims for the highest standards in the enforcement of competition law. The aim is to ensure that infringements of competition law are brought to an end as rapidly as possible and in full respect of the rights of all the parties involved. Personnel of DG Competition are 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 law.

Strategic priorities are defined by the Member of the Commission responsible for Competition in line with the strategic objectives of the Commission, notably as set out in the Europe 2020 Strategy. The Management Plan translates these overall priorities annually into general and specific objectives to be achieved by the DG. Specific annual objectives are defined using a sector-based and impact-driven approach: DG Competition's priorities focus on where its activities are likely to have the biggest impact on the functioning of markets, the impact being dependent on, among others, the importance of the markets concerned, the degree of distortion to be remedied and the scope, the direct and indirect effects for business and consumers and the timeliness of EU competition policy action.

IA on a furniture products initiative (DG ENTR)
 IA on EU due diligence proposal for responsible sourcing of minerals originating in conflict-affected and high-risk areas (DG TRADE)
 IA on unfair trading practices ETF (DG MARKT)
 IA on the payments package (Interchange Fee Regulation and Payment Services Directive II) (DG MARKT)
 IA on nuclear third party liability (DG ENER)
 IA on Payment Accounts Directive (DG MARKT)
 IA on structural reform in the EU banking sector (DG MARKT)
 IA on Commission Recommendation of 11.9.2013 on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment (DG CNCT)
 IA on the draft Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (DG CNCT)
 IA on Net Neutrality (DG CNCT)
 IA on the draft Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services and the accompanying Explanatory Note (DG CNCT)

²² 82.7% totally agree/agree that leads to better prices; 81.8% totally agree/agree that competition leads to more choice. Source: Eurobarometer citizen survey published in 2010.

DG Competition has a 'matrix-organisation', where resources are managed by project. To ensure a more integrated approach and to maximise market knowledge, state aid, merger and antitrust units are regrouped in 'directorates' covering key sectors (with the exception of cartel work and some specialised state aid work). Five of its nine directorates each contain antitrust, merger and State aid control units and focus on a particular group of industries or services: Energy and Environment (B), Information, Communication and Media (C), Financial services (D), Basic Industries, Manufacturing and Agriculture (E) and Transport, Post and other services (F). In each directorate, knowledge specific to its own sector is built up that can be used in case handling in all three instruments. This sector-focused organisation helps spread best practices across instruments and establishes closer links between competition policy and other EU sectoral policies. It also allows DG Competition to apply a flexible project-based management of resources, which is of particular importance where resources have to be swiftly re-deployed when staff needs to be pooled to work on a high priority project. DG Competition employs different mechanisms to ensure the quality of its decisions.

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. Commission decisions in the field of competition are not only sent to the parties involved but non-confidential versions of most of its decisions are made available. This ensures that the Commission's approach and reasoning are known so that parties in comparable situations benefit from legal certainty.

When modifying or adopting new competition rules, DG Competition publishes a so-called roadmap indicating its broad intentions and allows interested parties to prepare for public consultations. These public consultations allow interested parties to inform the Commission of their views. In public consultations, DG Competition typically receives reactions from companies and private citizens, from competition law practitioners and academic experts and from Member States and other public authorities.

Given the nature of its activities, DG Competition attaches particular importance to the fact that staff meets the highest possible ethical standards (including fight against fraud) and that premises meet the highest security standards.

In 2010, the Commission conducted a Qualitative Eurobarometer survey among professional stakeholders about the perceived quality of DG Competition's actions (companies, lawyers, business and consumer associations, national competition authorities, national ministries and economic consultancies) addressing some important parameters relating to the perceived quality of its actions: (i) the soundness of the legal and economic analysis, (ii) integrity and transparency in the interrelations with stakeholders, (iii) economic effectiveness of the activities, and (iv) quality of the external communication. DG Competition plans to conduct the survey again in 2014 to obtain comparative information on these parameters.

In 2013, the Commission's effectiveness in achieving its objectives placed it again in the top ranking of enforcement agencies worldwide together with the Competition Authorities of the United Kingdom, France, Germany and the US federal authorities in the context of the annual Global Competition Review which concludes that "*[t]he European Commission's Directorate General for Competition maintained its generally excellent performance in 2012, with some major cartel fines – including the record-breaking €1.47 billion imposed on the cathode ray tube cartel – and several complex mergers*".

General objective 4: Ensuring the highest standards in the enforcement of competition law		Spending programme × Non-spending
Indicator 1: GCR – based indicator: stars rating ²³		
Baseline: 5 stars (2013) (scale 1-5)	Target: Maintain	
Indicator 2: Legal soundness of decisions ²⁴		
Baseline: 5.1 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 3: Market knowledge ²⁵		
Baseline: 4.8 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 4: Quality of economic analysis ²⁶		
Baseline: 4.9 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 5: Informing in a timely manner ²⁷		
Baseline: 4.6 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 6: Stakeholder consultation on new rules ²⁸		
Baseline: 5.2 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 7: Impact on the markets ²⁹		
Baseline: 4.8 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 8: Timeliness of decisions		
Baseline: 4.1 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 9: Promotion of competition culture		
Baseline: 4.7 out of 7 (scale 1-7) (2010)	Target: Increase by 2015	
Indicator 10: Average time required to produce antitrust and cartel decisions ³⁰		
Baseline: 3.49 years: AT commitment decisions 4.86 years: AT prohibition decisions 4.18 years: Cartel settlement decisions 5.17 years: Cartel prohibition decisions	Target: Decrease by 2015	

²³ <http://www.globalcompetitionreview.com/surveys/survey/665/rating-enforcement-2013/>

²⁴ Eurobarometer Qualitative Survey – DG Competition Stakeholder Study (July 2010, published in October 2010).

²⁵ Idem

²⁶ Idem

²⁷ Idem

²⁸ Idem

²⁹ Idem

³⁰ These indicators refer to the average duration for decisions adopted in 2009-2013 from registration date to SO/decision date. The number of cases is small and the settlement cases include cases that were already investigated for a long time under the regular procedure, increasing substantially their average length.

(2009-2013) ³¹	
Indicator 11: Average time required to produce State aid decisions	
Baseline: Complaints: 15.39 months (2013) Notified cases (no objection/no aid): 4.21 months (2013) ³²	Target: Decrease by 2015

PART 4. SPECIFIC OBJECTIVES FOR OPERATIONAL ABB ACTIVITIES

The operational activities of DG Competition are divided into the following activities:

- Control of state aid;
- Cartels, antitrust and liberalisation;
- Merger control;
- Policy coordination, European Competition Network and international cooperation.

These operational activities are carried out by eight directorates. Seven of the eight Directorates are dedicated to enforcement. In line with the need to define sectoral priorities, the core operational activities are grouped into five sectoral departments. These are directorates B to F and each of them enforces antitrust, state aid and merger control. Directorate G is focused on one priority task, which is cartel-fighting. Directorate H is dedicated to non-sector specific state aid enforcement. Directorate A is the horizontal directorate dealing with competition policy and strategy. Directorate R is responsible for resources (see Section 5.2).

This sector-focused organisation helps spread best practices and establishes closer links between competition policy and other EU sectoral policies. It also allows DG Competition to apply a flexible project-based management of resources, which is of particular importance where resources have to be swiftly re-deployed when staff needs to be pooled to work on a high priority project, such as in the Task Force Food or as a result of unforeseen changes in the environment, such as the global financial crisis (which has resulted in the setting-up of an additional unit for assessing state aid cases in the financial sector).

4.1 ABB activity: “Control of State aid”

Article 107 of the Treaty on the Functioning of the European Union prohibits any aid granted by a Member State and through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain firms or the production of certain goods in so far as it affects trade between Member States. The Commission has

³¹ 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.

³² There are many different types of State cases out of which two have been selected for this purpose. The 2008-2013 average for the indicators are respectively 16.11 and 5.45 months.

the exclusive power to find state aid compatible with the Treaty on the Functioning of the European Union, provided the State aid fulfils clearly defined objectives of common interest and does not distort intra-community competition and trade to an extent contrary to the common interest.

In 2012, the Commission adopted a Communication on State Aid Modernisation setting out the objectives of an ambitious reform package. In the broader context of the EU's agenda to foster growth, state aid policy should focus on facilitating well-designed aid targeted at market failures and objectives of common European interest. The Commission also aims at focusing its enforcement activities on cases with the biggest impact on the EU's Single Market, streamlining rules and accelerating decisions. In the course of 2012-2013, a series of instruments were adopted, such as Regional Aid Guidelines, Rescue and Restructuring Guidelines for financial institutions and the De Minimis Notice. In 2014, the remaining elements of the modernisation will be adopted, notably the Risk Finance Guidelines³³, the R&DI guidelines, the Environmental and Energy Aid Guidelines, the Rescue and Restructuring Guidelines, the revised General Block Exemption Regulation. The Commission is also preparing guidance on state aid evaluation by the Member States and on projects of common European interest.

The objectives of DG Competition control of state aid activity are to i) ensure that aid is growth-enhancing, efficient and effective, and better targeted in times of budgetary constraints and where aid is granted, it does not restrict competition but addresses market failures to the benefit of society as a whole and ii) effectively prevent and recover incompatible state aid.

4.1.1 Better targeted growth-enhancing aid

State aid can distort competition by giving some companies undue advantages over others. Therefore, the Commission will continue to apply increased scrutiny in order to tackle cases of "bad" aid. That is, 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. Accordingly, DG Competition aims at ensuring that the aid is targeted 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. This is in line with the Europe 2020 Strategy, according to which "*state aid policy can ... actively contribute to the Europe 2020 objectives leading to a more sustainable, productive and growth oriented economy, by promoting and supporting initiatives for more innovative, efficient and greener technologies, while facilitating access to public support for investment, risk capital and funding for research and development.*"

The ongoing State Aid Modernisation aims at enhancing economic efficiency and the effectiveness of public spending and spurring growth on the Internal Market.

³³ Risk Finance Guidelines were adopted on 15.01.2014, see http://europa.eu/rapid/press-release_SPEECH-14-20_en.htm?locale=en.

State Aid Modernisation, allows the Commission's State aid policy to focus on "good" aid, in line with the Europe 2020 objectives. It will also contribute to focus State aid scrutiny on the most distortive cases by, for instance, enlarging the scope of application of the General Block Exemption Regulation (GBER) which removes the notification obligation for Member States.

State aid to support expenditure in research, development and innovation has steadily increased in the last 10 years to support job creation and increase Europe's competitiveness. The Commission's 2012 update of the State Aid Scoreboard confirmed that Member States have continuously re-oriented public aid measures to regional development, research, innovation, environmental protection and other objectives of general interest. In particular, in 2013, the Commission cleared Member States' support for such objectives in at least 79 cases relating to environmental protection and energy, including energy saving, 127 cases relating to regional development, 19 notified cases and 128 RD cases (information sheets) relating to research and development, including innovation, while ensuring that the measures did not distort competition to an extent contrary to the common interest.

Energy and environment

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.

During 2013, Member States continued to extensively promote renewable energy generation to achieve the national renewables and CO₂ reduction targets by 2020. Based on the provisions of the Environmental Aid Guidelines (EAG), the Commission adopted a great number of decisions in this area. The Commission decisions aim at avoiding over-compensation and competitive distortions through the renewables support schemes. Furthermore, in line with the EU's energy and climate change objectives, the Commission has positively assessed a number of Member States' interventions aimed at energy efficiency, numerous cases of investment aid for the modernisation of district heating infrastructure and aid to high efficiency co-generation installations. The Commission has also authorised aid for exceeding applicable standards with a view of increasing environmental protection by means of reducing harmful emissions associated with industrial activities. In 2014, the Commission will continue assessing Member States' interventions with the horizontal objective of environmental protection.

To enhance competition and ensure a level playing field in the energy sector, the Commission initiated during 2013 several in-depth investigations. The cases concern either electricity generators or selective and potentially distortive advantages to electricity consumers. In particular, the Commission has launched an investigation to examine the role of aid in preventing market opening in the Portuguese electricity generation market and it re-opened an inquiry into certain tax measures granted by the French State to Electricité de France (EDF). In-depth probes were also launched in Germany and Denmark. The assessment of those cases will continue in 2014.

Telecoms sector

State aid contributes to the objectives of the Digital Agenda. The Commission clears aid measures, which complement private investments in areas which are not profitable on commercial terms and are necessary to achieve those objectives, when it is satisfied that the measures are pro-competitive. The amount of state aid approved by the Commission

under the State aid Broadband Guidelines reached €1.8 billion in 2010 as well as in 2011. The amount approved in 2012 reached the record figure of €6.555 billion; this amount was considerably higher than in previous years because more framework schemes with correspondingly higher, multiannual budgets were approved in 2012³⁴. The additional budgets approved in 2013 amounted to €796 million; most of the 15 measures notified in that year related to changes in previously approved aid schemes.

