Council

IN-DEPTH EVALUATION OF THE COMPETITION COMMITTEE

Monitoring of the Implementation of Recommendations

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Introduction

1. The conclusions of the In-depth Evaluation of the Competition Committee, which were reported in December 2007, were that it had performed exceptionally well over the period from 2002 to 2006.1 This assessment was accompanied by four recommendations, which were approved by Council and addressed to the Committee:2

- **Recommendation N°1** - the Committee should assess whether there are any significant emerging policy needs that are not being addressed, and revise its mandate and those of its sub-bodies to reflect fully and in a balanced way the range of medium to longer-term policy objectives of its different areas of work;

- **Recommendation N°2** - the Committee should reinforce its efforts in the area of horizontal working, including through the integration of its own delegates and those of other OECD bodies into the process, particularly in respect to consumer policy;

- **Recommendation N°3** - the Committee should reassess its interactions with other international organisations so as to focus on and enhance relations with the greatest potential, for example in terms of expanding the geographical scope of the Committee’s activities for non-Members;

- **Recommendation N°4** - the Committee should continue to periodically assess the use and impact of its Output Results, particularly in the case of (OECD) Recommendations, and use the results of these exercises inter alia to refine as necessary its use of normative and non-normative instruments.

2. In the light of the evaluation results and changes to the arrangements for monitoring the implementation of the recommendations,3 in November 2008 the Evaluation Committee reviewed the follow up actions conducted by the Competition Committee.

3. The results of the monitoring exercise indicate that actions relative to Recommendation N°1, the revision of the Committee’s mandate, are now completed. The remaining actions, reported to be of a longer-term nature, are underway and will continue to be implemented on an ongoing basis.

4. The Evaluation Committee notes that the Competition Committee is expected to play a key role in the OECD Strategic Response to the Financial and Economic Crisis and as such is likely to be called upon to adapt its work program accordingly.4

5. The Evaluation Committee recognises that the actions taken by the Competition Committee in response to the recommendations have been appropriate and consequently recommends to Council that the monitoring process be now closed.

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1. Following the rating framework for In-depth Evaluation results, the Committee’s performance was assessed as high to very high in terms of the evaluation criterion of relevance, and very high in respect to the criteria of efficiency and effectiveness [C(2007)121].


**Proposed Action**

6. In the light of the preceding, Council is invited to adopt the following draft conclusions:

THE COUNCIL

a) noted document C(2008)206;

b) noted that the response of the Competition Committee to the evaluation recommendations has been appropriate;

c) invited the Chair of the Competition Committee, in the framework of the next dialogue with the Council, to report on possible further progress in implementing the recommendations;

d) agreed to close this monitoring process, and to examine the consequences of the full implementation of the recommendations at the time of the next In-depth Evaluation of the Competition Committee.
**ANNEX**

