International Competition Network

Agency Effectiveness

Competition Agency Practice Manual

March 2010

CHAPTER 1

Strategic Planning and Prioritisation

Table of Contents

1. INTRODUCTION AND DEFINITIONS

Competition agencies around the globe are increasingly attentive to the operational aspects of their work. Recognising that the manner in which an agency organises its operations can deeply shape the quality of its substantive initiatives, in 2009 the ICN formed a working group dedicated to agency effectiveness. The group undertook to deliver an agency practice manual, an "Agency Effectiveness Handbook".

This Handbook will look at a variety of factors determining the ability of competition agencies to achieve their objectives in an efficient and effective manner, drawing on successful common approaches ("good practices") as well as individual experiences. .It will be a "living document": revised and updated on a regular basis.

The chapter on Strategic Planning and Prioritisation is the first of six planned chapters of the Agency Effectiveness Handbook. It addresses, inter alia, the objectives of strategic plans, the prerequisites of and constraints related to effective strategic planning, internal processes and external consultations, communication on strategic planning, and the use of prioritisation criteria and the process of prioritisation.

The chapter relies on previous ICN work in this area, in particular, the Report on the Agency Effectiveness Project presented at the ICN Annual Conference in Kyoto, the Report on the Agency Effectiveness Project Second Phase presented at the ICN Annual Conference in Zurich and the Report on the Seminar on Competition Agency Effectiveness in Brussels, including – where available – the underlying questionnaires and responses by participating agencies.

Other sources for this chapter include the "Federal Trade Commission at 100: Into our 2nd century" report (January 2009)[1], the OECD's Guidelines for a Competition Authority: An enquiry tool for building and / or evaluating a Competition Authority, the OECD's Proceedings of the Roundtable on the Evaluation of the Actions and Resources of Competition Authorities (June 2005)[2], the report by the UNCTAD Secretariat on Criteria for Evaluating the Effectiveness of Competition Authorities (April 2007)[3] and the related submissions, as well as academic and management consultancy literature on strategic planning[4].

The chapter aims at drawing together common approaches to problems, seeking to draw high level conclusions, and to elicit good practices. A concise summary of these good practices is listed in Annex 2. "Good practices" are generally considered to be practices which work well in the jurisdiction(s) where they are applied, but which may or may not work well in the legal context of another jurisdiction and therefore cannot necessarily be recommended for adoption by all ICN members. Furthermore, where there is a reference

[1] The FTC at 100 report is available at: http://www.ftc.gov/public-statements/2009/01/federal-trade-commission-100-our-second-century.

[2] http://www.oecd.org/dataoecd/7/15/35910995.pdf

[3] http://www.unctad.org/templates/page.asp?intItemID=4299&lang=1

[4] See Annex 1for a summary of academic and management consultancy literature on strategic planning.

in the chapter to “some,” “most” or the “majority” of agencies that engage in any particular practice or procedure, it should be recognised that this may not be a precise reflection of the experience of all agencies.

For the purposes of this chapter:

> “Agency” means any organisation entrusted with the enforcement of competition law.
>
> “Department” means any organisational unit within an agency, such as a division, directorate, section or group.
>
> “Law” means any rule established by a public institution, including but not limited to legislative measures and government acts.
>
> “Leadership” means the top decision-making person or body in an agency, e.g. the President, the Chairman, the Director General, the Executive Director, the Commissioners, the College of Commissioners or the Board.
>
> “Project” means an organised and systematic process that is set up to achieve a result within a predetermined period of time, including any agency activity, such as an enforcement case, an advocacy initiative, market study, or research activity.
>
> “Strategic plan” includes any document which reflects the agreed decisions during the strategic planning process.

2. STRATEGIC PLANNING

2.1. Definition and benefits of strategic planning

It is good practice to strategically plan the activities of an agency.

Strategic planning is a periodic decision-making process an agency engages in to answer some or all of the following questions:

What is our purpose?

What do we want to achieve over a given period of time?

How will we achieve it?

Where will we focus our resources?

How will we measure our success?

The benefits of strategic planning include the following:

- It can increase the likelihood of an agency successfully achieving its objectives by clearly identifying those objectives and providing a basis for an agency to measure and assess its progress in achieving them.

- It facilitates effective resource allocation and activity prioritisation, which is particularly important given the scarcity of resources available to agencies.

- It allows agencies to be more proactive when developing their work programs.

- It can facilitate communication and accountability, and enhance public understanding of the agency's purpose and functions.

- It can motivate and guide staff members.

2.2. Strategy documents

Strategy documents are reference tools which reflect the decisions made during the planning process.

Agency effectiveness can be enhanced through the adoption of a clear mission statement and a well-conceived strategic plan. These documents are complementary and should flow logically from one another.

2.2.1. Mission statements

It is good practice to have a mission statement that is clearly articulated, reflects the agency's legislative mandate, focuses on outcomes, and is consistent with the agency's resources.

A mission statement defines an agency's purpose. It identifies the overarching goals that the agency seeks to achieve. For example, most agencies include as one of their core goals the protection of consumer welfare.

The benefits of having a mission statement include the following:

- It provides the basis for formulating more specific strategic objectives.
- It helps agencies select and prioritise their activities and thereby prevents spending resources on activities that are not aligned with their overarching goals.
- It helps agency personnel understand how their day-to-day work fits into the agency's "bigger picture", thereby motivating and guiding their activities.
- It can further transparency and legitimacy by helping external stakeholders understand the agency's purpose.

Effective mission statements:

- do not contain vague or conflicting goals and therefore are easy to articulate to staff and external stakeholders;
- are consistent with the agency's legislative mandate and any priorities set by law;
- focus on outcomes (such as consumer welfare) rather than outputs (such as the number of cases concluded);
- have broad-based support over the long-term by reflecting common values;
- are sufficiently broad and flexible to allow an agency to respond to new issues and changing market situations;
- are consistent with the skills and resources available to an agency.

EXAMPLES OF MISSION STATEMENTS

To prevent business practices that are anticompetitive or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions without unduly burdening legitimate business activity. (United States Federal Trade Commission)

To protect the process of competition and free access to markets, through the prevention and elimination of monopolistic practices and other restrictions to market efficiency, in order to contribute to societal welfare. (Federal Competition Commission of Mexico)

To enable the Commission to make markets deliver more benefits to consumers, businesses and the society as a whole, by protecting competition on the market and fostering a competition culture. We do this through the enforcement of competition rules and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests. (DG Competition of the European Commission)

1) Promoting free and fair competition, and 2) Achieving consumer sovereignty. (Korean Fair Trade Commission)

To achieve a robust economy and to help drive economic growth by encouraging and enforcing free competition in all spheres of commercial and economic activity to enhance economic efficiency and to protect the consumer from anti-competitive behaviour. (Competition Commission of Pakistan)

To ensure compliance in Portugal with national and Community competition laws , which are the foundation of a market economy, with the following aims: Efficient working of the markets for all products and services; a high level of technical progress; and, above all, pursuit of the greatest benefit for consumers. Our motto is "in service of competition". (Portuguese Competition Authority)

2.2.2. Strategic plans

Strategic plans translate the mission statement into more specific objectives. They provide a framework to guide decision-making on prioritisation, resource allocation, policy initiatives, reactions to unexpected events, and the like.

Effective strategic plans:

- address each aspect of the agency's activities, including merger review, anti- cartel enforcement, unilateral conduct and other conduct investigations, competition advocacy;

- contain a clear statement of priorities for the period covered by the plan;

- set out clearly defined objectives, that may include shorter term as well as longer term objectives;

- provide an indication of how resources will be allocated;

- can be evaluated to measure progress made towards achieving the objectives; and

- allow flexibility to enable an agency to react to unexpected events but at the same time ensure continuity over time.

2.2.2.1. Objectives

It is good practice to define strategic objectives that flow logically from the mission statement and identify goals that are to be achieved within a realistic time frame.