As regards the market for broadband, telecoms and related markets, DG Competition is actively pursuing a number of investigations.

In 2014, it plans to finalise its investigation with respect to the NGN broadband project in Trento that Italy notified in 2012. Italy claimed that this project involved no State aid but the Commission had serious doubts and initiated Article 108(2) proceedings in 2012. In 2013 DG Competition commissioned an external study to assist the Commission services in their analysis. In 2014, the Commission will also finalise its investigation concerning aid to DTT in less-populated areas in the Castilla-la-Mancha region. The Commission will further conclude its investigation regarding compensation to broadcasters for digital dividend in Spain. The Commission investigation regarding the presumed aid to Numéricable in France which benefitted from a telecoms infrastructure for free, will come to conclusion also in 2014.

Finally, the Commission plans to conclude in 2014 its two open investigations of existing aid to respectively the Belgian broadcaster RTBF and the Polish broadcaster TVP on the basis of new legislation and new public service remits that are being designed in those two countries in order to comply fully with the requirements of the Broadcasting Communication. Further to the adoption of new rules on film aid in November 2013 (the Cinema Communication), Member States will need to adapt their film aid schemes to the new rules. The Commission will also need to conclude on the matter concerning United Kingdom video games tax relief, on which it opened proceedings under Article 108(2) in 2013.

Financial sector

Since the crisis started, the European Union used State aid rules as a substitute for the lacking resolution authorities in the EU, a shortcoming that is about to be resolved (see below in section 4.4.1.1). The Commission oversaw the restructuring of 72 banks - equivalent to around one quarter of Europe's banking sector in terms of assets - out of which 27 had to be resolved. And the job is not finished. There are still 20 pending cases, in particular in the periphery of the euro-area countries.

In 2013 the situation in the financial markets improved markedly, but significant additional effort is needed to consolidate the positive signs of recovery. The activity of DG Competition in the area of State aid control ensured a consistent policy response to the financial crisis throughout the EU, and significantly contributed to limiting distortions of competition between beneficiary financial institutions within the internal market. Of particular relevance was the activity in the context of the programs in Greece, Ireland, Portugal, Spain and Cyprus; the restructuring decisions adopted on Banca Monte dei Paschi in Italy, Hypo Alpe Adria in Austria and HSH in Germany. In addition, significant activity was devoted to the on-going Greek, Irish and Portuguese programs and to monitoring the correct implementation of the over 65 restructuring decisions

³⁴ In the period between 1 January to 30 November 2012.

adopted since the beginning of the crisis. In 2014, the levels of activity are likely to remain very high in countries undergoing an adjustment program, but also across the Union more broadly, in particular in view of the SSM/EBA comprehensive assessment scheduled for the last quarter of the year.

Transport

The Commission foresees adoption of a number of State aid decisions in 2014 on possible State aid to airports and/or airlines, notably concerning Charleroi and Ryanair. This will concern cases for which the Commission has already opened formal investigation procedures, and which can be closed when the new Aviation guidelines enters into force at the beginning of 2014.

In the field of maritime transport in 2014, the Commission plans to conclude on the investigation procedures concerning Tirrenia/Siremar/Saremar. The issue relates to the public service compensation granted to the companies and the conditions of privatisation. The Commission also envisages concluding its investigation concerning possible State aid granted to Cosco, concessionaire of the Port of Pireaus, under the form of fiscal advantages. A final Commission position will also be foreseen concerning the application of tonnage tax system in Malta and possible incompatible State aid granted certain companies.

In the field of rail transport in 2014, the Commission plans to conclude on possible State aid to DB Regio that provides rail transport public services in Germany. For these activities, DB Regio benefits from public service compensations which constitute compatible aid when necessary for the services. The Commission will have to decide on the level of appropriate benefit granted to DB Regio.

Other sectors

In the area of sports, a number of State aid decisions can be expected in 2014. Final decisions are envisaged on alleged aid to five Dutch professional football clubs, after the Commission opened proceedings under Article 108(2) in 2013. A full investigation concerning presumed aid to Real Madrid in the form of a land swap, presumed tax aid to four football clubs and presumed rescue and restructuring aid to three Valencian football clubs started in December 2013. These investigations will be pursued in 2014 with the objective of adopting final decisions before the end of the year. A final Commission decision is also foreseen on presumed aid to the Nürburgring race track complex in Germany. Proceedings under Article 108(2) were opened in 2012 and the investigation was enlarged to cover additional aid measures that same year. The Nürburgring companies became insolvent after the opening and their assets are being sold through a tender procedure. Other aid schemes and ad hoc interventions in the sports sector, which were not notified but have been brought to our attention by other means, will be taken up with the Member State for further assessment.

In line with the privatisation programmes set for several countries benefitting from financial assistance under the economic adjustment programmes a series of privatisations in the postal sector have started in 2013 and are expected to be completed in the course of 2014 (Greece, Romania and Portugal). From a State aid perspective, the Commission might need to investigate whether the sale of the postal entities are market conform, i.e. whether the sale is made at a lower price than the fair value of the company. It might also need to verify whether prior to the sale some measures are adopted in order to get a better

price for the sale (reduction of debts, transfer of liabilities, etc) and which might entail State aid.

In the health and health insurance sector, the Commission plans to conclude its investigation in 2014 concerning alleged State aid to the State-owned companies SZP and VZP operating in the Slovak Health Insurance sector. Following the Brussels hospital judgement (T-137/10) of 7 November 2012, the Commission will also need to open the formal investigation procedure in the financing of public hospitals of the IRIS network in the region Brussels-Capital.

In line with the privatisation programmes set for several countries benefitting from financial assistance under the economic adjustment programmes a series of privatisations in the postal sector have started in 2013 and are expected to be completed in the course of 2014 (Greece, Romania and Portugal). From a State aid perspective, the Commission might need to investigate whether the sale of the postal entities are market conform, i.e. whether the sale is made at a lower price than the fair value of the company. It might also need to verify whether prior to the sale some measures are adopted in order to get a better price for the sale (reduction of debts, transfer of liabilities, etc) and which might entail State aid. In this context, national authorities wish to put in place a compensation fund to secure the financing of the Universal Service Obligation and to maximize the proceeds of the planned privatisation. Such funds would in general amount to State aid. The conditions of transparency, non-discrimination and proportionality for the contributions of the different postal operators to the fund, requested by the Postal directive are essential for the compatibility of these schemes. In 2014, the Commission will also investigate compensation funds set up in other member States, outside privatisation processes.

ABB activity 03/02: Control of State aid					
Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
-	-	-	217	34	251

Specific objective 1: Better targeted growth-enhancing aid	
Indicator 1: Overall level of non-crisis state aid granted by Member States to industry and services; expressed by percentage of GDP	
Baseline: 0.45% (2013)	Target: decrease
Indicator 2: Overall level of crisis aid to the financial sector actually used by Member States, expressed as percentage of GDP	
Baseline: 16.44% (2013) ³⁵	Target: phasing out as soon as economic recovery allows
Indicator 3: Percentage of State aid foreseen by Member States for horizontal objectives of common interest	

³⁵ This consists of the following three components (calculated as % of EU GDP 2012): capital support (recapitalization and asset relief measures): € 591.9 billion (4.6 %); guarantees and other form of liquidity supports, EU 27 peak outstanding amount (2009): €906 billion (7.7 %); - guarantees and other form of liquidity supports, EU 27 outstanding amount in 2012: €534.5 billion (4.14 %).

Baseline: 85.1% (2013)	Target: increase
<u>Indicator 4</u> : Success rate before the European Courts in State aid cases ³⁶	
Baseline: 79% (2012) ³⁷	Target: 70%
<u>Indicator 5</u> : Number of opening decisions	
Baseline: 45 (2013)	No target ³⁸

4.1.2 Prevention and recovery of incompatible aid

DG Competition's state aid control activity also aims at ensuring effective prevention and recovery of incompatible state aid in order to prevent that Member States re-create artificial barriers to intra-community trade.

Monitoring

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 a systematic, sample based, ex-post control (so-called "monitoring exercise"). To further improve the effectiveness of this control, it was decided in 2011/2012 to enlarge the scope of this exercise to cover one-third of the aids granted under approved aid schemes or block exempted regulations, all Member States and all main types of aid. In 2014, DG Competition will continue and even increase its monitoring efforts in particular in the areas where the implementation of State aid rules seems to raise more issues.

Recovery

The purpose of recovery is to re-establish the situation that existed on the market prior to the granting of the aid in order to ensure that the level-playing field in the internal market is maintained. When unlawful aid is declared incompatible, the Commission is entitled 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 2013, further progress was made to ensure that recovery decisions are enforced effectively and immediately. By 31 December 2013, the amount of illegal and incompatible aid recovered had increased to €14.2 billion, from €2.3 billion in December 2004. This means that the percentage of illegal and incompatible aid still to be recovered fell from 75% at the end of 2004 to around 23.7 % at the end of 2013.³⁹ In 2013, the Commission adopted nine new recovery decisions and ensured the recovery of over €786 million by the Member States. As of end of 2013, the Commission had 50 pending active recovery cases (compared to 94 cases at the end of 2004).

³⁶ Success rate as reported annually to the Global Competition Review.

³⁷ GCR 2013.

³⁸ See fn. 11 above.

³⁹ The figures reflect data available on 31 December 2013.

As the guardian of the Treaties, the Commission may use all legal means at its disposal to ensure that Member States implement their recovery obligations, including launching infringement procedures: during 2013, the Court of Justice condemned three Member States (one of them four times) pursuant to Article 108(2) TFEU.

Moreover, in 2013, the Commission adopted for the first time two decisions imposing on a Member State a penalty payment, following its failure to implement recovery.

In 2014, DG Competition aims to make further progress towards effective and rapid enforcement of recovery decisions.

Specific objective 2: Effective prevention and recovery of incompatible aid	
Indicator: 1) "bad"-type of state aid as percentage of GDP 2) Percentage of incompatible aid recovered 3) Percentage of cases closed or brought to Court within two years 4) Volume of aid investigated as part of ex-post monitoring of Member State schemes	
<u>Indicator 1</u> : "bad"-type of state aid as percentage of GDP	
Baseline: 0.07% (2013)	Target: decrease
<u>Indicator 2</u> : Percentage of incompatible aid recovered	
Baseline: 76.3 % (31.12.2013) ⁴⁰	Target: increase
<u>Indicator 3</u> : Percentage of cases closed or brought to Court within two years	
Baseline: 55.36% (31.12.2013) ⁴¹	Target: increase
<u>Indicator 4</u> : Scope of aid schemes investigated as part of ex-post monitoring of existing Member State schemes	
Baseline: 62 aid schemes investigated corresponding to 33% of Member States expenditure under existing aid schemes (2013)	Target: increase

4.2 ABB Activity "Cartels, antitrust and liberalisation"

This activity involves the application of Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union and derived legislation, and its objective is to detect, sanction, deter and remedy anti-competitive practices by firms and/or Member States

Antitrust investigations often take many years to conclude. Therefore, cases referred to in this Section for which proceedings were opened and/or subsequent procedural steps were taken in 2013 (and in previous years), which are consistent with the priority sectors identified in the Management Plan for 2013, largely determine the Commission's enforcement agenda for 2014. More generally the sectors referred to in the following subsections will continue to be accorded priority attention in 2014.

⁴⁰ Vs. 79.9% on 31.12.2012.

⁴¹ Vs. 53.45% on 31.12.2012.

4.2.1 Cartels

Article 101 prohibits anti-competitive agreements in the internal market and cartels constitute one of the most serious infringements thereof. Cartels are secret arrangements by which (generally) competing firms limit or eliminate competition between them with a view to raising prices and profits, without producing any objective countervailing benefits. Cartels typically involve agreements to fix prices, limit output, share markets, allocate customers and/or territories among firms, rig bids or a combination of any of these. In so doing they hinder the normal functioning of competition in markets, increase production costs and thereby reduce the competitiveness of the users of the products concerned, reduce the incentives to innovate, hinder the necessary restructuring in certain sectors and ultimately have a negative impact on growth.

The fight against cartels will remain a top priority for DG Competition also in 2014. In 2013 four cartel decisions were adopted, imposing fines in excess of €1.8 billion.⁴² The intense work and determination in pursuing anti-competitive conduct in the financial services sector will continue over 2014. All the decisions originate from leniency applications. This shows once more the success of this cartel detection tool. The Commission continues to work together with other authorities within Europe (exchanging best practices and discussion implementation of the Leniency Programme within the ECN) and beyond (advocacy in International Competition Network) to ensure that the instrument is successfully used to stop international cartels. Finally, also with respect to its administrative handling, the settlement procedure was used for the wire harness, the euro and yen interest rate derivatives cartel cases, bringing up to nine the total number of settlement cases adopted since the procedure was introduced in 2008. The settlement procedure contributes to increasing the deterrent effect of the Commission's action against cartels since it allows it to focus more quickly some of its resources on the detection and fight against other cartel cases. Our experience in 2013 indicates that settlements allow the Commission to reduce the investigative period with approximately two years.