<table>
<thead>
<tr>
<th>Recommendation N° 1</th>
<th>The Committee should assess whether there are any significant emerging policy needs that are not being addressed, and revise its mandate and those of its sub-bodies to reflect fully and in a balanced way the range of medium to longer-term policy objectives of its different areas of work.</th>
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<tr>
<td><strong>Action</strong></td>
<td>Revision of the existing mandate of the Competition Committee.</td>
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<tr>
<td><strong>Status (indicate with an X)</strong></td>
<td><strong>Under preparation</strong></td>
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<td>Underway</td>
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<td><strong>(Expected) Result</strong></td>
<td>The new mandate of the Competition Committee was adopted by the Council on 3 October 2008.</td>
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<td><strong>Documentary references</strong></td>
<td>C(2008)134 &amp; CORR1.</td>
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<td><strong>Comments and observations (including critical assumptions)</strong></td>
<td>The objectives set forth in the new mandate of the Competition Committee are in line with its core business as developed since many years. At the same time they reflect the recommendations made under the Committee’s in depth evaluation and the highlights of its 100th meeting event in February 2008 [DAF/COMP(2008)4]. The mandates of the sub-bodies, being derived from the Competition Committee mandate, will be subsequently modified in line with the abovementioned recommendation. The relevant extracts of the Summary record of the October 2008 Competition Committee session (to come) will serve as a reference in the Directory of Bodies.</td>
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<td>Recommendation N° 2</td>
<td>The Committee should reinforce its efforts in the area of horizontal working, including through the integration of its own delegates and those of other OECD bodies into the process, particularly in respect to consumer policy.</td>
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<td>Action</td>
<td>Intensify the Committee’s horizontal working.</td>
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<td>Status (indicate with an X)</td>
<td>Under preparation</td>
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<td>Underway</td>
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<td></td>
<td>Completed</td>
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<td>(Expected) Result</td>
<td>The Committee will continue its efforts in the area of horizontal working, associating other policy communities as appropriate to its roundtable discussions notably.*</td>
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<td>The Committee has also recently initiated a “Hearings” approach on selected ongoing OECD topics which might call for future input from Competition delegates to improve the dialogue in such areas where competition can be meaningful.</td>
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<td>Public Procurement was selected for the first hearing which took place in the October 2008 session of the Competition Committee. PP Experts were invited to present their views on what they believe are the important issues in this area, and particularly what issues might involve a significant competition element and therefore might deserve further consideration by the Committee in the future.</td>
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<td>Prof. Mark Pieth, Chairman of the OECD Working Group on Bribery in International Business Transactions and Mr. Koos Roest, Bureau member in the OECD Public Governance Committee, notably participated. A set of issues was identified, which may call for further discussion in the Competition Committee.</td>
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<td>Documentary references</td>
<td>DAF/COMP(2008)28</td>
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<td>Comments and observations (including critical assumptions)</td>
<td>Competition is by nature a cross cutting policy, hence a continuing need to foster OECD cross fertilization. Some flexibility in the working methods when working horizontally within the Organisation must be retained in order to meet objectives, minimise costs and optimise efficiency. Each approach to horizontal working (e.g. joint meetings, invitations to chairs and bureau members of other bodies to participate in a meeting, the making of presentations by either delegates or the Secretariat, the sharing of drafts, etc.) are all appropriate depending on the</td>
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In February 2008, the Committee on Consumer Policy partnered with the Competition Committee in organising the OECD Global Forum on Competition. The interface between competition and consumer policy was a key theme, as was the political economy of reform (i.e., the role of consumers in formulating and carrying out competition policy) [C(2008)102].
<table>
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<tr>
<th>Recommendation N° 3</th>
<th>The Committee should reassess its interactions with other international organisations so as to focus on and enhance relations with the greatest potential, for example in terms of expanding the geographical scope of the Committee's activities for non-Members.</th>
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<td><strong>Action</strong></td>
<td>Strengthening the Committee’s monitoring of its Global relation activities.</td>
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<td><strong>Status (indicate with an X)</strong></td>
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<td>Completed</td>
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<td><strong>(Expected) Result</strong></td>
<td>The Competition Committee, through notably its Bureau and the Global relations coordinator—an ex officio member of the Bureau, is playing a key role in the design and the development of the Committee’s Global relations activities: the Secretariat submits each outreach event proposal to the Bureau for its approval; this is to ensure they respond to a need; they are adequately defined and planned. The Committee is kept updated on the development of these activities, which are ultimately, assessed. This Committee’s real oversight is one of the explanation of the success of the Global Forum on Competition.</td>
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<td><strong>Documentary references</strong></td>
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<td><strong>Comments and observations (including critical assumptions)</strong></td>
<td>More could be done notably in the Latin American area if funds were available. VC have proved to be a limited source of funding, which does not match the needs. Significant efforts continue to be devoted to strengthen cooperation with other international Organisations to alleviate the financial constraints, but the results have not been, so far, commensurate with the efforts.</td>
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<td>Recommendation N° 4</td>
<td>The Committee should continue to periodically assess the use and impact of its Output Results, particularly in the case of (OECD) Recommendations, and use the results of these exercises <em>inter alia</em> to refine as necessary its use of normative and non-normative instruments.</td>
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<td><strong>Action</strong></td>
<td>Periodic review of the impact of the Committee’s output results.</td>
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<td><strong>Status (indicate with an X)</strong></td>
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<td><strong>(Expected) Result</strong></td>
<td>Every two year the Chair of the Competition Committee surveys the delegates’ use of the Committee’s work product. This complements the PIR exercise.</td>
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<td><strong>Documentary references</strong></td>
<td>The results of the Chair’s surveys as well as the PIRs have so far been high, demonstrating the relevance of the Committee’s work back in capitals.</td>
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<td>The call under recommendation 4 for using “the results of these exercises <em>inter alia</em> to refine as necessary its [the Committee] use of normative and non-normative instruments” has been noted by the Committee. It is important however to record the remarks relayed at the time by the chair on behalf of the Bureau whereby</td>
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<td>“In a consensus based Organisation, getting an agreement on any binding act can prove to be very difficult to achieve. On the other hand, the non binding instrument approach has proved to be very effective, with OECD Competition recommendations having a significant influence in the remarkable progress achieved in the competition field over the 1995-2006 period. The 1995 Recommendation on Cooperation between member countries continues to be very influential in promoting bilateral cooperation agreements. Similarly, the 1998 Hard Core Cartel Recommendation has contributed significantly to the introduction of leniency programmes in domestic laws. Through dissemination of international best practices this soft law approach permits to achieve real progress in a domain where it would be extremely difficult to agree on hard law. Besides, most of the delegates are Competition Authorities, who are the law enforcers but not those who make the law.” [ COMP/2007.73 on 18 October 2007]</td>
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