Objectives are the strategic goals that the agency has identified in order to advance an agency's mission.

Objectives:

- translate an agency's mission into organisational behaviour, describing concretely how particular outcomes will be achieved over time;

- facilitate the development of an agency work program, which identifies the particular projects or cases the agency will undertake in the short term;

- provide a basis for making principled and proactive decisions regarding resource allocation and project prioritisation (for example, through laying down prioritisation criteria);

- help an agency manage its projects more effectively, e.g. by helping an agency decide on the sort of information technology it requires, the type of training provided to its staff members or on the composition of case or project teams;

- motivate and guide the activities of agency staff;

- facilitate communication with external stakeholders.

Good objectives:

- flow logically from the overarching goals listed in the mission statement;

- are time-specific with realistic time frames for achieving them;

- have considered how their attainment will be assessed;

- are not drawn too narrowly and are flexible enough to respond to change.

Strategic objectives may be defined in part by an agency's mission statement as well as the scope of its legislative mandate. Objectives for competition agencies often relate to enhancing consumer welfare, improving or maintaining market competitiveness, and creating a greater awareness and understanding of the benefits of competition. Objectives may also relate to the organisation and management of an agency. Typically, agencies will include objectives pertaining to managing resources (human, financial, and other), ensuring the timeliness and transparency of their work and evaluating their performance.

The specificity of objectives varies among agencies, although experience suggests it is important to include enough detail that agencies can measure results. Objectives that are too vague make it impossible to assess whether objectives have been met. On the other hand, objectives are only a framework for determining agendas and prioritising activities. It is not necessary to include details about exactly which projects or cases the agency will undertake over a particular period of time. This information is more appropriate as part of a shorter term work programme rather than strategic objectives.

Objectives are typically time-specific: they identify goals that are to be achieved within a given time frame. Time frames vary across agencies, with most ranging from one to five years. Choices related to the timing of strategic objectives may be influenced by legislative or policy requirements. For example, in some jurisdictions, time frames may coincide with required terms served by agency leaders. In other cases, timing may coincide with government-wide strategic planning or reporting requirements.

Agencies should be cautious about developing strategic plans that extend too far into the future. In order to develop effective objectives, agencies need to realistically predict future needs. Planning too far into the future makes such an assessment impossible and may result in unrealistic objectives, which may unduly limit an agency's future activities. On the other hand, agencies should also be wary of developing objectives that only address short term needs, as the purpose of a strategic plan is to provide more of a long-term vision for the agency. For example, objectives which have a time frame of less than one year may not provide the continuity necessary to develop a strategic plan. Moreover, such objectives may be difficult to implement, given that some goals can only be achieved in the medium and long term. Finally, developing a new set of strategic objectives every few months could not only suggest that the agency is unclear about its long-term vision but is also likely to be too resource intensive for many agencies.

Continuity and flexibility are key considerations when developing objectives. Continuity is important to ensure that an agency is able to benefit from lessons learned and will "stay the course" long enough to achieve its long term goals. Flexibility is necessary to ensure that an agency can innovate and respond adequately to changing market conditions. Practices that could help to achieve a balance between continuity and flexibility include the following:

> In order to ensure that objectives remain adequately flexible, agencies can incorporate regular review into the strategic planning process to ensure that objectives remain relevant. One mechanism for flexibility is the ability to hold one-off brainstorming sessions on unexpected topics that assume immediate importance. For example, at one agency, the agency can hold special "policy review sessions", which allow agency heads and staff to discuss special policy issues. This agency used these sessions to address how the agency might address various issues concerning the financial crisis.
>
> Agencies can ensure continuity through structural arrangements. Some agencies have personnel dedicated solely to managing the strategic planning process. This can help ensure both continuity and consistency when developing objectives. Likewise, some agencies make a distinction between those personnel responsible for setting long term strategy and those responsible for making specific policy and enforcement decisions. For example, an agency's board of directors may be responsible for setting long term objectives while its senior management or executive group may be responsible for day-to-day decisions.

2.2.2.2. Assessing progress towards reaching objectives

It is good practice for an agency to consider how it will assess its progress towards reaching its strategic objectives.

As part of the strategic planning process, agencies often consider how they will assess their progress in achieving strategic objectives, and how they will determine whether their objectives have been met. Some agencies consider it useful to think upfront about specific indicators they will use to measure whether their agency has met its strategic objectives. Examples of some indicators agencies have used include:

Indicators (sometimes called "result indicators") that reveal an agency's progress towards reaching its strategic objectives by measuring what has actually happened against what was planned. In other words, they measure the medium and long term impact of an agency's outputs. For example, such indicators could include increased consumer welfare, improved productivity growth or improved perception of the agency by stakeholders.

Indicators (sometimes called "output indicators") that measure the activities, services or products that are produced as an agency works towards its objectives. For example, such indicators could include the number of investigations concluded, the number of decisions adopted, the number of market studies produced, the number of advocacy initiatives or the number of press releases issued in a given year.

Indicators (sometimes called "input indicators") that measure the resources expended in reaching a particular objective, such as the number of personnel hours spent on merger cases, or the amount of money spent on external studies during a year. These indicators can be particularly useful when analysing program efficiency.

Indicators can be quantitative or qualitative. For example, a quantitative indicator may be the number of complaints closed in a given year, while qualitative indicators might include public attitudes and knowledge of competition issues gathered through surveys. In some instances, quantitative and qualitative indicators can be combined to effectively demonstrate a particular type of change.

Agencies that have used such indicators have found the benefits to include:

Indicators may assist agencies in tracking the performance of particular projects or employees, to more quickly identify performance gaps, making adjustments to ensure that they stay on track to achieving their current objectives, and in formulating future objectives.

Indicators may assist agencies in demonstrating their results to stakeholders and oversight bodies.

The agencies that have used indicators have also identified some limitations and challenges, which can include:

Indicators are only useful if an agency has the ability to collect and report the necessary data. Data can include information on past agency activities and their results, and information on markets. Some of this data can be retrieved from internal databases (available at some agencies) or from sector regulators.

The process of selecting indicators, as well as gathering, analysing, and reporting the subsequent data, can be resource intensive.

Indicators need to be contextualised. There is a risk that when indicators data is taken out of context it may be misunderstood.

Some indicators (*e.g.* the number of cases filed) could subject an agency to criticism that their incentives are not driven by reaching the right result but rather by meeting the indicator targets.

Although indicators can demonstrate results they do not explain results. Results need to be thoroughly analysed in order to get an accurate idea of whether an agency is meeting its objectives. For example, indicators may demonstrate that an agency is failing to achieve a particular objective; however, indicators cannot be relied upon to explain why the agency is failing. Indicators only signal the need for more thorough analysis.

There is not always a clear and exclusive causal link between a result and the agency's activity. For example, it may be difficult to directly measure changes to consumer welfare or productivity that result exclusively from an agency's enforcement, research or advocacy activities.

2.3. The process of strategic planning

The process of strategic planning may vary from one agency to another reflecting differences such as the agency's legal, institutional, political, and resource constraints, the agency's internal processes, and the ways agencies choose to involve external stakeholders in the strategic planning process.

2.3.1. The prerequisites of effective strategic planning

The prerequisites of effective strategic planning include the following:

A recognition of the constraints in which the agency operates: no agency is entirely free from legal, institutional, political, and resource constraints. Disregarding these constraints is likely to result in ineffective planning.

A commitment by the agency head(s) to the planning exercise: without strong support from the agency head(s), strategic planning will be treated as bureaucratic make-work, and will not draw the support of agency management and staff.

Support from staff, in particular by senior management: strategic planning will acquire legitimacy only if agency officials understand its value and are committed to the agency's mission and objectives. Management is an essential communication channel because they often have more direct day-to-day interaction with staff.