DG Competition also ensures that its investigative tools remain adapted to technological changes. In 2013, the Commission rolled out an improved methodology to gather digital evidence during inspections allowing it to deal more efficiently with the ever increasing quantity of digital data. The methodology was used in several inspections into alleged cartels, amongst others in the sugar and train cargo services sectors.

In 2014, DG Competition will continue to give priority to cartel enforcement activity. This relates both to sectors where decisions were adopted in 2013 such as car parts, financial services and the food sector, but also other sectors for which proceedings were opened and Statements of Objections were sent such as power cables, optical disc drives, retail food packaging and smart card chips⁴³. In addition to drawing on the efficiency of the leniency programme, DG Competition will also pursue ex officio detection of cartels, aim to reduce the average duration of cartel investigations, ensure efficiency and

⁴² The decisions adopted in 2013 sanctioned cartels in the following product/services markets: wire harnesses (car part), shrimps, euro and yen interest rate derivatives. They concerned 19 undertakings, including the immunity applicants and 44 legal entities.

⁴³ On 18 April 2013, the Commission sent a Statement of Objections to suspected participants in a smart card chips cartel after the attempt to settle the case failed.

uniformity when settling cases and continue to set fines at a level that acts as a real deterrent.

4.2.2 Other anti-competitive agreements

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

Financial services

Also in 2014, there will be continued attention to possible anti-competitive agreements in financial markets, whether horizontal or vertical, which may cause harm to consumers and undermine the achievement of the internal market. The Commission issued a Supplementary Statement of Objections to Visa Inc⁴⁴ concerning multilateral interchange fees for credit card transactions and other restrictive practices hindering cross-border competition, and further proceedings were opened against MasterCard⁴⁵ regarding interchange fees for inter-regional transactions and rules hindering cross border acquiring services. Along with such payment card schemes, the market for Credit Default Swaps⁴⁶ will continue to be under scrutiny by DG Competition. Particular efforts will be made for making fast progress in the complex investigations underway in the wholesale markets such as that concerning CDS trading where 13 of the most important international banks may have colluded to prevent access, thereby increasing financing costs for the real economy and overall systemic risks.

Digital economy

It is crucial for European competitiveness and growth to protect the competitive process in the telecommunications sector. The importance of competition in digital services in the context of achieving an integrated single digital and telecoms market has also been highlighted by the Council in its resolution on 24/25 October 2013. In order to ensure that markets remain competitive, the Commission is currently undertaking a number of market investigations in the telecoms sector.

After sending a Statement of Objections to Slovak Telekom⁴⁷ and to its parent company, Deutsche Telekom, in which the Commission took the preliminary view that Slovak Telekom may have abused its dominant position in certain wholesale broadband markets in Slovakia (in particular, Slovak Telekom may have refused to supply unbundled access to its local loops and wholesale services to competitors, and may also have imposed a margin squeeze on alternative operators), the Commission completed further investigative steps in 2013. The Commission anticipates finalising its investigation in 2014.

In the context of the Commission's active monitoring of market developments regarding smartphones, and in view of certain market information it has received, the Commission

⁴⁴ Case AT 39398.

⁴⁵ Case AT 40049.

⁴⁶ Case AT 39745.

⁴⁷ Case AT 39523.

is currently conducting a fact-finding exercise regarding possible limitations on Apple's distribution practices and on the use of iPhones on the 4G networks of certain mobile network operators.⁴⁸ This market investigation will continue into 2014.

On 9 July 2013, the Commission carried out unannounced inspections at the premises of a number of telecommunications companies active in the provision of Internet connectivity in several Member States. The Commission has concerns that the companies concerned may have violated EU antitrust rules that prohibit the abuse of a dominant market position.⁴⁹ Internet players interconnect with each other through a combination of wholesale services to cover all possible Internet destinations. Internet connectivity allows market players (e.g. content providers) to connect to the Internet so as to be able to provide their services or products at the retail level. This service is crucial for the functioning of the Internet and for end users' ability to access Internet content irrespective of the location of the provider and with the necessary quality of service. Impairing connectivity at the gateway to incumbents' networks would create unnecessary bottlenecks, undermining the objectives of the Digital Agenda and impairing the infrastructure of the knowledge economy. This market investigation will continue into 2014.

As regards the E-books case⁵⁰, the Commission adopted in July 2013 a second Article 9 commitment decision, addressed to Penguin Random House (following the first Article 9 commitment decision of December 2012, by which the Commission made legally binding commitments offered by Apple and the other four international publishers involved, namely, Simon & Schuster, HarperCollins, Hachette and Holtzbrinck/Macmillan). Through its decisions, DG Competition actively contributed to the EU2020 objectives by ensuring that consumers can reap the benefits of digitalisation and digitized content. In 2014, the Commission will continue to monitor the compliance of the commitments imposed on the five publishers and Apple in the E-books case. It will also continue to actively follow the developments of this nascent and fast developing market to address any other potential anticompetitive practices that may unjustifiably prevent, restrict or distort cross border trade and consumer access to digital content.

Following the fact-finding investigation to examine whether licensing agreements for pay-TV content contain restrictive absolute territorial protection clauses, on 13 January 2014, the Commission opened formal proceedings against a number of major US film studios and major European pay-TV broadcasters. In these proceedings, the Commission will examine whether the alleged absolute territorial protection clauses concerning satellite pay-TV broadcasting and ancillary online pay-TV services are in breach of Article 101 TFEU, hinder the completion of the single market and prevent consumers from cross-border access to pay-TV content.

Knowledge economy

The interplay between patent law, competition law and standardisation in the IT sector will remain a key enforcement priority. The Commission continues to attach particular importance to standardisation issues. It is crucial for the proper working of standardisation to ensure that access to standards is available to all market participants on fair, reasonable and non-discriminatory (FRAND) terms. This ensures that the benefits of

⁴⁸ Case AT.40016.

⁴⁹ Case AT.39951.

⁵⁰ Case AT.39847.

standardisation are maximised at the same time as ensuring fair reward for intellectual property holders.

The Commission also attaches a high level of importance to the efficient functioning of online sales channels. On 3 December 2013, the Commission carried out unannounced inspections in several Member States at the premises of a number of companies active in the manufacture, distribution and retail of consumer electronics products and small domestic appliances. The Commission has concerns that the companies in question may have put in place restrictions on online sales of consumer electronic products and small domestic appliances. This market investigation will continue in 2014.

In the field of standardisation, two major investigations are worth mentioning.⁵¹ Both investigations concern whether by seeking and enforcing of injunctions on the basis of standard essential patents (SEPs), where commitments have been given to license those SEPs on FRAND terms, the companies in question have engaged in an abuse of a dominant position. Following the sending of a Statement of Objections in December 2012, Samsung has offered commitments to the Commission to address the concerns in relation to its enforcement of injunctions. These commitments have been market tested and if acceptable a commitment decision could be adopted in 2014. A Statement of objections has also been sent to Motorola Mobility regarding the seeking and enforcing of SEP based injunctions. The hearing in this case took place on 30 September 2013.

The health services, pharmaceutical and medical devices industries represent a large share of European GDP. The level of competition in these markets therefore has a significant impact on well-being of EU-citizens, on innovation and on public spending (notably at times of increased pressure on budgets). For these reasons, these sectors have been and remain focal points of competition policy at European and Member States levels. DG Competition will continue developing its practice on possible pay-for-delay conducts based on the findings of the 2009 sector inquiry and consolidation of case work.

Energy

In relation to anti-competitive agreements in the energy sector, DG Competition will continue its case work in 2014 under Article 101 TFEU in support of the Commission's objective of achieving an Internal Energy Market by 2014. On-going enforcement actions under Article 101 TFEU include the alleged market allocation between electricity power exchanges, as well as the investigation into potentially distorted price reporting in relation to benchmarks established by a Price Reporting Agency for a number of oil and biofuel products (where inspections were carried out in 2013).⁵²

Transport

In the transport sector, DG Competition envisages enforcement in both the aviation and maritime transport sectors. In the aviation sector, the Commission will finalise its investigation of the alleged anticompetitive conduct in relation to the joint venture between Air France KLM, Delta and Alitalia on transatlantic flights, following the decisions adopted in similar investigations in 2010 (British Airways, Iberia, American Airlines) and in 2013 (Lufthansa, United, Continental and Air Canada).⁵³ It will also

⁵¹ Cases AT.39939 and AT.39985.

⁵² Cases AT 39952 - Power exchanges and AT 40054 – Oil and biofuel markets.

⁵³ Respectively cases AT 39.964 – Air France-KLM/Delta/Alitalia; AT 39.596 – British Airways/American Airlines/Iberia; and AT 39.595 – Continental/United/Lufthansa/Air Canada.

continue its investigation in the code-share cases.⁵⁴ In the maritime sector, the Commission will actively deal with the investigation on the container shipping sector where proceedings have been initiated against more than ten firms in November 2013.⁵⁵

Other sectors

Basic and manufacturing industries as well as consumer goods continue to represent a significant share of EU GDP and DG Competition's enforcement practice. From 2014 onwards, DG Competition will further consolidate its lines of action (including individual case work, market survey, projects and advocacy) in these sectors with a particular focus on possible anticompetitive conduct as regards aftermarkets and commodities. As far as aftermarkets are concerned, DG Competition is actively monitoring the motor vehicle sector, focusing notably on the application of warranties, spare parts supply, access to technical information and access to authorised repair networks. It has recently produced a set of FAQs to help practitioners and stakeholders deal with practical issues in these areas. The main impetus behind the increased attention towards the aftermarkets in general is that in many mature industries manufacturers no longer make comfortable margins on their primary markets and they seek revenues in other parts of the product life cycle. This is of course not problematic so long as they stick within the competition rules. Key issues include the ability of consumers to predict overall lifecycle costs and possible foreclosure effects in the aftermarkets.

In the food sector, following the adoption of new competition rules in the agriculture sector by the Parliament and Council in 2013, DG Competition will prepare guidelines for the application of these new rules. These rules concern joint-selling by producers in certain agricultural sectors. DG Competition will also finalise a study on the evolution and drivers of choice and innovation in food products and will follow-up on those results with relevant advocacy and possibly enforcement action. Advocacy will be particularly relevant for the debate on what should be done at EU level on so-called Unfair Trading Practices in the food supply chain.

As far as commodities are concerned, DG Competition monitors the commodities and raw material sectors. It has worked closely with DG Enterprise and Industry and other European Commission services concerned in the context of the recently-concluded exercises of evaluating the cumulative cost of EU regulation on the steel and aluminum industries. Looking forward, DG Competition will continue to follow the market developments relevant for these key EU industrial sectors including the on-going reform of the LME rules on warehousing.

4.2.3 Abuses of a dominant position

In addition to cartels and other anti-competitive agreements, competition law prohibits abuses of dominant position, in particular situations where a company uses its power in a market to hinder potential competitors from offering new products or services to consumers under more attractive conditions. By abusively preventing new entry or squeezing competitors out of the market, dominant companies can hamper competition on the market and negatively affect incentives to innovation and growth, as well as consumer welfare. The application of Article 102 of the Treaty on the Functioning of the European Union allows the Commission to put an end to abuses of dominance, while

⁵⁴ Cases AT 39.860 – Brussels Airlines/TAP Portugal; and AT 39.794 – Lufthansa/Turkish Airlines.

⁵⁵ Case AT.39850 – Container Shipping.

respecting dominant companies' right to compete aggressively on the merits of their products or services.

In the on-going antitrust investigation relating to Google⁵⁶, the Commission has expressed concerns that Google may be engaged in an abuse of a dominant position in four areas, namely that Google would be: (1) in its horizontal search results, prominently displaying links to its own vertical search services as compared to those of competitors; (2) copying and using in its vertical search services the content of third party web sites without their approval; (3) on websites where Google delivers search advertisements, entering into agreements with partners which result in de facto exclusivity, thereby requiring these partners to obtain all or most of their search advertisement requirements from Google; and (4) limiting the portability and management of online search advertising campaigns across competing search advertising platforms through contractual restrictions on software developers. Google has offered commitments to address these concerns. If these are acceptable, a commitment decision could be adopted in 2014. As part of a reinforced policy of compliance monitoring over 2014, DG Competition will review at the strict fulfilment of the commitments offered by companies to settle anti-trust investigations such as those concerning Thomson Reuters⁵⁷ that operate in a key sector of the economy which is the access to the financial data necessary for the provision of efficient financial services to the rest of the economy.

