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ROUNDTABLE ON CHANGES IN INSTITUTIONAL DESIGN OF COMPETITION AUTHORITIES

-- Note by Denmark --

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More documents related to this discussion can be found at <http://www.oecd.org/daf/competition>.

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DENMARK

1. This contribution deals with both the issue “Multifunction competition authorities” and the issue “Independence from government”.

1. Multifunction competition authorities

2. In 2010, the Danish Competition Authority merged with the National Consumer Agency of Denmark. The merger has resulted in a combined authority – the Danish Competition and Consumer Authority – with about 230 full time employees.

3. Before the merger, the Danish Energy Regulatory Authority was part of the Competition Authority. Due to EU requirements for independence of the energy regulators, the Energy Regulatory Authority was separated from the Competition Authority. The separation was carried out at the same time as the merger with the Consumer Agency. Shortly before the merger – in 2009 – the Regulatory Authority for Water and Wastewater supply was established as part of the Competition Authority.

4. The table below shows the distribution of staff in the DCCA:

Assignment	Number of employees
Competition	73
Public procurement	10
Consumer protection	86
Other	59
Board of Directors	4
Total number of staff	232

1.1 The background for the merger and its implementation

5. The background for the merger between the Competition Authority and the Consumer Agency was mainly professional synergies and the possibility of capitalising economies of scale. A further consideration was that a larger – and more powerful – authority might be in a better position vis-à-vis other large authorities.

6. The merger had been considered a few times during the past years. The merger was triggered by the resignation of the Director General of the Consumer Agency. The implementation of the merger happened quite fast; it was prepared for about ten days and then published internally as well as externally. The merger was carried out as an administrative process, i.e. without any legal changes. Accordingly, the process went rather smooth, and the role of the Director General and the administrative secretariat consisted mainly in the preparation and the implementation of the merger.

7. To begin with, the two parts of the new authority stayed in their respective domiciles while the authority was looking for a new suitable domicile. The two parts were physically united about a year after the merger where the DCCA moved into premises located on a new address.

8. In some areas it has been possible to fully merge the departments of the two authorities. One example is that the two communication departments have been merged completely and the new unit now deals with both competition and consumer aspects. The market analysis division also handles both competition and consumer analyses – and sometimes in combination. A third example of departments that have been fully merged is the division for policy and legislation.

9. There is still a separation according to the administration of the different sets of laws, e.g. competition cases are handled separately from consumer cases. This means that the case handlers working on competition cases do not have much professional contact with the case handlers working on consumer cases.

1.2 Reactions to the merger

10. The reactions to the merger have all in all been positive.

11. Externally, the information about the merger was welcomed. The majority of the DCCA's stakeholders considered the merger to be a sensible disposition and there has not been any criticism of the merger afterwards.

12. Internally, the information about the merger gave rise to surprise in combination with the worries that must be expected in a situation involving major changes. The Director General of the Competition Authority was appointed Director General of the new combined authority. This caused to begin with some concern among the employees of the former consumer authority that the consumer related issues would be “consumed” by the competition related issues. These worries have been overcome by addressing them within and across the different divisions of the new authority and by various teambuilding initiatives.

13. A worry before the merger was what it would be like to unite two different cultures. Even though such concerns are to be looked at seriously as a barrier to a successful implementation of the merger, these concerns are being overcome by talking and by co-operating across the different divisions of the new authority. Nevertheless, it is important to have in mind that merging two different cultures is a lengthy process. The internal work on successful integration of the two authorities is complemented by the hiring of new employees from outside the authority. These employees have only known the authority as one single entity which helps overcome the cultural barriers.

1.3 The effects of the merger

14. Before the merger it was difficult to reach consumers with messages related to competition aspects. As part of the merger the consumer communications division was integrated into the general communications division. The most important advantage of the merger is that the authority can now speak with a common voice addressing both competition and consumer issues. This also means that the DCCA's recommendations can reach a broader audience than before.

15. The advantages of the merger are also seen when the DCCA makes analyses because the DCCA can now include both competition and consumer aspects. Traditionally, competition analyses focus on the supply side, i.e. whether there is a need to change the companies' behavior. Bringing in consumer aspects means more focus on the demand side, i.e. that the reasons why markets do not function might also be that the consumers do not actively search for the lowest price but instead choose the product or service that is advertised most aggressively. This problem is especially seen in complex markets such as banking or insurance. On such markets analysing both the supply side and the demand side can give more in-depth analyses and make it possible for the DCCA to make recommendations concerning initiatives directed towards the companies as well as towards the consumers.

16. When it comes to economies of scale there have been clear advantages of the merger. Calculations show savings of around DKK 4-4½ million (about € 500.000-600.000) a year. The savings are mainly caused by saved administrative costs and saved house rent after the two authorities moved from two domiciles to one.

17. Finally, the merger between the Competition Authority and the Consumer Agency has created a more attractive workplace with more career opportunities. When employees want to change job they don't necessarily have to leave the authority. Instead they can change internally, e.g. from the competition area to the consumer area or vice versa.

18. Some aspects were not covered by the merger. The office of the Consumer Ombudsman is independent and has its own budget. This means limitations as to how the DCCA can allocate its resources.

19. Nevertheless, the merger between the Competition Authority and the Consumer Agency is all in all considered to be a success.

2. Independence from government

20. The table below shows the assignments of the Danish Competition and Consumer Authority (DCCA) as they are today with indication of whether the DCCA acts independently of political interest in handling them:

Field of Activity	Dependent on political interests YES	Dependent on political interests NO
Decide competition cases <ul style="list-style-type: none"> • mergers • abuse of dominance • restrictive agreements 		X
Contribute to the development of new politics and regulation and deliver legislative drafting services and ministerial services	X	
Act as Secretariat for: <ul style="list-style-type: none"> • The Competition Council • The Council for Public-Private Co-operation • The Consumer Ombudsman • The Consumer Complaints Board • The Regulatory Authority for Water and Wastewater Supplies • The European Consumer Center Denmark • The Storm Council • Three private complaint boards 		X

21. In 2013, the Danish Productivity Commission recommended a number of initiatives to give more efficiency and independence to the DCCA in competition matters. Firstly, it recommended a replacement of the Competition Council with a board. Secondly, it recommended increased independence in the DCCA's competition analyses.

22. In the light of these recommendations a proposal to change the Danish Competition Act is currently pending in the Danish Parliament.

2.1. *Replacement of the Competition Council with a board*

23. Today, the Danish Competition Council consists of 18 members of which nine are appointed by the trade organisations. Even though the Competition Council is independent of the ministry in its decision making the size and composition of the Competition Council have given rise to questions regarding the Council's efficiency and independence.

24. According to the proposal the council will be replaced by a board. The new board will be a smaller, professional entity consisting of 7 members with special competencies in law, economics, consumer affairs and commerce. The board will be politically independent and will have the overall responsibility for the administration of the Competition Act.

25. In addition to the new board it is proposed to establish an advisory committee consisting of ten members from public and private enterprises. The role of the advisory committee will be to advise the board.

2.2. *Analyses independent of political interests*

26. Today, analyses carried out by the DCCA are in principle subject to the approval of the Ministry of Business and Growth.

27. In order to ensure that the DCCA can carry out analyses and suggest changes of regulation or new initiatives independently of political interests, it will be for the new board to decide which analyses the DCCA will carry out and to approve these.

28. The minister will still have the possibility to ask the DCCA to carry out competition analyses.

29. When analyses are published it will be stated whether the analysis has been commissioned by the board or by the minister.