2.3.2. Constraints

In formulating a strategic plan, it is good practice to consider constraints (e.g., legal, institutional, political, resource) that may impact the agency's selection of appropriate objectives.

Agencies should acknowledge constraints that may impact strategic planning. These constraints can be grouped in the following large categories: legal, institutional, political, and resource constraints.

2.3.2.1. Legal, institutional, or political constraints

2.3.2.1.1. Competences and decision making powers

The main factor that defines what an agency can plan to do is what it actually has the competence and power to do. For example, it is not realistic to aim at stepping up enforcement activities in a given sector if it is not the agency but a sectoral regulator that has the competence to apply competition law in that sector. Similarly, the success of a strategy aimed at bringing structural changes in a given market may depend on whether the agency has the power to break up companies. Similarly, an agency is unlikely to succeed in advocating the removal from national laws of regulatory provisions that disproportionately restrict competition if it is not given appropriate powers for competition advocacy.

2.3.2.1.2. Objectives defined or influenced externally

The degree of institutional autonomy of competition agencies in setting their strategic objectives within their areas of competence varies.

The legislative mandate of an agency often sets forth the basic mission or objectives in some form, thereby constraining the strategic planning possibilities of the agency. In such cases, the scope for strategic planning will depend on how clear and detailed the legislative mandate is. For example, in some cases the legislative mandate may be so broad (or spread across several different pieces of legislation) that the agency will have wide discretion for strategic planning.

Many agencies which are more closely integrated into government must align their strategic objectives with government strategy or their strategy may be part of a government strategy. An agency's work programme may be part of the planning cycle of a government or quasi-governmental organisation.

Broader political priorities concerning certain sectors may also put significant pressure on agencies to focus their activities on these sectors.

2.3.2.1.3. Thresholds and legal exemptions

Thresholds and legal exemptions constrain an agency’s ability to act under particular circumstances and/or in particular sectors. These constraints should therefore also be considered when an agency strategically plans its activities.

Thresholds indicate a certain value – usually expressed in absolute numbers or percentages and usually linked to the size or market position of undertakings – under which a particular conduct or agreement is presumptively unlikely to adversely affect competition. For example, thresholds can indicate that a merger does not need to be notified to an agency because either the value of the transaction or the share of the voting rights being acquired falls below a certain, predetermined, level.

Some thresholds legally exclude certain agency activities by prohibiting agency action below them. Others can make it unlikely that an agency will take action, but not legally exclude it. For example, some agencies can autonomously challenge problematic mergers that are below a certain threshold and hence not subject to a notification requirement, but which the agency has become aware of through other means.

In addition, certain types of agreements or conduct or certain sectors may be legally exempted from competition law, thereby constraining an agency's activity in relation to these. For example, the exclusion of the agricultural sector, or parts of it, from competition law in some jurisdictions significantly reduces the possibilities of agencies to act in this sector, often limiting their actions to advocacy efforts. Similarly, "block exemption regulations" exempting certain types of agreements from prohibition rules can limit an agency's possibilities to challenge these types of agreements, although many block exemption regulations allow the agency to withdraw the exemption under certain circumstances.

2.3.2.1.4. Non-discretionary activities

Obligations on agencies to investigate certain types of conduct or agreement ("non-discretionary activities") can also limit the possibility for agencies to plan their "discretionary activities". For example, an obligation to investigate certain types of mergers (usually above a given threshold) may impact how many other investigations an agency can realistically plan to do.

Similarly, some agencies are obliged to carry out certain activities (e.g. an investigation or a market study) when this is requested by a certain type of institution or organisation (e.g. a committee of the national legislature). In other cases, agencies can only carry out certain activities (e.g. advocacy efforts vis-à-vis specific public initiatives) when this is requested specifically, but not on their own initiative.

Nevertheless, many agencies faced with a high proportion of non-discretionary activities develop tools for achieving some flexibility. For example, many agencies introduce some sort of simplified procedure to deal with some non-discretionary matters which are unlikely to raise competition concerns.

2.3.2.1.5. Investigative powers

The availability of specific types of investigative powers will also influence the agency's possibilities to deliver on its mission and strategic objectives. For example, objectives relating to merger control can depend on whether the agency can issue binding requests for information or extend procedural deadlines. Similarly, the possibility to aim for a pro-active approach in antitrust enforcement can depend on the power of the agency to conduct market studies or sector inquiries in addition to relying on complaints. As a further example, strategic objectives relating to the better understanding of competitive conditions in particular markets may be easier to achieve if the agency has the power to conduct specific types of research or to commission studies.

2.3.2.1.6. Other legal constraints

Additional legal constraints that can impact the strategic planning process from a practical point of view include:

> Legal obligations as to the frequency with which strategic plans must be prepared and updated and the format of the strategic plans. For example, one agency is obliged by a legislative act to prepare a five year strategic plan, with updates every three years, including goals and result indicators.
>
> Legal constraints on collecting information/legal obligations concerning confidentiality. For example, rules imposing limits on the types or detail of information that an agency may collect and/or disseminate on its activities can impose limits on the way it can assess its progress towards meeting its objectives.

2.3.2.2. Resource constraints

Resource constraints can influence strategic planning in two principal ways. First, resource constraints can influence the process of strategic planning itself. Second, resource constraints can influence the possibility to implement the strategy and to attain the objectives set out therein.

As to the constraints concerning the process of strategic planning itself, it should be recognised that the complexity of the strategic planning process will likely be a function of the size of the agency: larger agencies are likely to be able to dedicate substantially more resources to the process without significantly affecting the agency's other activities. However, many smaller agencies recognise the importance of dedicating sufficient resources to strategic planning because such planning will ultimately help those agencies become more effective in both defining and implementing their mission and strategic objectives. One possible way to ease the constraint on agencies with very scarce resources is to draw up a basic strategy establishing priority objectives from high to low.

As to the constraints concerning the implementation of the strategy: even if an agency has all the pre-requisites of effective strategic planning and takes due account of the legal, institutional or political constraints, it is unlikely that it will be able to effectively reach its strategic objectives if it does not have adequate resources to implement its strategy.

There are two main types of resources shortages of which can constrain strategic planning by an agency: financial resources and human resources.

2.3.2.2.1. Financial resources

Independently of the way agencies obtain their financial resources (e.g. appropriations from the legislative body, procedural fees), constraints on financial resources that can influence the strategic planning process can include the following:

> Inability to finance activities relating to the process of preparing a strategic plan. For example, if economic data that would be necessary to set particular objectives are not readily available, financial resources may be required to collect and analyse the necessary data.
>
> Insufficient funds to ensure the physical and information technology infrastructure required to implement the strategy.
>
> Inability to hire sufficient personnel or consult outside experts. For example, some projects resulting from the strategic objectives of an agency may require expertise that is not readily available in-house and is unlikely to become available within the relevant timeframe of the project.

2.3.2.2.2. Human resources[5]

Constraints related to human resources that can influence the strategic planning process include the following:

> Limitations as to the maximum number of staff. In some cases, agencies operate under staffing limitations that are specifically identified in their legislative mandate and any subsequent increases require legislative action. In other cases, staffing levels are approved by the national budget authority in conjunction with the monetary allocation.
>
> Limitations as to the ease with which agencies can hire or dismiss staff. For example, if the agency was to adopt a new strategy with different objectives, current characteristics of active staff may turn out to be inadequate to attain certain results. The ability to tailor hiring actions to specific requirements and to complete hiring actions relatively quickly will affect the agency's ability to put the resources it needs in the right place with enough time for them to contribute effectively to the individual initiatives.
>
> Limitations as to the composition of staff. Effective strategic planning depends on how an agency structures its workforce, for example, deciding what the mix of economists, lawyers and support staff should be, and whether an agency can re-structure its workforce with sufficient ease. For example, if there are legal constraints that prescribe that the agency must carry out certain types of activities requiring economic expertise (e.g. conducting in-depth economic assessments in certain types of cases), the proportion of economists may need to be higher. Similarly, strategic planning needs to take into account if there are insufficient lawyers or support staff when defining objectives the achievement of which requires the work of lawyers or support staff.
>
> Limitations as to the possibility of establishing partnerships. Partnerships (or covenants) between agencies and other governmental (or even private) parties may allow agencies with relatively scarce resources to define and implement strategic objectives in areas where agency action would otherwise not be effective in the absence of human resources.
>
> Limitations as to staff development. Staff development in the form of lawyer and economist professional training and training for support staff, whether in the form of an articulated training program, or just the possibility of taking individual training courses, can play a key role in effective strategic planning. For example, the ability of investigating teams to effectively bring cases greatly increases if staff is trained in using the latest tools for analyzing documentary productions and economic data, conducting interviews or hearings and, where relevant, handling the procedural and substantive aspects of trial litigation.