In relation to abuses of dominant position under Article 102 TFEU in the energy sector, the Commission adopted in April 2013 a commitment Decision against Czech electricity incumbent • EZ, requiring it to divest significant generation capacity in order to remedy concerns related to capacity reservation in the transmission network aiming at foreclosing competitors from the Czech electricity market.⁵⁸ In 2014, DG Competition will continue its case work in the energy sector, supporting the Commission's objective of achieving an Internal Energy Market by 2014, by ensuring that the removal of regulatory barriers is not frustrated by companies possibly re-establishing trade barriers through anti-competitive conduct. Following a number of decisions in recent years relating to Western Europe, enforcement now focuses also on more recently liberalised markets in Central and Eastern European countries.

On-going enforcement actions under Article 102 TFEU include the potential abuse by Gazprom of its dominant position in the supply of natural gas in Central and Eastern Europe (where proceedings were opened in 2012), the possible foreclosure of both electricity and gas markets in Bulgaria by the Bulgarian incumbent BEH (where proceedings were opened in 2012 and 2013, respectively), and the potential discrimination by the Romanian power exchange OPCOM against foreign traders (where a Statement of Objections was sent in May 2013).⁵⁹

DG Competition is also active in the environmental sector, in particular waste management. On-going enforcement action in this area includes the potential abuse by ARA of its dominant position on the markets for the management of packaging waste in Austria (where a Statement of Objections was sent in July 2013).⁶⁰

⁵⁶ Case AT.39740.

⁵⁷ Case AT 39654.

⁵⁸ Case AT 39727 – CEZ.

⁵⁹ Cases AT 39816 - UGSCEE, AT 39767 – BEH electricity, AT 39849 – BEH gas and AT 39984 – OPCOM/Romanian power exchange.

⁶⁰ Case AT 39759 – ARA.

DG Competition investigated the Lithuanian rail market (inspections had been carried out in 2011) and proceedings were initiated on 6 March 2013.⁶¹ The purpose of the investigation is to consider whether the Lithuanian rail incumbent would have abused its dominant position with a view to foreclose entry from competitors. The Commission will also monitor the commitments made binding upon Deutsche Bahn (DB) by a Decision adopted on 18 December 2013.⁶² These commitments have put an end to the Commission's investigation on the pricing of traction current in Germany. The Commission had concerns that DB's pricing system, in particular discounts that only railways belonging to DB could obtain, may have hampered competition in the German markets for railfreight and long-distance passenger transport in breach of EU antitrust rules.

4.2.4 Anti-competitive practices by Member States

The Commission also has the power to intervene against Member States' legislative actions which have the effect of removing the effectiveness of the competition rules of the Treaty and which infringe Article 106 of the Treaty on the Functioning of the European Union. This Article also establishes the applicability of competition rules to public undertakings and those to which Member States grant special or exclusive rights, including undertakings entrusted with the operation of services of general public interest.

As in previous years, in 2014, DG Competition will continue to monitor the criteria and procedures used by Member States for granting digital TV broadcasting frequencies. This will include monitoring measures, such as the spectrum auction prepared by Italy in 2013 and not yet implemented, aimed at addressing the Commission's concerns regarding the Italian legislation on digital switchover.

In 2014, DG Competition will continue to be particularly vigilant that similar potential infringements are remedied in sectors that have been recently liberalised or are in the process of liberalisation, such as energy or postal services, as well as the media sector. This is in line with the Europe 2020 Strategy, according to which *"through the implementation of competition policy the Commission will ensure that the internal market remains an open market, preserving equal opportunities for firms and combating national protectionism"*.

ABB activity 03/01: Cartels, antitrust and liberalisation					
Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
-	-	-	246	36	282

Specific objective 3: Detection, sanctioning, deterrence and remedying of the most harmful anti-competitive practices with a view to protecting consumer welfare

Indicator 1: Benchmark for the observable customer benefits resulting from Commission decisions prohibiting cartels

⁶¹ Case AT.39813 Baltic Rail.

⁶² Case AT.39678 / AT.39731 – Deutsche Bahn I / II

Baseline: EUR 1.35-2.0 bn (2012)	Target: stable level
<u>Indicator 2: Intervention rate</u> ⁶³	
Baseline: 12 (2013) ⁶⁴	No target ⁶⁵
<u>Indicator 3: Success rate before the European Courts in antitrust, cartel and merger cases</u> ⁶⁶	
Baseline: Approximately. 90% (2012)	Target: 70%

4.3 ABB Activity "Merger control"

The EU merger control plays a key role in adjudicating on mergers that may on the one hand be efficiency enhancing and on the other hand reduce competition to the detriment of consumers. Its objective is to effectively prevent mergers from resulting in anti-competitive effects.

The EU merger control guarantees that companies can develop in a dynamic way to become competitors on global markets. Whether to meet the challenges resulting from the economic context or to enter new markets, European companies are free to search for the most productive and competitive organizational structures reflecting their current and strategic business needs, to the benefit of consumers. However, some mergers may reduce competition in the market, in particular by impeding effective competition, including the creation or strengthening of dominant positions in the market. Such mergers are blocked.

Merger control by the Commission applies to transactions exceeding the significant turnover thresholds under the Merger Regulation and which are therefore considered to lead to an impact on the market which goes beyond the national borders of any one Member State. Such concentrations are reviewed exclusively at the EU level, in application of a 'one-stop shop' system and in compliance with the principle of subsidiarity.

Merger control by the Commission guarantees efficient control involving a rapid assessment and clearance of non-problematic mergers. The Commission approves the vast majority of cases notified, most of them without the need to open an in-depth investigation. Since the Merger Regulation came into force in 1990, the Commission has cleared more than 5000 transactions. Most concerns about the possible effects of a merger are resolved through remedies⁶⁷. When it is essential to ensure that consolidation does not undermine the benefits of competition and liberalisation for consumers, and when no suitable remedies are on offer, the Commission has no choice but to prohibit a merger as it did most recently in UPS/TNT EXPRESS and Ryanair/Aer Lingus in 2013. Overall, based on the specific benchmarking exercise developed for evaluation purposes, the observable customer benefits derived from the Commission's intervention in the form

⁶³ Settlement, prohibition, commitment and procedural decisions.

⁶⁴ 11.2 for 2009-2013.

⁶⁵ See fn. 11 above.

⁶⁶ Success rate as reported annually to the Global Competition Review. Refers also to mergers and is identical to the indicator for mergers.

⁶⁷ For example, in 2013, concentrations were approved subject to remedies in 13 cases, 2 of which in Phase II.

of a decision prohibiting a horizontal merger or clearing such a merger subject to remedies were in the range of €2.2 billion to €5.6 billion for 2012.

In 2014, continued attention will have to be paid to corporate restructuring in industrial sectors as well as the postal services, transport, IT, media and telecoms sectors where a number of important and complex cases were notified in recent years. In addition, the economic crisis may further pose challenges in terms of merger control for the sector of financial services. Merger control will also continue to ensure that cross-border mergers are not blocked by Member States on grounds other than competition policy.

Similarly, in 2014 the Commission will continue to ensure that the commitments made by companies as a condition for obtaining a clearance decision in earlier merger cases are effectively complied with and enforced. Such strict enforcement is critical as, otherwise, the anti-competitive effects that these earlier decisions sought to avoid could nonetheless occur.

The Commission is currently investigating mergers in the fixed and mobile telecommunications sectors. These cases will have a high precedent value for future telecommunication cases in Europe, while each of such cases will, of course, be assessed in the light of the specific facts and circumstances. On 6 November 2013, the Commission opened an in-depth investigation concerning the proposed acquisition by Hutchison 3G UK (operating as Three Ireland) of Telefónica Ireland⁶⁸ (operating as O2 Ireland), leading to a consolidation from four to three service providers on the Irish mobile telecommunications markets. This combination of the number four and number two mobile network operators would create a player of similar size to the current largest operator, Vodafone, and may remove the competitive pressure that Three Ireland was exerting. The merger may also weaken the third remaining player, Eircom, by reducing the merged entity's incentive to continue O2 Ireland's existing network sharing agreement with Eircom. Last, the merger may lead to a reduction in the number of mobile network operators (MNOs) that are effectively willing to host mobile virtual network operators (MVNOs). The Commission will also assess the efficiencies claims submitted by the parties, which relate in particular to the faster and better deployment of an LTE network by the merged entity.

On 20 December 2013, the Commission opened an in-depth investigation concerning the proposed acquisition of E-Plus of Germany by Telefónica Deutschland⁶⁹, which may reduce competition in the retail mobile telephony market as well as in the market for wholesale access and call origination on mobile networks in Germany, where Telefónica and E-Plus currently compete with each other. The transaction would combine two of the four mobile networks in Germany and create a player of similar size to the currently two largest operators, Deutsche Telekom and Vodafone. The transaction may remove a competitive force and change the merged entity's incentive to exert competitive pressure on the remaining competitors. Moreover, after the transaction the remaining MNOs may have fewer incentives to grant access to their network to mobile virtual network operators (MVNOs) and service providers. Prospective and existing MVNOs and service providers may have less choice of host networks and hence weaker negotiating power to obtain favourable wholesale access terms. The Commission will also assess the efficiencies claims submitted by the parties.

⁶⁸ Case M.6992.

⁶⁹ Case M.7018.

The opening of in-depth investigations in these cases does not prejudice the outcomes of the respective investigations.

As regards financial services, one of the main cases in 2013 was the approval of the proposed acquisition of NYSE Euronext by InterContinental Exchange⁷⁰, which contrasted with the prohibition (in February 2012) of proposed merger between Deutsche Börse and NYSE Euronext.⁷¹ Although both cases concerned the market of exchange traded derivatives, the asset classes involved in each of them were very different as a result of which the Commission approved the 2013 transaction. In the future, further consolidation may take place in the exchanges industry and as illustrated by the above examples the assessment will depend on the specific circumstances of each case.

ABB activity 03/03: Merger control					
Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
-	-	-	105	18	123

Specific objective 4: Prevention of anti-competitive effects of mergers with a view to protecting consumer welfare	
Indicator 1: Benchmark for the observable customer benefits resulting from corrective horizontal merger decisions of the Commission	
Baseline: EUR 2.2-5.6 bn (2012)	Target: Stable level
Indicator 2: Intervention rate ⁷²	
Baseline: 15 ⁷³ (2013)	No target ⁷⁴
Indicator 3: Success rate before the European Courts in antitrust, cartel and merger cases ⁷⁵	
Baseline: Ca. 90% (2012)	Target: 70%

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

The objectives that DG Competition pursue under this activity comprise i) maintaining EU competition law instruments aligned with market realities and contemporary economic and legal thinking, ii) ensuring coherent application of EU competition law by national competition authorities and courts, iii) ensuring coherent private enforcement of

⁷⁰ Case M 6873.

⁷¹ Case M 6166.

⁷² Prohibition decisions, decisions with remedies (in phase 1 and phase 2), withdrawals in phase 2.

⁷³ 11.6 for 2009-2013.

⁷⁴ See fn. 11 above.

⁷⁵ Success rate as reported annually to the Global Competition Review. Refers also to antitrust and cartels, and is identical to the indicator under antitrust and cartels.

EU competition law and compensation for victims, and iii) strengthened international cooperation in enforcement activities, increased convergence of competition policy instruments across different jurisdictions and well-functioning competition regimes in candidate countries and potential candidate countries.

4.4.1 Competition policy

In order to meet the above-mentioned general and specific objectives, it is important to constantly adapt competition policy to new market developments and improved knowledge on industrial economics. Consequently, DG Competition regularly reviews the competition rules on substance and procedures, notably through Commission Regulations and "soft law" such as Guidelines, Communications and Notices.

In addition to providing legal certainty and transparency for all stakeholders, these instruments play an important role in preventing and deterring restrictions of competition that harm consumers by informing firms and governments about the criteria the Commission uses in assessing anti-competitive agreements, abuses of dominant positions, mergers and state aid. Throughout the last decade these instruments have also led to a considerable reduction of regulatory burden, especially for companies lacking market power like SMEs.

4.4.1.1 State aid policy

Completing the State aid modernisation (SAM) programme

The Commission's communication on EU State aid modernisation of 8 May 2012 set out the objectives of an ambitious reform of State aid control, which aims to contribute to the broader EU agenda for fostering growth while contributing to Member States' efforts towards budgetary consolidation. The first building blocks of this system were put in place during 2013, with the adoption of two Council regulations that will facilitate the streamlining of the Commission's State aid procedures, as well as the adoption of new rules on regional aid, audiovisual works and a new *de minimis* regulation.