[5] This section deals exclusively with the human resource aspects of strategic planning. The "Human resource management" chapter of the Handbook will deal with human resource issues in general.

2.3.3. Internal process

2.3.3.1. Decision making in the field of strategic planning

It is good practice if leadership sets the strategic objectives in consultation with management and staff.

Agencies use a variety of different decision making processes and methods in developing their strategic plans. For example, agencies can develop their strategic plans on their own, hire an outside consultant to help them with the work, or use a combination of these two approaches. While the specific processes used may vary, the process should be designed to contribute to the agency's overall purpose for engaging in strategic planning: identifying key objectives to guide the agency's activities.

The decision making process often involves (1) gathering available information to identify possible agency objectives and priorities, (2) assessment of the options identified in terms of their importance, feasibility, resource requirements, and other relevant factors and (3) the selection of specific objectives and priorities for incorporation in the agency's strategic plan.

The decision making process may take several forms, and either formal or informal processes may be employed. Some agencies use planning systems which may be called top-down or bottom-up planning systems.

> In top-down planning systems a broad policy framework is developed by the leadership in consultation with the senior managers of the agency's several departments. Staff involvement is also possible, for example, the staff being consulted through middle management once the basic challenges of the agency have been identified at the highest level.
>
> In a bottom-up planning system, issues originate at management or lower levels of the agency and would then be approved by the leadership. Here agencies start by gathering ideas from the management or lower levels and work their way up to the highest levels of management. In this context, managers may start by assessing current and pending workload, statutory and other timing requirements, market and stakeholder information, etc. with their staff, and soliciting ideas from them, for example, on potential priorities, objectives, or options. Representative working groups composed of staff may also be asked to provide input for discussion by senior management.

Most agencies agree that, in principle, objectives and priorities should be set by the leadership, often in consultation with management and staff. Many agencies engage in some form of collective consultation or decision making on strategic planning. Several agencies have established processes to obtain input from management and staff at the outset of the strategic planning process to identify potential priorities and objectives, and agencies may also seek the input of management or staff in assessing potential options. However, it is generally for the leadership to make the ultimate decision on which goals and priorities are incorporated into the strategic plan, and to communicate the plan effectively to management and staff for implementation at the conclusion of the process.

The benefits of involving staff in the decision making process in the field of strategic planning include the following:

> To be effective, agencies need support for their mission from inside the institution.
>
> It is often those working "on the ground" that are most sensitive to current market conditions and likely future changes or trends. Based on their experience and knowledge staff are often in a good position to know "what's bubbling out there", and can provide agency leadership with valuable input on the most pressing and the newest emerging issues and the best approaches to tackle them.
>
> A firsthand understanding of the dynamics of investigations and projects allows staff to provide valuable input for the assessment of progress towards reaching strategic objectives.

Examples of decision making processes include the following:

> One agency reviews sector and marketplace developments to identify potential problems relevant to each of its departments. Its senior management team analyzes the results of this scan and drafts a high-level agenda, which a wider management group then develops in greater detail. An operational plan is developed for each of the issues identified. Finally, a process – managed by a steering committee – is in place to ensure that resources are matched to priorities and to identify and present to senior management significant issues in the marketplace that merit the agency's attention. Staff is able to submit issues and ideas directly to the steering committee, thus providing bottom-up input into the Bureau's prioritisation practices.
>
> One agency begins with a broad policy framework developed by the agency's three-person executive board in consultation with the directors of the agency's several offices. Following consultations with external stakeholders a working plan is developed based on the policy framework to be implemented by directors in the following year.
>
> Some agencies with more resources establish dedicated teams for the purposes of strategic planning. These teams may engage in all phases of strategic planning: drafting, communication, implementation, and evaluation, to help ensure

consistency across the agency. For example, in the implementation phase, proposed projects may be subject to a prioritisation analysis by the team.

2.3.3.2. Timing and regularity of the exercise

It is good practice to think about the duration of a strategic plan and how frequently the strategic planning exercise should take place.

In engaging in strategic planning, many agencies identify a planning horizon, a time period for which the plan is envisioned to apply which may also provide a basis for assessing the success of its implementation. For example:

Some agencies plan long-term goals in the context of a multiyear strategy document (e.g. five years, or the duration of the president's or the commissioners' mandate(s)).

Some agencies combine long-term multiyear plans (two to five years) with a medium/short term plan, sometimes called a work programme, which covers a shorter time period (e.g. a 12 to 18-month period).

Some agencies engage in strategic planning annually or over another shorter time frame.

For some agencies, the design of their work programme is part of the national budgeting cycle and constitutes a bid for resources on the part of the agency. In this case, the timing of the exercise will follow the national budgeting cycle.

As for when to draft a plan, although there is no one size which fits all, strategic planning ideally is conducted sufficiently close to the reference period such that it does not risk being out of date even before being ready for implementation, but sufficiently in advance of that reference period to allow for effective implementation.

The timing of the strategic planning exercise will also depend on, among other factors, the number of people involved in the drafting, the existence of internal and/or external consultation(s) and the number of people involved in taking the final decision (i.e. a single person or a Board, the latter often in need of some time for debate).

2.3.4. External consultations

The extent to which agencies consult externally varies from one agency to another. Some agencies are under a legal obligation to consult externally during the strategic planning process, others can decide on their own.

External consultations can be targeted at, for example, law and policy makers (e.g. executive government bodies, legislative bodies and sector regulators), the industry, the bar, consumers, academia, the judiciary, or senior staff retreats.

External consultations can be beneficial because they:

- provide the agency with helpful information on outside concerns and conditions that can inform the strategic planning process;

- help the agency in getting backing for its activities among external constituencies, the absence of which can erode the perceived legitimacy of the agency's individual actions and, in extreme circumstances, cause the legislature to withdraw part of its competence or even call into question its continued existence.

- allow the agency to gauge how much support it will have if it were to take action in a particular area.

- allow an agency to better identify areas of possible future competition problems and to get relevant information from key stakeholders.

- may help spread competition culture among external stakeholders and the general public.

There are several reasons why agencies may need to be careful when consulting external stakeholders and considering their responses afterwards include the following:

> Consultation with different stakeholders may need to be conducted and considered in different ways: not everyone has the same knowledge of the agency and its operations, and not all stakeholders need to receive the same previous information in order to provide meaningful input.
>
> Input can be biased if stakeholders are afraid to turn their relationship with the agency sour by being sincere. On the other hand, allowing stakeholders to provide input anonymously can help overcome this concern.
>
> There are several kinds of stakeholders and their answers have to be closely looked upon, as they represent different and often contrary interests and may even contain hidden intentions. In this context, external consultation on a strategic plan may create difficulties as certain stakeholders or sectors may oppose certain objectives.
>
> The agency cannot become used to relying only on external consultations. In the end it is the agency that must, while considering information obtained from external consultations, make the ultimate decisions on strategic goals and objectives.

External consultations can take different forms. Bilateral or multilateral interviews or workshops can be organised on an ad-hoc or regular basis to discuss the agency's objectives and priorities and to explore with stakeholders and outside experts emerging problems or areas of concern. Peer reviews by other competition agencies made in international fora can also be a source of useful advice.

2.4. Communication on strategic planning[6]

The effectiveness of strategic planning depends in part on how the strategy is perceived. No matter how good a strategy is, it may fail if it is not understood what the agency is trying to achieve and how it is seeking to do so. Therefore, communication considerations must be a part of the agency's strategic planning and not an after-thought, and resource estimations for the planning process should include communications.

2.4.1. Internal communication

It is good practice for the leadership to communicate the strategy to management and staff.

Internal communication consists of communicating the strategy to staff within the agency. The goal of internal communication is to align staff behind the strategy by making clear what individuals' accountabilities and priorities are and how these are linked with the strategic objectives.

The benefits of effective internal communication include the following:

> Effective internal communication makes it easier to translate the strategy into specific projects. It allows staff to know what they need to do, when they need to do it, which decisions are theirs to make, or what resources will be required to deliver the performance management expects.
>
> Informed and motivated employees are more effective and may require less monitoring to ensure that they contribute to the attainment of the objectives of the agency appropriately. Internal communication thereby contributes to sustainable performance.
>
> It promotes a common sense of purpose and shared responsibility for delivering on the objectives. Without effective internal communication, staff may not understand the objectives of the agency and their importance, and therefore objectives may not be fulfilled, fostering a culture of underperformance. Without

[6] This section deals exclusively with communication on strategic planning. The "communication and accountability" chapter of the Handbook will deal with general communication matters.

a sense of responsibility the cycle of underperformance risks getting repeated, often for many years.

Practices that can improve the effectiveness of internal communication include the following:

It is for leadership to communicate the plan effectively to management and staff for implementation. Leadership should set the tone for how the staff executes the agency's mission and strategy. Effective leadership includes communicating the agency's mission, objectives, and priorities to staff.

It is helpful to provide senior leadership with dedicated occasions (or other time set aside) to explain the agency's objectives.

Communication on the strategic plan should be kept simple. Staff should not be inundated with vast quantities of information as too much information may jeopardise the effectiveness of internal communication.

Internal communication practices –may include one or more of the following:

Some agencies rely on special agency-wide events, like "annual town halls", "all staff events", "annual days", "away days" or "retreats" to discuss and disseminate the strategy. Such events can also allow management to gather input from staff and thereby facilitate staff participation in the process of strategic planning.

Some agencies use intranet pages announcing and summarising the plan that can also be made the default homepage or screensaver for staff computers. Other agencies disseminate the strategy documents to staff by e-mail.

Some agencies use the same communications team for internal communication and external communication. Others use the human resources team, the management team, a combination of these, or others to communicate internally about the strategic plan.

Some agencies make multiple / frequent efforts to link the principles and values of the agency with the routine of selecting and implementing projects.

2.4.2. External communication

It is good practice to consider communicating the agency's strategy or key elements thereof externally.

External communication consists of communicating the strategy, or key elements thereof, outside of the agency.

Reasons why agencies may decide to communicate their strategy externally include:

- It contributes to the agency's accountability: if it is known what the agency plans to do, it can be held accountable if the plan is not met.

- It can pave the way for successful advocacy efforts and the promotion of competition culture by raising awareness.

- It can encourage compliance: for example, announcing that the agency is planning to step up its fight against cartels may serve as a wake-up call to companies, who may decide to cease their anticompetitive conducts or to resist the temptation to engage in them.

- Like consulting on the strategy externally, communicating the strategy externally allows the agency to build the necessary support for its activities. In particular, failure to transmit the importance of the agency's objectives, especially when the benefits will not be seen in a short-term period, can be dangerous for the agency's activity and may even call into question its existence.

Ways of communicating the strategy externally include the following:

The simplest way to communicate the strategy to the outside world is a general dissemination of the strategic plan, by making a version of it a public document. Other ways include issuing a press release on the adoption of strategy documents or delivering a speech or publishing an article or even an annual letter by the head of the agency on the strategy of the agency. Some agencies organise workshops or seminars where the strategy is communicated and discussed. Establishing links with key media personnel who will disseminate information can also be useful.

Most agencies adapt the communication message to different target groups, such as consumers, industry, or the legislative body. For example, some agencies host or participate in workshops or seminars tailored to each separate group.

Many large agencies have a specialised communications team, often recruited from communications specialists more than competition specialists. Since dedicated personnel may be prohibitively expensive for some agencies, alliances with other public bodies may be contemplated to help with the expenses. Of course, many agencies are able to effectively communicate their strategies through the means outlined above without specialised communication teams.

2.5. Implementation and evaluation

2.5.1. Implementation[7]

It is good practice to implement the strategy.

Strategic plans need to be implemented. However, the ways agencies implement their strategic plans varies from one agency to another.

Some agencies implement their strategic plans through some type of a work programme, containing a broad allocation of resources between the main activities of the agency and a definition of the "deliverables".
In the case of agencies who use work programmes, these:

- are typically designed to cover a shorter period than a strategic plan, for example one year or one year and a half.
- can provide managers with specific targets in all areas of activity, facilitate the prioritisation of individual projects, and can help the agency react to circumstances that could not be foreseen at the time the strategic plan was drafted.
- are often developed first by the managers of each department and approved or modified by the leadership. In many agencies work programmes of individual departments are reviewed by managers of other departments who may provide feedback to each other.
- may be subject to reviews in order to respond to new issues or problems in the marketplace. These reviews may take place, for example, during quarterly meetings involving the leadership and the managers of departments.

2.5.2. Evaluation[8]

It is good practice to evaluate the strategic plan on a regular basis.

Evaluation consists of the periodic assessment of the strategies and the way they have been implemented.

Evaluation:

- allows senior management to assess whether objectives and targets set out in the strategic plan are met.

[7] This section deals with implementation only in a cursory way, focussing on the implementation of the strategic plans in general.. Implementation relating to individual projects is discussed in more detail in the "Effective project delivery" chapter of the Handbook.
[8] This section deals with evaluation only in a cursory way, focussing on the evaluation of the strategic plan and its implementation. The "Ex-post evaluation" chapter of the Handbook will deal with evaluation issues in general.

- allows senior management to understand whether actions were carried out as expected, resources deployed on schedule and so on. Without clear information on how and why strategic plans are falling short, it is virtually impossible for senior management to take appropriate corrective action. This can create a vicious circle of faulty strategic plans.

- allows senior management to review the strategic plan, annually for example, to ensure that objectives and priorities (including prioritisation criteria) remain current. A recurring review and evaluation of its strategy and activity allows agencies to feed the results back into the planning process.

- should take place whatever the result may be: agencies should not avoid the evaluation of their strategic plan or its implementation when they expect a negative outcome.

- can contribute to external transparency and accountability when the results of the evaluation are made public.

- can be done through internal analysis, recourse to outside experts, or a mix of these. For instance, some agencies request the assistance of external academic experts and auditors to assist in reviewing the strategic planning process and/or the implementation of the strategic plan. Some agencies rely in part on peer reviews (for example, the OECD peer reviews), and some jurisdictions have dedicated government bodies outside the competition authority to conduct such an assessment, including parliamentary committees or audit offices. In any event, as in the case of strategic planning, it is useful to involve staff representatives of the key departments in the evaluation process.

Evaluation can also encourage accountability and increase motivation. For example:

> The performance of each agency component can be evaluated at the end of the relevant period and each manager can be held accountable for progress in accomplishing his/her department's objectives.
>
> Objectives can be defined for individual staff members in line with the objectives of the organisation with clear targets and deadlines for accomplishing such targets. Evaluation can thus also help assessing the performance of individual staff members.
>
> Evaluation can help reward talented staff for superior execution. Rewarding performance facilitates staff buy-in into a strategic plan. It is preferable to reward individual staff members (e.g. through bonuses, promotions, etc.) based on the effective delivery of their personal objectives rather than, for example, on the economic impact resulting from agency action, as the latter is often only known sometime after evaluation.