Following the adoption of the Procedural Regulation⁷⁶, the State aid Modernisation Initiative in the field of procedural State aid rules will be completed to increase efficiency and simplify State aid control by focusing enforcement on the most important distortions of competition and thus improve market functioning. The reform improves the handling of complaints, leading to a swifter, more predictable and more transparent investigation of complaints. New tools for gathering information directly from market participants and for conducting sector inquiries will allow the Commission to obtain all necessary information to adopt well-reasoned decisions. This is expected to significantly reduce the duration of the investigation in complex cases. The codification of the cooperation with national courts will ensure a coherent application of state aid rules across Member States.

⁷⁶ Council Regulation No 734/2013 of 22 July 2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ("the Procedural Regulation").

In the course of 2014, DG Competition will examine the need to revise procedural soft-law instruments, such as the Simplified Procedure notice⁷⁷, the Best Practices Code⁷⁸, and the Enforcement notice⁷⁹, to ensure that they are in keeping with the new substantive and procedural rules adopted in the context of the State aid Modernisation Initiative.

Effective State aid control enhances not only the growth potential of the internal market but contributes also to the competitiveness of the European industry and economy as a whole. During 2014, DG Competition will complete the adoption of the SAM package. The cornerstone of this process will be a revised and expanded General Block Exemption Regulation (GBER), which should be adopted in the second quarter of 2014. The revised Council enabling regulation has already opened up the possibility of block-exempting new categories of aid: the new GBER will take advantage of those new possibilities, while also expanding the reach of the existing categories in cases where the Commission's case experience allows the characteristics of well-targeted, growth-enhancing aid to be clearly identified. Following adoption of the revised GBER, DG Competition may begin to develop a revised Guide, providing practical examples and information on how to ensure correct implementation of the GBER

To further guide Member States in designing "good aid" contributing to the competitiveness of the European industry and the EU economy as a whole, in line with the Europe 2020 strategy, DG Competition will complete in 2014 the review of the guidelines in the field of research, development and innovation, risk finance, energy and environmental aid and aviation. The revised guidelines will be adopted in the first semester, along with the new guidance on important projects of common European interest and on rescue and restructuring aid for non-financial firms.

Certain schemes are expected to be subject to the requirement for Member States to conduct ex post evaluations, on the basis of evaluation plans approved by the Commission and in line with criteria to be set out in a methodological guide on State aid ex post evaluation. In addition, a new communication to be issued in 2014 will give interested parties guidance on the notion of State aid contained in Article 107(1) of the Treaty.

Finally, the implementing regulation will be reviewed to bring the notification forms and other procedural requirements up to date.

Monitoring and reviewing the existing rules

Certain other State aid rules fall outside the scope of the SAM programme, including in particular the rules on services of general economic interest (SGEI) and the guidelines on State aid in the context of the EU Emissions Trading Scheme (ETS), both of which came into force in 2012. While those rules are only scheduled to be reviewed in 2017 and 2020, respectively, the passage of two years since their entry into force will allow DG Competition to begin the process of evaluating their application in 2014.

⁷⁷ Commission Notice on a Simplified procedure for the treatment of certain types of State aid; OJ C136, 16.06.2009, p. 3-12.

⁷⁸ Commission Notice on a Best Practices Code on the conduct of State aid control proceedings; OJ C 136, 16.06.2009, p. 13-20.

⁷⁹ Commission notice on the enforcement of State aid law by national courts; OJ C 85, 09.04.2009, p. 1-22.

DG Competition may also start a review of other existing rules, such as the Commission communication on the method for setting the reference and discount rates and the notice on the application of the State aid rules to guarantees.

Preparing for a new paradigm in State aid control

The regulations and guidelines that form part of the SAM programme should be in force by mid-2014. During the course of 2014, therefore, DG Competition will prepare for and implement a number of changes in tools and working methods to reflect the changed paradigm of State aid control.

First, the SAM package should lead to a more proactive approach to State aid enforcement. The expanded GBER will bring a substantial number of measures within its scope that would previously have required prior notification, leading to a reduction in the number of notifications being dealt with by DG COMP. New rules on the admissibility of complaints should have a similar effect in terms of the number of complaints. Instead, a greater part of DG COMP's activity is likely to involve targeted intervention in areas where the risk of competition distortions is particularly great, using the Commission's new powers to carry out inquiries into particular sectors or aid instruments and its newly codified ability to intervene as *amicus curiae* in proceedings concerning State aid before national courts.

At the same time, the reduction in the number of cases for which the Commission's approval is required *ex ante* will require an enhanced focus on transparency, *ex post* monitoring and evaluation, to ensure that competition distortions do not develop unchecked.

New transparency obligations are intended to come into force in 2014, requiring Member States to publish details of aid amounts and beneficiaries. These obligations will not only bring greater openness in the field of State aid, but will also allow for more effective *ex post* enforcement, through both *ex officio* investigations and complaints from interested parties. In 2014, DG Competition will closely monitor the implementation of the transparency obligation and will begin to analyse the data that becomes available.

Monitoring and evaluation will also be essential tools to ensure that the reduced scope of the Commission's *ex ante* review of State aid does not lead to greater competition distortions. DG Competition will step up its existing monitoring activities and will launch the first pilot projects under a new strategy for *ex post* evaluation of the impact of State aid rules. At the same time, *ex post* evaluations of certain State aid schemes should involve Member States and DG Competition in the preparation of evaluation plans and in the assessment of the evaluation reports.

Finally, the new rules will require a significant advocacy programme, to explain to interested parties how the new rules will affect them. DG Competition will work closely with Member States, through a relaunched network of State aid country coordinators, to that end.

Following the adoption of the Procedural Regulation⁸⁰ the State aid Modernisation Initiative in the field of procedural State aid rules will be completed to increase efficiency and simplify state aid control by focusing enforcement on the most important

⁸⁰ Council Regulation No 734/2013 of 22 July 2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty ("the Procedural Regulation").

distortions of competition and thus improve market functioning. While the reform of State aid procedures primarily allows the Commission to reach faster decision-making, it also helps the Commission focus its enforcement on cases with the highest impact at the EU level. In the course of 2014, DG Competition will embark on revising procedural soft-law instruments, such as the Simplified Procedure notice⁸¹, the Best Practices Code⁸², and the Enforcement notice⁸³, to ensure that they are in keeping with the new substantive and procedural rules adopted in the context of the State aid Modernisation Initiative.

Supporting 2014-2020 Multiannual Financial Framework

DG Competition will also work to ensure that State aid policy supports key developments in other policy areas in a way that prevents possible distortions of competition from arising. Particularly important in 2014 will be the completion of the Banking Union, including the finalisation of the Bank Recovery and Resolution Directive, the establishment of a Single Resolution Mechanism, and potential new instruments at the disposal of the European Stability Mechanism, such as direct bank recapitalisation (see also below). DG Competition will also play a role in the implementation of key instruments in the new Multiannual Financial Framework, including the EU programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME) and the Horizon 2020 programme. With regard to the new structural funds programming period, DG Competition will work, together with DG Regional Policy, to ensure that Member States' partnership agreements and operational programmes comply with State aid rules and that the new rules on ex ante conditionality in the State aid field are fully and effectively reflected in Member States' set-up and practice.

Supporting the implementation of the Banking Union

Since its launch in June last year, the project to achieve a "Banking Union" is right on top of Europe's agenda⁸⁴. While it is still incomplete to date, progress is moving fast on different fronts.

As from January 2014, European banks will apply the new rules set out in the so-called CRD (Capital requirements Directive) IV package, which implements Basel III. Insufficient level of capital – both in quantity and in quality – was one of the vulnerabilities shown by banking institutions during the crisis; the new capital adequacy rules of the CRD IV will address this shortcoming. The EU law on Deposit Guarantee Schemes ("DGS") is being revised with the aim to harmonise the set-up and functioning of the Member States' national deposit guarantee schemes and to ensure they are provided with adequate funds. A Single Supervisory Mechanism ("SSM") for euro-area banks will be operational next year. The European Central Bank will become the single banking supervisor for the euro countries and for all those that decide to join the Banking Union. A new European directive on Banking Recovery and Resolution will provide a

⁸¹ Commission Notice on a Simplified procedure for the treatment of certain types of State aid; OJ C136, 16.06.2009, p. 3-12.

⁸² Commission Notice on a Best Practices Code on the conduct of State aid control proceedings; OJ C 136, 16.06.2009, p. 13-20.

⁸³ Commission notice on the enforcement of State aid law by national courts; OJ C 85, 09.04.2009, p. 1-22.

⁸⁴ In his annual State of the Union speech to the European Parliament on September 11, President Barroso described it as "*the first and most urgent phase on the way to deepen our economic and monetary union*".

common tool-box for resolving banks in difficulties. This legislation aims at better protecting taxpayers from having to bail-out banks in distress. A Single Resolution Mechanism applicable to the euro area and to other countries willing to join will, in all likelihood, be adopted by the time the SSM becomes operational.

To prepare for these changes, the European Commission reviewed its State aid guidelines banking guidelines⁸⁵ in 2013, updating the crisis framework put in place five years before. This update of the state aid crisis rules intends to ensure that future State interventions are consistent with the principles of the Banking Union.

Environmental Aid Guidelines

As part of the State aid modernisation package, the Environmental Aid Guidelines (EAG) are currently being reviewed to take into account the case experience by the Commission and the latest technological and market developments. EAG apply to measures supporting environmental protection such as for instance investments going beyond EU environmental standards, more energy efficient production and energy production from renewable energy sources. The new guidelines aim at a more targeted support to incentivise a decarbonised EU energy market in line with the Europe 2020 objectives. In particular, the conditions for support to renewable energy are subject to modernisation with a view of making the schemes more market oriented. As climate and energy policy have become increasingly intertwined, the review is not limited to the state interventions already covered by the currently applicable EAG, but it intends to enlarge the current scope of EAG by including guidance on state aid measures relating to energy infrastructure, capacity mechanisms and aid for energy intensive users compensating electricity costs stemming from renewables support. The work on the revision of EAG will be completed before the end of 2014, in line with the expiry date of the current guidelines.

Air transport

As regards air transport, the Commission will adopt new guidelines on State aid to airports and airlines.

New guidelines are necessary to take account of the development of the aviation sector since 2005, notably the development of low cost carriers and the existence of a number of loss making regional airports. These guidelines will notably specify which categories of aid to regional airports might be declared compatible. In this regards, the Commission will take into consideration the necessity to preserve local accessibility of regions, but also the distortions of competition resulting from State aid and the necessity to avoid a waste of public resources.

As regards maritime transport, the Commission will review the block exemption regulation for liner shipping consortia. Consortia are a rather common form of cooperation agreements in the maritime sector, which are generally considered to generate efficiencies that can be passed on to customers. This is why such agreements are currently covered by a block exemption regulation, subject to a number of conditions, including a market share threshold of 30%. The current Regulation, which was adopted in 2010, expires in April 2015.

⁸⁵ Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis.

4.4.1.2 Antitrust policy

Finalising review of competition rules for technology transfer agreements

The on-going review of the existing guidelines and the block exemption regulation for technology transfer agreements ("TTBER"), which expire in April 2014, will be finalised in the first semester of 2014.

The goal of this revision is to verify that the Commission's competition policy as regards technology transfer agreements still reflects the right balance between providing effective incentives for competitors and non-competitors to enter into innovation and welfare increasing technology transfer agreements, while ensuring that such agreements do not undermine economic welfare by unnecessarily distorting competition.

A draft TTBER and draft Guidelines were published for public consultation in February 2013. The Commission received 58 replies from stakeholders. Stakeholders seem, in general, to be more comfortable in self-assessing the compliance of their agreements with Article 101 TFEU and support the current effects-based approach to enforcement that the Commission has been promoting since modernisation of EU competition law in 2004. The overall majority of stakeholders indicate that the current system has given them flexibility to organise their cooperation, notably through the so called "safe harbours" provided for in the TTBER and the Guidelines. Therefore, companies welcome that the Commission is keeping the overall structure of the regime. As regards specific proposed changes in the draft TTBER and Guidelines, most of the submissions focused on proposed changes as regards market share thresholds, termination clauses, exclusive grant-back clauses and patent pools.

The Commission is now in the process of finalising the draft TTBER and Guidelines in light of the input received in the public consultation and aims at adopting final texts in spring 2014.

On-going review of the De Minimis Notice

Article 101 of the Treaty on the Functioning of the European Union ("TFEU") prohibits agreements that aim at, or result in, *appreciable* restrictions of competition. The current Notice on Agreements of Minor Importance ("De Minimis Notice")⁸⁶, adopted in 2001, creates a market-share based safe harbour for agreements that the Commission considers as having a non-appreciable effect on competition. Agreements between competitors are deemed not to have an appreciable effect on competition if the aggregate market share of the companies involved does not exceed 10%. For agreements between non-competitors the relevant market share is 15%. However, if an agreement, be it between competitors or non-competitors, contains a particularly serious restriction of competition, known as hard-core restriction, it will not be able to benefit from the safe harbour.