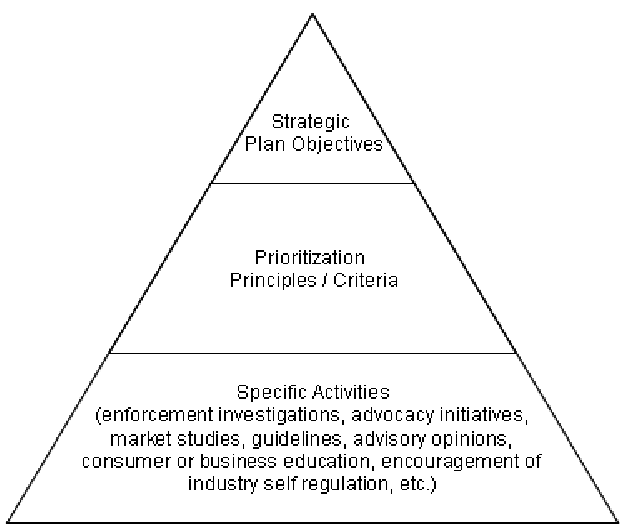
3. PRIORITISATION

3.1. The definition and importance of prioritisation

It is good practice to prioritise projects and to give careful consideration to the criteria for doing so.

Prioritisation is the process of translating strategic objectives into operational priorities. It essentially involves deciding which projects or types of projects not to do and which projects or types of projects to do. Through prioritisation, agencies direct resources, time, and energy to those projects that are deemed most relevant to achieving the objectives laid out in the agency's strategic plan.

Agencies generally use prioritisation "principles" or "criteria" as filters to help the agency determine which projects will allow the agency to achieve the desired results. Thus prioritisation principles or criteria provide guidance about the relative importance of a particular project or type of project: it allows agencies to consider each particular project in light of the agency's overall portfolio and resources. Deciding whether a matter is a priority often depends on the interplay of many factors, some of which may not have been identified upfront and some of which may be subjective. Thus, the process for prioritising should remain flexible; there are no magic or fixed formulas for determining whether a matter is a priority.



Prioritisation is important because:

It helps the agency deliver on the objectives set forth in its strategic plan.

It provides a mechanism for agencies to allocate resources to the most relevant projects in a resource constrained environment. Indeed, without exception, there are always more potential projects – whether investigations, advocacies or research activities – an agency could do than the resources available to pursue them.

It allows agencies to establish an optimal portfolio of activities. It can help answer the question: "What combination of law enforcement, advocacy, research and development, rulemaking, guidelines, advisory opinions, consumer and business education, encouragement of industry self-regulation, etc. should the agency use to realise the objectives set out in its strategic plan?"

3.2. The process of prioritisation

The process of deciding whether or not to grant priority to an individual project varies from one agency to another. For example:

One agency allows departments in the organisation to propose projects for prioritisation. If senior management decides to grant priority to the project proposed – among others because it fits with the agency's strategic plan – appropriate resources are allocated to the project.

In one agency, any staff member can formally propose a "priority" to the leadership so long as he/she has the support of one director.

In one agency, a project team can propose conduct enforcement action on the basis of an "initial case report" which summarises the facts of the case, the theory of harm, how the case would fit with the agency's strategic objectives, and what the case would cost in terms of resources and time. Following a number of in-house consultations on the initial case report, senior management decides whether the proposed case should receive priority status and be resourced accordingly.

At one agency with a board, the board gives guidance to staff on priorities. Staff can then refer high profile cases "up the line" to the board's attention. The board is briefed when a "tough moment" in a case arises. The board stresses "phased planning," under which management regularly assesses the relative degrees of impact and significance of ongoing agency initiatives.

There are a number of issues agencies may want to consider when determining decision-making for prioritisation:

What dictates the prioritisation process?

What is the proper scope of the agency's prioritisation process? Should it involve division-by-division planning, or should it be an agency-wide exercise?

Should prioritisation be centralised within the agency? For example, should there be a research panel or board within the agency to oversee the process?

Should there be specific procedures in place to develop prioritisation criteria? Or can prioritisation take place more informally? For example, should the economists' division take the lead in identifying issues, with ad hoc groups within other divisions gathering to address these issues and ultimately going to the agency head with proposals?

3.3. Prioritisation criteria

The majority of agencies use some type of prioritisation criteria to support the definition of priorities. The benefits of applying prioritisation criteria include the following:

They provide objective grounds for justifying the prioritisation of particular projects.

They contribute to the legitimacy of the agency's activities by providing a clear and explicit framework – as opposed to implicit "rules of thumb" – for taking decisions on priorities.

They appear particularly helpful for smaller agencies in allocating their resources.

3.3.1. Types of prioritisation criteria

For the purposes of this Handbook, prioritisation criteria used by agencies are organised in the following categories: 1) criteria linked to the potential impact of a project on consumer welfare or the economy; 2) criteria for choosing certain priority sectors of the economy; and 3) criteria linked to institutional and procedural considerations.

3.3.1.1. Criteria linked to the potential impact of a project on consumer welfare or the economy

Many agencies use the potential impact of a project on consumer welfare or the economy as a prioritisation criterion. There are a number of types of impact that may be considered here. For example:

The likely direct effect on consumer welfare in the market or sector to which the project relates. Consumer welfare could include better value for consumers in terms of price, quality, range, innovation, or service, both static and dynamic. The agency may also choose to prioritise work because the direct effects would specifically benefit disadvantaged consumers.

The likely indirect effect on consumer welfare. This captures further improvements to consumer welfare and consumer confidence that result from changes in consumer, business or government behaviour which is prompted by the agency's action. It thus captures deterrence and improved awareness for consumers, business and government.

Some agencies also consider the expected additional impact on the economy. This captures, for example, whether, as a result of the agency's actions, economic efficiencies and productivity would be expected to increase, as well as the impact on macroeconomic variables (e.g. inflation, government debt).

There are a number of proxies that can be used to presume that a particular project is likely to have a significant impact. Agencies may decide to prioritise projects which are more likely to have a significant impact because of the size of the market concerned, for example, in terms of the number of consumers or the geographic area affected by the project or the importance of the market in the national economy. Agencies may also decide to prioritise projects because the volume of commerce affected by the conduct/transaction is above a certain level.

3.3.1.2. Criteria for choosing certain priority sectors of the economy

Some agencies may choose to prioritise action concerning particular sectors of the economy. Reasons for choosing priority sectors may include public policy considerations relating to the development or protection of a specific sector, consumer protection considerations relating to markets with a significant number of consumers or the expected stronger impact on consumer welfare or the economy of acting in a specific sector. However, agencies should not neglect sectors that are not high priority at the moment.

Categories of sectors that have been prioritised include:

- Sectors with market failures
- Regulated sectors and complex network industries (e.g. energy and telecommunications sectors)
- Sectors with strong links to other sectors of the economy (e.g. infrastructures)
- Problematic sectors (i.e. sectors with a history of anticompetitive conduct)
- Sectors that show a tendency towards concentration (e.g. for the purposes of merger control)
- Sectors the functioning of which has a significant impact on public finances

- Sectors the functioning of which has a significant impact on consumers
- Sectors in crisis
- Sectors in development

3.3.1.3. Criteria linked to institutional and procedural considerations

In addition to the potential impact of a project on consumer welfare or the economy and the characteristics of certain sectors, agencies may also decide to prioritise certain projects based on institutional and procedural considerations. Such considerations can include the risks and costs associated with a project, the institutional significance of a project and a project's timeliness.

For example, agencies may consider the likelihood of successfully delivering on a project, taking into account factors such as the likelihood of gathering sufficiently strong evidence required for meeting the standard of proof, litigation risks, the complexity of the procedure, or the know-how within the authority. Agencies may decide to prioritise projects which are more likely to involve a violation of the competition law based on initial evidence and assessment tools such as market share thresholds.

In addition, agencies may consider the costs relating to a potential project. Prioritisation – involving the allocation of resources to a priority project - is a matter of picking the right tool or tools, or adding a new tool, to best address the matter at hand. Resource allocation decisions should consider the potential costs, to the public as well as the agency, of pursuing particular activities.

Furthermore, agencies may decide to prioritise a project because of its institutional significance. A project may have such significance because it applies an innovative approach, it can establish legal precedents, it tests new legal and/or economic approaches, it builds credibility of the agency or it is useful for the purposes of capacity building. For example, the fact that an agency may be trying to establish a new precedent, thus, to expand on how competition law has been interpreted, may well justify devoting substantial resources to a particular type of case, even if the consumer benefits that are directly associated with a positive outcome are likely to be relatively small. Indeed, establishing a precedent or even the associated deterrent effect may bring benefits to the competitive environment that are proportionally much greater than the direct benefits associated with the individual enforcement action.

Agencies may also prioritise a project based on its timeliness. For example, an agency may prioritise action against anti-competitive conduct in progress rather than against infringements that have already ended. This consideration may also be relevant in the area of merger control in the jurisdictions that admit ex post notifications, especially in situations that give rise to the adoption of cautionary measures.

Another criterion that agencies may consider when prioritising projects is whether the agency is the best placed organisation to act. Some agencies consider alternatives like private enforcement through the courts, action by other bodies, or action by the industry through self-regulation, and new legislation may in certain circumstances be more efficient and effective in achieving the agency's objectives.

3.3.2. Balancing prioritisation criteria

There is no commonly accepted hierarchy of prioritisation criteria. However, any agency can define such a hierarchy for its prioritisation purposes. In practice, agencies usually balance prioritisation criteria for each potential project and make prioritisation decisions on the basis of this balancing act.

Some agencies accomplish the balancing through a very simple ranking of high, medium, or low for each project. Others have used complex systems such as a prioritisation matrix, with a variety of axes (criteria) along which to prioritise (impact, feasibility, etc.) with a value assigned to each criteria.

3.4. Review of priority of ongoing projects

It is good practice to review periodically the priority status of projects.

The fact that a particular project has been prioritised does not mean that it will continue to have priority status until its final delivery. There are a number of reasons why agencies may consider to review the priority status of a project and to see whether it warrants the continued commitment of resources. For example:

- Political changes (e.g. following an election) can take place that may, for example, lead to changes in priorities or new approaches to particular sectors.
- The macro-economic scenario can change (e.g. worldwide financial crises).
- New evidence gathered during a case investigation can suggest that the likelihood of finding an infringement is much smaller than at the beginning of the case, or vice versa.
- A change in the behaviour of the company investigated may make agency action less urgent.
- A change in the budget, the development of the agency's overall experience and the arrival of new and more important cases may also lead to a revision of the priority status of ongoing projects.

The benefits of reviewing priorities include the possibility of adjusting the project route, adapting the allocation of resources to the present scenario and preventing that the action of the agency loses its usefulness. On the other hand, in excess, the review of priorities can become a trap, impeding the agency to finalise the projects. As one agency put it: “There are essentially two mistakes you can make: de-prioritising a promising case too early or clinging on to an unpromising case for too long”.

In most agencies the priority review is conducted by the same body that is responsible for deciding on the priority status initially. The procedure can be formal or informal, depending on the extent and depth of review to be done (a minor adjustment or a complete overhaul).

The review of priority can take place at one or several particular points in the lifecycle of a project. Some authorities review the priority of an ongoing project at every stage when the orientation of the case could change as a result of new developments (e.g. main procedural steps, new submissions by parties, etc.).

3.5. Communication on priorities[9]

3.5.1. Internal communication

It is good practice to communicate priorities and, where possible, the factors that are considered in determining priorities, to management and staff.

Internal communication should allow management and staff to understand what the priorities of the agency are, what prioritisation criteria are used to select priorities, and why particular ongoing projects have priority status.

The benefits of effective internal communication usually include improved buy-in from staff, more focussed and better organised projects, and higher quality output.

Ways to communicate internally on prioritisation include the following:

- Regular discussions on priorities in internal meetings with participation of management and staff, involving feedback from case handlers.

- Circulation of internal documents setting out priorities and the prioritisation criteria. Some agencies also reflect priorities in the individual work plans of staff.

- Internal document management systems or the intranet also allow staff to exchange ideas on priorities and thereby provide feedback on existing priorities or lead to shifting the focus between priorities or defining new priorities.

[9] This section deals exclusively with communication on priorities. The “Communication and accountability” chapter of the Handbook will deal with communication by agencies in general.

Internal communication on priorities should be done more often and contain more information than in the case of external communication. Information communicated internally can include things like detailed work plans and timetables for priority projects or sectors likely to be prioritised in the future.

3.5.2. External communication

Some agencies publish their general priorities or prioritisation criteria as a part of an agency's strategic plan. Section 2.4.2. on external communication on strategic planning applies to such a practice. If priorities and prioritisation criteria are not published as a part of the agency's strategic plan, agencies must decide whether and how to communicate on these externally.

Reasons why agencies may decide to communicate priorities externally include:

- To provide more transparency and openness of the work of the agency and thereby reduce possible misconceptions or uncertainties as to how the agency prioritises.

- To build stronger relationship with different stakeholders (such as Government, business, regulators, consumer associations, media, judiciary, business associations, academia, NGAs etc).

- To build a strong network of partners of the agency ready to further promote competition culture.

- To improve the quality of complaints by encouraging complaints that reflect the priorities of the agency.

Reasons why agencies may decide not to communicate priorities externally include:

Revealing "too much". Communicating too much on current or future priorities in relation to specific markets or types of conduct could give undue warning signals to companies who could hide or destroy evidence of their wrong doing.

Creating false expectations. For example, publishing information on ongoing priority projects may create expectations as to the delivery of those projects, which may not materialise as a result of subsequent reviews of priorities. In the context of investigations, disclosure of information may unfairly damage companies under investigation or violate confidentiality obligations.

The ways of communicating externally on priorities can include press releases, press conferences, speeches or interviews given by agency leadership and direct contacts with the media. Priorities can also be presented at dedicated meetings with undertakings or consumers. Some agencies communicate priorities through their annual reports, post their priorities on their website or publish brochures with their key priorities. Some agencies conduct public consultations before publishing their priorities.

3.6. Case studies on prioritisation

3.6.1. Prioritising enforcement action in the market for driving school services - a case study by the Croatian Competition Agency (CCA)

In 2008, the Legal Affairs and Economic Analysis Division of the CCA conducted a study of the market for driving school services with a view to assess whether, with regard to the structure of the market, there are competition concerns that could necessitate the opening of an investigation.

Factors taken into account in this pre-investigation phase in deciding whether to initiate a full-scale cartel investigation were: the strength of available evidence, public interest, the deterrence effect of action, harm to competition and consumers, and the limited resources available to the CCA. It was also taken into account that the market concerned is a partly regulated market: a specific ordinance of the Ministry of the Interior regulates the minimum prices for the provision of particular driving school services. However, these minimum prices do not equal the final price and may not be used as a fixed price by driving schools.

Following the assessment in the pre-investigation phase, and having gathered enough evidence, the CCA adopted a decision to start a formal investigation/proceeding. On a regular basis during the proceeding, case handlers discussed the case with their respective Heads of Departments and informed the Council, as a decision-making body, about the status of the case.