In July, following a consultation of the Member States, the Commission launched a public consultation on a revised draft of the De Minimis Notice. The proposed revision of the Notice seeks to reflect the ruling of the European Court of Justice in the Expedia case⁸⁷,

⁸⁶ Commission Notice on agreements of minor importance which do not appreciably restrict competition under Article 81(1) of the Treaty establishing the European Community (de minimis), Official Journal C 368, 22.12.2001, p.13-15.

⁸⁷ Case C-226/11 *Expedia v French national Competition Authority*, Judgement of 13 December 2012.

which clarified that an agreement that has an anti-competitive object constitutes, by its nature and independently of any concrete effect that it may have, an appreciable restriction on competition. Accordingly, the revised draft Notice suggests that agreements containing a restriction by object always constitute an appreciable restriction of competition. Secondly, the revised draft proposes technical changes to ensure that the De Minimis Notice is consistent with other recently amended competition rules, in particular the 2010 Vertical and Horizontal Block Exemption Regulations.

The consultation of the public on the revised draft Notice was closed in October 2013. The Commission is currently reflecting on the implications of the comments received and working towards adopting a revised Notice in 2014.

After the actions undertaken in 2013 to gain more in-depth knowledge of market functioning such as the publication of a Study on co(re)insurance pools and on ad-hoc co(re)insurance agreements and the organisation of a Workshop where the conclusions of the study were discussed with stakeholders, DG Competition will take in 2014 the first steps in the process for the review of the Insurance Block Exemption Regulation that will expire in March 2017.

4.4.1.3 Merger policy

In the area of mergers, DG Competition has reflected on the way to further simplify certain procedures and information requirements under the current EU Merger Regulation. There is room for improvement and stakeholders will be consulted on a proposal to streamline procedures, easing the administrative burden and cutting red tape for businesses (i.e. extension of the simplified procedure and overhaul of the notification forms). At the same time, this would allow us to focus our resources even more on problematic merger cases.

DG Competition will also proceed with the first preparatory steps for a possible review of the EU Merger Regulation. Such a revision could in particular concern: (i) a possible enforcement gap regarding the acquisition of non-controlling minority shareholdings – these do not currently fall under the EU Merger Regulation but can cause significant harm to competition and consumers; (ii) the process for case referrals between the Commission and Member States. DG Competition will reflect on the need and the possibilities to improve these aspects of the EU Merger Regulation. DG Competition will consult our stakeholders on these issues and the conceivable solutions.

4.4.1.4 Joint work with other DGs

Increased efforts will be required in 2014 to complete the adoption of package of still pending legislative initiatives on financial instruments that would allow the EU to meet its G20 Commitments. DG Competition will keep its intense cooperation with DG Internal Market and Services to ensure that the relevant regulations guarantee efficient, transparent and sound market functioning. Particular support and input will be provided so that the provisions of the Markets in Financial Instruments (MiFIR/D) regulations contain provisions making securities markets more contestable.

DG Competition will also work to ensure that competition policy supports key developments in other Commission policy areas in particular in the context of Europe 2020 Strategy and European Semester. Of particularly important in 2014 will be cooperation with DG Communication Networks, Content and Technology, DG Energy and DG Competition, the Secretariat-General and DG for Economic and Financial Affairs DG Internal Market and DG Enterprise and Industry.

As far as the implementation of the digital agenda is concerned, DG Competition is in continuous discussion with DG Communication Networks, Content and Technology where competition policy and the digital agenda interact.

DG Energy and DG Competition are aware of the mutual dependence of their policies with respect to market outcomes on energy markets and discuss policy and cases. In particular, the adoption of the Energy 3rd package is of great interest for the improvement of competition in these markets.

The Commission's Secretariat General coordinates the European Semester. The Directorates General (including DG Competition) meet on a regular basis to discuss each individual country in order to assure a correct priority setting among possible CSRs as well as a consistent approach of the Member States. In those meeting the DG for Economic and Financial Affairs takes the lead in assessing the economic aspects of reforms, which means in-depth discussions of product and service markets with competition problems for many Member States.

DG Internal Market and Services and DG Competition share a large number of common interests, notably the Single Market Act. The Single Market Act will enhance the growth potential of the internal market, competitiveness of European industry and may help to improve the degree of competition in many markets that are until so far (partially) protected from competition.

Many aspects of industrial policy and competition policy mutually affect each other so that DG Enterprise and Industry and DG Competition regularly discuss the effects of State aid rules, SME policies, quality of regulation etc. in order to make sure the competitiveness of European industry is best served.

ABB activity 03/04: Policy coordination, European Competition Network (ECN) and international cooperation					
Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
-	-	-	132	8	140
Specific objective 5: Maintain EU competition law instruments aligned with market realities and contemporary economic and legal thinking					
Indicator 1: Number of legislative or non-legislative instruments to be adopted in 2014					
Baseline: 6 (2013)			Target: no target ⁸⁸		
Legislative and non-legislative policy documents developing EC competition law and policy such as reviews of the existing secondary legislation, policy guidance documents and guidelines:					
<ul style="list-style-type: none"> • Private damages • TTBR • Guidelines on State aid to airports and airlines • R&R • R&D&I 					

⁸⁸ The initiatives identified in the table are the objectives for 2014. No quantitative target can be provided beyond the end of the mandate of this Commission.

- EEAG
- De Minimis Notice (antitrust)

4.4.2 Coherent application of EU competition law by national competition authorities and courts

This activity comprises DG Competition's contribution to the effective and coherent application of European competition law in the EU, via the European Competition Network (ECN) and through cooperation with national courts. Effective and coherent enforcement action by the Member States' competition authorities and courts has an important role to play in achieving the general objectives of increased consumer welfare and improved competitiveness. It also contributes to ensuring a level playing field in the internal market.

In 2014, DG Competition will continue working with NCAs on individual cases with a view to ensure coherent and effective application of Articles 101/102 TFEU, inter alia by scrutinising envisaged decisions submitted to the Commission in accordance with Regulation 1/2003. It will also further organise and animate multilateral work in the ECN with a view to contribute to these objectives. This work takes place at different levels. The strategic steer comes from the regular bi-annual meetings of the heads of the NCAs with the Director General of DG Competition. Technical work is carried out in the ECN Plenary and in a range of ECN working groups and sectorial subgroups.

In addition to work in different sectors (by sectorial subgroups) and areas (cartels and forensic IT), it is anticipated that horizontal ECN activities in 2014 will focus on enhancing the functioning and convergence of the enforcement frameworks in the Member States, in particular with respect to institutional issues and enforcement powers of NCAs.

Following the recent amendment of the Procedural Regulation by Council Regulation No 734/2013 of 22 July 2013, a new form of cooperation has been put into place, and DG Competition can now also express its views, out of its own motion, on an individual case pending before a national court (so called '*amicus curiae*' observations). In addition, DG Competition will continue to strengthen its cooperation with national courts, previously dealt with only under the Enforcement Notice. DG Competition is committed to providing support to national courts in individual cases pending before them, by providing information and opinions concerning the application of the State aid rules. DG Competition also intends to reflect the procedural innovations introduced by Regulation 734/2013 in the Enforcement Notice.

Specific objective 6: Coherent application of EU competition law by national competition authorities and courts	
Indicator 1: Number of cases signalled to the European Competition Network	
Baseline: ca. 120 (2013)	Target: no target
Indicator 2: Number of envisaged enforcement decisions and similar case consultations in the European Competition Network	
Baseline: approx. 70 (2013)	Target: no target
Indicator 3: % of working time of DG Competition's personnel (in FTEs) allocated to the European Competition Network	
Baseline: 1.02% (2013)	Target: stable level

4.4.3 Coherent private enforcement of EU competition law

In June 2013, the Commission presented a proposal for a Directive on antitrust damage actions. 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 inter-institutional efforts continue. Once the European Parliament and the Council have adopted the Directive, DG Competition will closely monitor its implementation by Member States. In addition, DG Competition will, together with DG Justice and DG Health and Consumers, monitor the Member States' implementation of its Recommendation on Collective Redress.

In addition, DG Competition will continue in 2014 its efforts to ensure a coherent application of EU competition law by national courts. It will do so through the financing of national judges' training programs, through case-specific cooperation with national judges (pursuant to Article 15 of Regulation 1/2003) and non-case related cooperation with organisations of national competition law judges.

Specific objective: Ensure coherent private enforcement of EU competition law	
Indicator 1: Number of amicus curiae briefs Art. 15(3) per year	
Baseline: 1 (2013)	Target: increasing (mid-term), zero (long term)
Indicator 2: Number of demands for opinion Art. 15(1) per year	
Baseline: 4 (2013)	Target: increasing (mid-term), zero (long term)
Indicator 3: Number of judges trained per year	
Baseline: 2268 (2012)	Target: increasing (mid-term), stable level (long term)

Specific objective: Ensure compensation for victims of EU competition law infringements	
Indicator 1: Number of damages actions brought	
Baseline: 9 (2013)	Target: increasing (mid-term), stable level (long term)

For all these, we need to add the disclaimer that while we try obtaining as much information as possible from different sources, we have no guarantee that the data are exhaustive. Moreover, damages are also awarded via consensual dispute resolution mechanisms, which are by definition not public."

4.4.4 International cooperation and convergence

DG Competition aims at promoting international convergence of competition policy and contributes actively towards this objective, in particular by creating effective tools for bilateral and multilateral co-operation with the Union's main trading partners and with other third-country competition agencies.

One important field of activity of DG Competition at the international level are the negotiations on 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. Negotiations with the US on a Transatlantic Trade and Investment Partnership Agreement (TTIP) were launched on 8 July 2013. These negotiations will be one of the priorities for DG Competition's international efforts in 2014. Another important agreement being negotiated is the FTA with Japan launched on 25 March 2013. In the course of 2014, further trade negotiations are expected to be launched with Mexico, Tunisia and Jordan and the European Commission will continue negotiating Free Trade Agreements with a large number of third countries which all include competition chapters (Morocco, Vietnam, Thailand, Moldova, Georgia...)

Also at the bilateral level, in the margin of the BRICS Conference, on 22 November 2013, DG Competition signed a Memorandum of Understanding for Cooperation in the area of competition law with the Competition Commission of India. A similar Memorandum of Understanding between DG Competition and the Chinese antitrust authorities was signed in 2012. 2014 will also be the year marking the 10th anniversary of the formal EU-China competition policy dialogue. Technical cooperation activities with the Chinese competition authorities will continue under the on-going cooperation programme (EUCTP II); a similar programme for technical cooperation with the Indian competition authorities will take off in 2014.

On 17 May, the Cooperation Agreement on the application of Competition laws between the EU and Switzerland was signed and, pending ratification by both sides, it will hopefully come into force in 2014. An innovative feature of this agreement is that it will enable both competition agencies to exchange information they have obtained in their investigations. A Second Generation cooperation agreement of the same kind is also still being negotiated between the EU and Canada.

As to the accession negotiations with candidate countries, the main policy objective, in addition to fostering a competition culture, is to further assist the candidate countries and potential candidate countries to build up a proper legislative framework, well-functioning competition authorities and an efficient enforcement practice in order for them to meet the conditions for EU accession in the competition policy field. DG Competition will put a particular emphasis on achieving tangible results in relation to Turkey, Serbia, Montenegro and FYROM. Significant progress was made in 2013 with the screening of Montenegro legislation and the identification of opening benchmarks for negotiations of the competition chapter. In 2014, such screening will take place for Serbia. At the same time, negotiations will be on-going as regards a Stabilisation and Association Agreement with Kosovo.

DG Competition will also continue to participate actively in international fora such as the Competition Committee of OECD, International Competition Network and Unctad in the years ahead. In 2014, it will continue co-chairing the Mergers Working Group of ICN and one of the Sub-Groups of the Cartel Working Group. DG Competition is a project leader (together with US FTC) for the Steering Group projects on investigative processes in competition enforcement activities. In 2014, DG Competition will continue to play a prominent role in these multilateral competition policy fora.

Specific objective 8: 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

Indicator 1: Number of third countries with whom the EU has 1st generation competition agreements

Baseline: 4 (2013)	Target: 4 (medium term)
<u>Indicator 2</u> : Number of third countries with whom the EU has 2nd generation competition agreements	
Baseline: 0 (2013)	Target: 2 (medium term)
<u>Indicator 3</u> : Number of Memorandum of Understanding with competition authorities in third countries	
Baseline: 4 (2013)	Target: 5 (medium term)
<u>Indicator 4</u> : Number of third countries with whom the EU has free trade agreements containing competition/state aid clauses	
Baseline: 3 (2013)	Target: 9 (medium term)
<u>Indicator 4bis</u> : Total number of third countries with whom the EU has negotiated or is negotiating trade agreements containing competition/state aid clauses	
Baseline: 33 (2013)	Target: 39 (medium term)
<u>Indicator 5</u> : Number of contributions to OECD, ICN and UNCTAD	
Baseline: 27 (2013) 15 (OECD), 9 (ICN), 3 (UNCTAD)	Target: 15-20 (medium term)
<u>Indicator 6</u> : Number of candidate countries with whom accession negotiations on the competition chapter have been opened	
Baseline: 0 (2013)	Target: 3 (Serbia, Macedonia, Montenegro) (medium term)

PART 5. HORIZONTAL ACTIVITIES

DG is committed to devise and implement a strategy aimed at ensuring that its above-mentioned operational activities have the biggest effect on the functioning of the markets and through its competition advocacy, regulatory and other initiatives undertaken at the EU level and Member State level contribute to a more competitive market environment in Europe.

5.1 Policy strategy and coordination

5.1.1 Strategy: delivering results

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.

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". Among the on-going impact assessments of initiatives from DG Competition that will continue in 2014 are the Environmental and Energy Aid Guidelines, the R&D&I Aid guidelines, the (industrial) Rescue and Restructuring State aid guidelines, and the Transfer of Technology Block Exemption Regulation (antitrust).

In 2013, DG Competition created a new evaluation function in the DG and reflected on a new strategy for ex -post evaluation activities to build on and expand its ex post evaluations. In 2014, DG Competition will reflect on how it can further improve its performance in the following areas: a) designing the questionnaires used in public consultations, in particular the "retrospective" part aimed at obtaining elements for ex-post evaluation purposes, and b) performing two pilot evaluation projects to test the new requirements for ex-post evaluations on the basis of the ideas set out by the SG for new evaluation guidance in 2014 taking into account the special role and function of DG Competition also as an enforcement agency.

5.1.2 Competition advocacy and transparency

Competition law enforcement is not always the most efficient tool for remedying market failures, in particular in situations where the root of the problem does not lie in individual company behaviours as such, but where the market failures are structural and generalised. In such a situation the extensive market knowledge that DG Competition has through its enforcement activities and/or sector inquiries can contribute to regulatory initiatives taken at EU level. By framing the problem in competition terms DG Competition often contributes to finding more far-reaching and durable regulatory solutions. In this way, in 2013, DG Competition actively contributed to and participated in the policy debate on the telecoms single market and the related package of measures. Also, DG Competition continues to bring a substantial contribution to the gradual opening up of the EU energy markets for instance, and its enforcement activities complement regulatory action under the 3rd liberalisation package. By engaging in competition advocacy DG Competition continues to ensure in 2014 that regulatory and other initiatives at the EU level and Member State level do not contain or lead to unnecessary restrictions of competition and that they promote competition to the benefit of consumers.

In particular, regarding EU level regulation, the most important legislative proposals and policy initiatives proposed under the lead of other Commission departments have to undergo an assessment of their likely impacts on competition. DG Competition continues to devise specific guidance to this effect.

In 2014, DG Competition continues to contribute to the Commission's wider economic policy and economic governance agenda; for example, by providing input with a view to Country Specific Recommendations in the context of Europe 2020. Likewise, DG Competition will provide input in the wider context of conditionality and structural reform, such as in the case of reforms aimed at strengthening the competition enforcement systems and competition enhancing structural reforms in specific sectors and regarding certain services as part of the conditionality relating to the adjustment programmes agreed in respect of Greece, Ireland, Portugal and Cyprus.

In 2014 DG Competition will continue to work together with other services of the Commission and with other institutions, in particular the European Parliament, the

Council and the ECB. Notably, DG Competition will continue to provide input to future legislation concerning the telecoms and financial services sectors and will closely work together with other Commission services, in order to help improve regulatory frameworks affecting the pharmaceutical and other health sectors. DG Competition will also actively participate in the implementation of the Europe 2020 Flagship initiatives and support the work undertaken under the Single Market Act II, in particular any monitoring exercises aimed at identifying potential malfunctioning in key sectors of the EU economy.

Competition advocacy also entails communicating effectively the benefits of competition and the scope and impact of our activities on citizens, businesses and policy makers in order to foster a competition culture, to facilitate compliance and to legitimise public resources spent. In 2014, DG Competition plans to conduct a stakeholder survey in order to obtain comparable information on some key quality parameters of its performance.

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.

DG Competition engages with the Council on various issues and in various fora. For example, the Vice President attended ECOFIN Council and DG Competition Director General participated to Economic and Financial Committee meetings on banking issues in 2013.

With respect to transparency, DG Competition aims to handle all requests for access to documents efficiently and within the time-limits set by Regulation 1049/2001. In 2013 DG Competition managed fewer but more complex requests (281 (until mid-November) compared to 408 in 2012) while ensuring an increasing transparency through explanations provided by the refusals letters.

In 2014 further judgments from the European Courts are expected which DG Competition will incorporate into its access to documents policy, improving templates, the horizontal guidance and the sharing of experience for the handling of requests. Specific training on access to documents is provided in the framework of the Training cycles in each instrument and adapted to the latest case law.

ABB activity: (part of ABB activity 03/04: Policy coordination, European Competition Network (ECN) and international cooperation)					
Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
-	-	-			

Specific objective 1: Implement the Commission planning and programming so that Director General delivers its policy objectives, contributing to the overall Commission strategy in an effective, timely, efficient and accountable manner

Indicator 1: Timely preparation and delivery of the various elements of the Strategic Planning and Programming cycle (CWP, MP and AAR)	
Baseline: 100% (2013)	Target: All documents within the deadline
Indicator 2: Delivery rate (adoption by the College) of initiatives included in the Commission Work Programme and in the Catalogue	
Baseline: 58% ⁸⁹ (2013)	Target: 100% for the Commission Work Programme
Indicator 3: Opinion of the Impact Assessment Board	
Baseline: 71% (2013)	Target: 100% positive opinions, resubmission rate below Commission average
Preparation and delivery of the various elements of the Strategic Planning and Programming cycle (CWP, MP and AAR) Evaluation Plan (see Annex 4). Impact Assessment reports supporting initiatives to be adopted in 2012 and later	

Specific objective 2: Competition advocacy contributing to a pro-competitive regulatory framework at EU and national level (AGS + European Semester)	
Indicator 1: Review of competition aspects of initiatives adopted and implemented at EU level	
Baseline: 211 (2013) ⁹⁰	
Indicator 2: Number of country specific recommendations promoted and co-monitored by DG Competition	
Baseline: 47 (2013) ⁹¹	
Pro-competitive modification proposals to legislative and policy initiatives at EU level, Proposals for country specific recommendations in the context of the EU2020 strategy	
Specific objective 3: Timely response to questions from Members of the European Parliament	
Indicator 1: Timely preparation of the replies to EP questions	
Baseline: 100% (2013)	100%
Specific objective 4: Timely and effective handling of requests for information under Regulation 1049/2001	
Indicator 1: Respect of the time-limits for replies	
Baseline: 85% (2012)	100%

⁸⁹ The 2013 CWP announced the GBER (adopted), Merger simplification (adopted), State Aid modernisation (two out of six identified elements adopted, four out of six items are expected for 2014), TTBER (not adopted).

⁹⁰ See general objective 3, indicator 1.

⁹¹ The country-specific recommendations include many recommendations that concern competition as well as a sector (banking, energy ...). These are all included here: AT: 3; BE: 2; BG: 2; CZ: 1; DE: 4; DK: 1; EE: 1; ES: 6; FI: 1; FR: 4; HU: 3; IT: 4; LT: 2; LV: 1; MT: 1; NL: 1; PL: 3; RO: 2; SE: 2; SK: 1; SV: 1; UK: 1 (NB: the programme countries have not been reviewed under the EU2020 process and do not have any CSRs).

ABB activity: Administrative support for the Directorate-General for Competition					
Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
-	-	-	85	43	128

5.2 Administrative support

Under this heading come a number of horizontal activities in DG Competition. These include the following:

- **Human resources management:** this activity consists of recruiting, training, assessing, monitoring, motivating and retaining highly qualified staff so that effective and efficient operation of the DG, as well as promotion of equal opportunities within the DG are ensured.
- **Financial management:** this activity consists of planning, performing, executing, monitoring and reporting on the spending of financial resources so that sound financial management is ensured throughout the DG's activities.
- **Management of ICT:** this activity consists of defining, planning, setting up, maintaining and developing high quality Information and Communication Technology (ICT) infrastructures, tools and services so that staff is adequately supported in its operations.
- **Document management:** this activity consists of putting in place and maintaining an effective document management system so that any document connected with the DG's official functions can be electronically filed, stored and retrieved in any moment irrespective of its original form and document management system in place.
- **Internal audit, control and risk management:** 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.
- **Ethics, security, business continuity and EMAS:** this activity consists of ensuring within the DG that staff and premises meet the highest possible ethical and security standards (including the fight against fraud), that business continuity is effectively ensured and that environmental performance is improved.

Human resource management

This activity consists of recruiting, training, assessing, monitoring, motivating and retaining highly qualified staff so that effective and efficient operation of DG Competition, as well as promotion of equal opportunities within the DG are ensured.

Specific objective: Recruit, train, assess, monitor, motivate and retain highly qualified staff and promote equal opportunities within the DG.	
<u>Indicator 1</u> : Average vacancy rate.	
Baseline: 8.7% (2013)	Target: Less than 8 %
<u>Indicator 2</u> : Turnover (% of permanent staff leaving the DG before three years in the DG).	
Baseline: 4% (2013)	Target: Less than 4%
<u>Indicator 3</u> : Equal opportunities.	
Baseline: - 33.3% female senior managers - 34.9% female middle managers (2013)	Target: 35% female senior and middle managers
<u>Indicator 4</u> : Average number of training days attended.	
Baseline: 5.2 days/year (2013)	Target: 6 days/year
<u>Indicator 5</u> : Overall job satisfaction.	
Baseline: 73% positive opinion (2013 staff survey)	Target: Over 73% positive opinion

Financial management

This activity consists of planning, performing, executing, monitoring and reporting on the spending of financial resources so that sound financial management is ensured throughout the activities of DG Competition.

Specific objective: Implement and maintain an effective internal control system, ensure sound financial management and guarantee the legality and regularity of the underlying transactions.	
<u>Indicator 1</u> : Budget execution with respect to budget appropriations.	
Baseline: 97.87 % (2012)	Target: Maintain close to 100%
<u>Indicator 2</u> : Payments executed within contractual limits.	
Baseline: 99.03 % (2012)	Target: Maintain close to 100%
<u>Indicator 3</u> : Budget coverage of first-level ex-ante control.	
Baseline: 100 % (2012)	Target: Maintain 100%
<u>Indicator 4</u> : Transactions made in accordance with financial circuits.	
Baseline: 100 % (2012)	Target: Maintain 100%
<u>Indicator 5</u> : Error rate on financial transactions.	
Baseline: 0.02 % (2012)	Target: Maintain below 2%

Management of ICT

DG COMP's enforcement of competition law translates into close to 3,000 pending individual antitrust, merger and state aid cases as well as horizontal tasks. In each case, the competition rules should be applied in the full knowledge of the particular

facts and specific circumstances of the case. This makes each case to a certain extent a unique undertaking, on its objective importance, and on the way in which the investigation unfolds.

IT contributes to the daily operations of DG COMP in three complementary ways:

- firstly, IT brings to the desktop of case team members the tools which they need to perform their operational work on a daily basis; this is in particular the case with the Case Management Applications (Natacha, CMS, ISIS and HT), and with the Document Management System (EDMA);
- secondly, IT offers the necessary support for the effectiveness and efficiency of staff when performing the typical activities of case management, for instance through e-Discovery or e-Questionnaire;
- thirdly, IT contributes to internal control in DG COMP by reinforcing the execution of individual business processes, guiding case teams in their work, ultimately contributing to the assurance that case work is executed in accordance with the relevant rules of law and internal procedures.

The contribution of IT to business is described in more detail for each of the flagship IT projects referred to in Annex 1.

Specific objective 1: IT rationalisation in the Commission – Sub domain for Case Management Systems (led by DG COMP).	
<u>Indicator:</u> Identification and analysis of business requirements common to DGs participating in the Case Management Rationalisation project and purchasing the appropriate tools.	
Baseline: 5% (2013)	Target: 60% completion in 2014
Specific objective 2: Efficient support to competition investigations by providing software solutions facilitating collaboration between the members of a case team.	
<u>Indicator:</u> Deployment of a resilient and scalable Collaborative Platform solution integrating existing powerful search tools.	
Baseline: 15% (2013)	Target: 100% completion in 2014
Specific objective 3: Efficient exchange of information with Member States in the State Aid (SA) policy area.	
<u>Indicator:</u> Deployment of the Genis Information Systems and implementation of new notification forms in line with the State aid modernisation package.	
Baseline: 10% completion (2013)	Target: 100% completion in 2014

Document management

This activity consists of putting in place and maintaining an effective document management system so that any document connected with the official functions of DG Competition can be electronically filed, stored and retrieved in any moment irrespective of its original form and document management system in place.

Specific objective 1: 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.

Indicator: Integration of EDMA (DG COMP's document management system) with DG COMP's case management applications, including integration with Hermes/ARES.	
Baseline: - Implementation of a Collection feature, to handle large volume submissions. - Implementation of a Reply function.	Target: Implementation of the archiving module of HAN (HERMES-ARES-NOMCOM) for DG Competition files according to SG schedule.
Specific objective 2: Enhance paperless document exchanges (e-Commission) with 3rd parties.	
Indicator: Incrementing paperless document exchanges with ECN using the ECN-ET system.	
Baseline: - No document exchange between DG Competition and the ECN for Merger cases (2013) - 80% of document exchange between DG Competition and the ECN for Antitrust cases. The allocation and recruitment of staff is based on the DG's objectives and priorities. Management promote and plan staff mobility so as to strike the right balance between continuity and renewal (2013)	Target: - 80% of document exchange between DG Competition and the ECN for Merger cases by end 2014. - 90% of document exchange between DG Competition and the ECN for Antitrust cases by end 2014.
Indicator: Incrementing the paperless document exchanges with 3 rd parties by using eTrustEx.	
Baseline: - Development of e-TrustEx finalised, Pilot on-going (2013) - 0 documents exchanged with eTrustEx (2013)	Target: - e-TrustEx operational in 2014. - 30% of document exchange with 3 rd parties to use eTrustEx by the end 2014.
Specific objective 3: Well-functioning of case management applications according to users' needs (Natacha, ISIS, CMS, CHOPIN).	
Indicator: Number of training/coaching sessions/year.	
Baseline: 32 (2013)	Target: 30
Specific objective 4: Application of DG COMP's archiving system with E-Domec rules.	
Indicator: Implementation status of E-Domec archiving rules.	
Baseline: - Timely transmission of files to the Historical Archives at the end of their DUA (<i>durée d'utilité administrative</i>).	Target: - Maintain the timely transmissions of files to the Historical Archives at the end of their DUA.

Internal audit, control and risk management

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.

Specific objective 1: Effective assessment of the compliance, efficiency and effectiveness of the control systems in place

<u>Indicator</u> : Time to address pending critical/very important recommendations after acceptance.	
Baseline: 2 months (2012)	Target: No critical/very important recommendations left pending without an action plan for more than 1 month after acceptance.

Ethics, security, business continuity and environmental management

This activity consists of ensuring within the DG Competition that staff and premises meet the highest possible ethical and security standards (including the fight against fraud), that business continuity is effectively ensured and that environmental performance is improved.

Specific objective 1: Knowledge and respect by staff of DG COMP's Code on Ethics and Anti-Fraud Strategy.	
<u>Indicator 1</u> : Attendance at newcomers' ethics training.	
Baseline: 80% of newcomers (2013)	Target: Close to 100% of newcomers
<u>Indicator 2</u> : Number of ethical and fraud incidents (sanctions by IDOC or OLAF).	
Baseline: No incident (2013)	Target: No incident
Specific objective 2: Knowledge and respect by staff of DG COMP's security rules and incident reporting procedures.	
<u>Indicator 1</u> : Attendance at newcomers' induction training.	
Baseline: 85% of newcomers (2013)	Target: Close to 100% of newcomers
<u>Indicator 2</u> : Number of inadvertent disclosures of confidential information by staff.	
Baseline: 9 reported incidents (2013)	Target: Reduction of inadvertent disclosures of confidential information
Specific objective 3: Effective management of business continuity based on a fully implemented and tested Business Continuity Plan.	
<u>Indicator 1</u> : Critical staff and their back-up having attended business continuity training.	
Baseline: 80% (2013)	Target: 85%
<u>Indicator 2</u> : Updated contact details in the NOAH IT business continuity application.	
Baseline: 93% (2013)	Target: Close to 100%
Specific objective 4: Improvement of DG COMP's environmental performance.	
<u>Indicator 1</u> : Paper consumption.	
Baseline: 7.26 M sheets (2013)	Target: 7 M sheets
<u>Indicator 2</u> : Green office supplies.	
Baseline: 55% of office supplies (2013)	Target: 60% of office supplies

ABB activity: Administrative support for the Directorate-General for Competition

Financial resources (€ in commitment appropriations)			Human resources		
Operational expenditure	Administrative expenditure	Total	Establishment plan posts	Estimates of external personnel (in FTEs)	Total
	7.446.847	7.446.847	89	45	134

ANNEX 1. INDICATIVE PLANNING OF STUDIES (EVALUATIONS AND OTHER STUDIES)

N°	Title	Context, intended use of the evaluation or study	Type of evaluation or study			Timing		Associated services
			Prospective (P) or retrospective (R)	External (E), internal (I), internal with external support (I&E)	Expenditure Programme (E), Regulatory Instrument (R), Communication Activity (C), Internal Commission Activity (I)	Start (month/year)	End (month/year)	
		CWP initiative, Fitness Check, required by legal base, others (please specify)	Prospective (P) or retrospective (R)	External (E), internal (I), internal with external support (I&E)	Expenditure Programme (E), Regulatory Instrument (R), Communication Activity (C), Internal Commission Activity (I)	Start (month/year)	End (month/year)	

I. Ongoing evaluations (work having started in previous years)

1	Evaluation of customer benefits from antitrust (cartels) and merger enforcement	Other: accountability	R	I	R	Continuous activity	Continuous activity	-
---	---	-----------------------	---	---	---	---------------------	---------------------	---

II. Evaluations planned to start in 2014 or later
2014

1	Mergers: White Paper about more effective merger control (regarding non-controlling minority shareholdings and referral system)	Other: preparation for possible future Commission initiative	R and P	E+I	R	01/05/2014		
2	DG Competition Stakeholder Survey	Other: update of 2009 stakeholder survey data	(R)	E	R, C	Jan-14	Dec-14	-
3	Evaluation of key procedural aspects of Regulation 1/2003 – access to file and complaints	Other: preparation for possible future Commission initiative	R	E+I	R	March/April 2014	Dec-14	LS
4	Ex-post evaluation of the impact of R&R decisions on the viability of aided industrial undertakings	Other: preparation for possible future Commission initiative	R	E	R	Jan-14	Dec-14	ECFIN, ENTR, EMPL

2015

1	State Aid: SGEI package	Other: preparation for possible future	R	E+I	R			
---	-------------------------	--	---	-----	---	--	--	--

		Commission initiative							
2	Mergers: case study/studies	Other: learning for future decisions	R	E+I	R				
2016									
1	Antitrust/cartels: Remedies under Article 9 of Regulation No 1	Other: learning for future decisions	R	E+I	R				
2017									
1	State Aid: Remedies in the banking cases	Other: learning for future decisions	R	E+I	R				
2018									
1	State Aid: Ex-post evaluation of SAM package adopted in 2012-2014	Other: preparation for possible future Commission initiative (expiry 2020)	R	E+I	R				
III. Other ongoing or planned studies									
1	The impact of modern retail on choice and innovation	Other: preparation for possible future Commission initiative	R	E		05/2012	02/2014	AGRI, ENTR, MARKT, SANCO	
2	Further support study for ex-post evaluation and impact assessment concerning review of the Insurance Block Exemption Regulation ("BER")	Possible item for CWP 2016 (reporting clause)	R (and P)	E	R	Jul-14	31/03/2015	MARKT	
3	Study on the economic impact of regulation and competition policy enforcement on the functioning of the energy and rail markets	Other: preparation for possible future Commission initiative	R	E	R	Apr-14	30/06/2014	MOVE, ENER	
4	Peer review of Member States' evaluations - preparatory work	Other: preparation for possible future Commission initiative	R and P	E	R	continuous activity for each year starting as of 2014			

ANNEX 2. COMMUNICATION STRATEGY

Executive summary

I. Policy context

After 5 years of global financial crisis, signs of economic recovery are beginning to appear. Our competition policy actively contributes to this recovery **by setting the best conditions to exit the crisis**, by stimulating growth and deepening the Single Market. Action towards restructuring financial institutions continue this year as well as initiatives supporting growth, such as the modernisation of state aid rules including revised sector guidelines for state aid or simplification of the merger process.

In the context of the political priorities, the Competition DG's main message for 2014 is that **competition policy and enforcement are crucial for Europe to emerge stronger and fitter from the crisis**. 2014 is a year of delivery and implementation, therefore, our communication actions will concentrate on demonstrating to our target audience how competition policy helps to:

- make doing business easier and better
- make sure that the efforts to come out of the crisis are spread in a fair way
- return to growth, boost EU competitiveness leading to more jobs
- protect the EU citizens⁹²

II. Target audience

Our main stakeholders are those subject to EU competition legislation, in particular businesses and public authorities dealing with State aid, as well as the legal community. In addition, other important stakeholders are other enforcement agencies, opinion leaders and law-makers (European Parliament, press, academics, think tanks). The dialogue with citizens is considered by the Competition DG as critically important and is being achieved mainly by regular interaction with their representatives in the European Parliament and the Committees (CoR, EESC), our website and media relations.

III Communication objectives

The Competition DG's main priorities for 2014 in the field of external communications are:

I) Increase awareness and understanding of competition rules by businesses and Member States, increase legal certainty and compliance, by explaining our procedures (how and why the Commission takes decisions in competition cases),

⁹² 4 out of 7 Corporate communication themes 2014 established by the Communication Steering Board relevant to DG COMPs activities.

communicating on important cases that receive large media attention, or have a direct impact in a particular Member State, keeping our key stakeholders timely and regularly informed on new legislative developments taking place in 2014.

II) Increase understanding about the role of competition policy in the wider economy, by putting our actions and their impact in a larger European context (Economic recovery/Europe2020/Growth etc.); reaching a wider audience beyond competition specialists through the use of simpler language when explaining our policies and decisions, through multipliers (like the European Parliament, the EU Committees and other primary stakeholders), and engaging other stakeholders beyond the traditional competition experts in our forward-looking debate (for example, through the annual "European Competition Forum").

The external communication plan is available in the Sharepoint platform.

For internal communications the Competition DG will focus on:

- § Ensuring **staff awareness of policy, case priorities and outcomes including the wider political context in which we operate**. Brief staff on issues and cases of interest throughout the year (intranet, lunch talks, messages from the Director General, etc.)
- § Encouraging staff to share DG Competition success stories; equip colleagues with relevant messages relating to our main policy and cases, increase their communication skills and provide them with support material for their outside presentations.
- § Supporting **staff efficiency and engagement**: collect feedback from colleagues on regular basis, see where internal communication can be improved, concentrate on well-being and equal opportunities of our staff and support social and charity initiatives.
- § Doing more with less; encourage staff to use collaboration and social tools available within EC (SharePoint, Yammer) in order to make our work more efficient.
- § Empower staff to **share knowledge and best practices** within our Knowledge Management project including COMPwiki.

INTERNAL COMMUNICATION PLAN

Communication objective	Messages	Proposed actions	DG COMM services	Evaluation
Raise awareness and ensure understanding of decisions on cases and policy initiatives	On a case-by-case basis	Intranet (news, calendar of professional conferences), DG emails to staff, Hot topics, Top talks, internal videos, newsletters (DG Competition weekly summary, State aid weekly e-news, ECN news, etc.)	Support for internal video service would be appreciated, support for finding speakers internal to the Institutions, budget or framework contract to enhance training possibilities in the Competition DG	Intranet statistics, training evaluations, informal feedback, staff survey, opinion polls on intranet
Staff efficiency and engagement - Provide opportunities for interaction and feedback, expand conversation	Internal discussions guarantee sound external output	Lunchtime Q&A sessions, improvements in cascade systems (downwards, upwards), improvements in discussion forums and Q&As	Budget or framework contract to have external speakers to internal audience	Training evaluation, raise level of internal discussion to improve quality of output

Communication objectives	Messages	Proposed actions	DG COMM services	Evaluation
opportunities				
Ensure staff efficiency by supporting the knowledge management initiative as well as collaboration and social platforms of the EC	We need to improve our efficiency and cut red tape internally	KM project; improvements in newcomer induction, COMP wiki (contribution to wiki, training, etc.), promotion of Yammer, COMPcollab, MyIntraComm,	Support in providing guidance on knowledge management and internal communication (already on-going via ICN)	Successful implementation of KM project, involve staff in internal discussions as well as on Yammer