Following the investigation, in July 2009, the CCA adopted a decision prohibiting agreements concluded between 15 driving schools. Based on this decision, the CCA made a request to open proceedings at the competent minor offence courts against 15 driving schools in the Town of Rijeka and Matulji Municipality for price agreement to fix the driving school fees for drivers of certain licence categories.

3.6.2. Prioritising advocacy activities in the transport sector – a case study by the Spanish Competition Authority (CNC)

Transport was a priority sector for the CNC as stated in its Strategic Plan for 2007-2009[10]: "Orient the CNC's actions and resources in accordance with the institution's priority actions by sector and market, within the framework of the available legal possibilities and taking into account the importance of the problems analysed according to the harm caused to consumers and the public interest aroused, as well as the relative position of the CNC and the potential impact of its actions in relation to other judicial or administrative institutions. In this regard, in its initial stage, the CNC will concentrate its attention on the fight against hard-core cartels and on monitoring liberalised sectors of great weight in the Spanish economy such as energy and telecommunications, the markets for sale-purchase of certain types of audiovisual contents, the markets for liberal professions services, and certain types of transport."

The CNC was about to conclude a report on intercity passenger transport by bus when, before the summer 2008, and following price increases in oil, road transporters of goods started asking the Government to fix minimum tariffs. They argued that certain companies were offering too low prices for their services or even selling below cost and that those practices should be banned and minimum prices should be set by the Government.

The CNC decided to present a report on the issue. It had already started working on the report when it received a request from the Ministry of Development to elaborate a report "on the fixing of minimum tariffs for the carriage of goods by road and its impact on competition by reference to the domestic and Community legislation", on grounds of article 25 of the Competition Act, which empowers the CNC with consultative functions. A day after the request, a Resolution of the Cabinet of Ministers was published which included the "[p]reparation of a specific Plan by the CNC to look at possible practices constituting unfair competition in the context of contracts for carriage by road with particular reference to possible situations of sales at a loss".

The CNC drew up the report and submitted it to the Ministry of Development. It was also published on the public website of the CNC[11].

In this case the Competition Agency's priorities coincided with the priorities of the Government at a specific moment in time due to a specific unforeseen and unforeseeable situation. The CNC was convinced of the importance of the sector and of the need to address some issues in the sector, but the specific unexpected situation rushed the action of the Agency, both because of its own conviction that a report was needed so that its voice could be heard, and because it was pushed by the Government to undertake the issue.

[10] In the most recent strategic plan, for 2010-2013, the CNC moved away from identifying priority sectors and instead plans to develop a methodology to identify priority issues through a number of criteria. Once these criteria are identified, these issues will be paid special attention by the CNC, be it in the context of enforcement (ex officio opening of cases) or in the context of advocacy functions (markets studies, regulatory reports, etc.).

[11] http://www.cncompetencia.es/Administracion/GestionDocumental/tabid/76/Default.aspx?EntryId=34754&Command=Core_Download&Method=attachment

3.6.3. Prioritising enforcement action in the energy sector - a case study by DG Competition

In the course of a 19-month-long sector inquiry into the energy sector, DG Competition's Energy and Environment Unit identified a number of potential antitrust infringement cases. One of these involved an alleged abuse of a dominant position by an energy company in the form of a refusal to supply.

Following discussions on the merits of the case within the Energy and Environment Unit, the case team, by way of a note, requested the Commissioner responsible for competition policy for consent to carry out unannounced inspections. Following formal agreement by the Commissioner, inspections were carried out in May 2006.

Following the examination of inspection materials and having assessed the replies to additional requests for information sent to companies, the case team, in January 2006, prepared an Initial Case Report setting out the preliminary assessment of the infringement, the proposed actions and the priority assessment of the case. The Initial Case Report was discussed with the Directorate responsible for Policy, the Chief Economist Team and the assistant to the Director General. The Initial Case Report was then submitted to and approved by the senior management meeting (consisting of the Director General, the Deputy Directors General, the Directors, the Chief Economist and the Assistants to the Director General).

Following approval by the Director General, the case team, by way of a note including the Initial Case Report and after having informally discussed with the Legal Service of the European Commission, requested the Commissioner to grant priority status to the case and to open formal proceedings. Following agreement by the Commissioner, formal proceedings were opened by the Commission in April 2007. The initiation of proceedings was made public by way of a press release.

The prioritisation was based on a positive balance of arguments for pursuing this case.

Arguments for doing the case included:

- the case related to the Commission's strategic policy choice to enforce competition in the energy sector;
- network foreclosure by vertically integrated energy companies has been identified as one of the main competition concerns in the energy sector inquiry and the case offered a significant precedent value in demonstrating how competition law applies to different types of network foreclosure behaviour;
- the case could further develop and clarify the legal concept of a refusal to deal;

- the case was of significant economic importance, as it concerned the second largest gas network in a large Member State of the EU, on which millions of customers depend;

- the case could show how competition law could be an effective tool to address the market problems stemming from the conduct concerned when regulation did not prevent some vertically integrated energy companies to abuse their dominance in the past.

Arguments against doing the case included:

- the case required a very complex investigation involving the collection of highly technical information;

- the case was resource-intensive;

- the case was legally ambitious as there had been no direct legal precedents for some aspects of the case.

3.6.4. Prioritising criminal accusations - a case study from the Japan Fair Trade Commission (JFTC)

On November 6, 1991, and additionally on December 19, 1991, the JFTC accused Mitsui Toatsu Chemicals, Inc. and seven other companies with price fixing on vinyl chloride stretch film for commercial use. The JFTC found that they had agreed to significantly raise prices twice within a short period.

Before the accusation, the JFTC published "Policy on Criminal Accusation Regarding Antimonopoly Violations" ("accusation policy") in June 1990. It was based on the idea that application of criminal punishment was indispensable for strengthening deterrence of violation of the Antimonopoly Act ("AMA") and the JFTC decided to change its previous policy of using administrative measures as main and basic enforcement tools and to actively accuse to seek criminal penalties.

This accusation policy stated cases as followings would be actively accused to seek criminal penalties.

> Malicious and serious cases which are considered to have wide spread influence on people's livings, out of those violations which substantially restrain competition in any particular field of trade such as price fixing, supply quantity restriction, market allocation, bid rigging, concerted refusal to deal and other violations.

Among violation cases involving those entrepreneurs or industries who are repeat offenders or those who do not abide by the elimination measures, those cases for which the administrative measures of the JFTC are not considered to fulfil the purpose of the AMA.

During the 43 years from the enactment of the AMA in 1947 to the announcement of the accusation policy in 1990, there were only six accusation cases. On the other hand, from the announcement of the accusation policy (June 1990) to the end of FY2008, the JFTC has brought 13 cases, which shows more active criminal accusations by the JFTC.

The case against Mitsui Toatsu Chemicals, Inc. and seven other companies was the first accusation case after the announcement of the 1990 accusation policy. The following facts were acknowledged in the decision[12] of the Tokyo High Court on May 21, 1993 and with these facts considered together, it was acknowledged by the court that the accusations were in line with the accusation policy and the JFTC had enough reasons to seek the accusations.

The vinyl chloride stretch film for commercial use in the case was widely used for wrapping various fresh foods at supermarkets, convenience stores as well as general grocery stores and was the product for daily living of the consumers. The market size is nationwide and its annual sales were more than 30 billion yen in fiscal year 1990. The price fixing was agreed by eight companies whose aggregated market share was as much as 98%. Therefore, the influence on people's living was not necessarily small.

The price fixing agreements in the case were the cartels with a strong nature of mutual restriction by thoroughly confirming each others' intent through well-thought-out and deliberate preparation and consultation for potential disputes on the agreements among participating companies.

It was fully understood that the price fixing agreements were in violation of the AMA and it was discussed how to respond to the investigation of the JFTC by such as disposing related documents.

The price fixing agreements were reached and implemented after the publication of the JFTC's accusation policy and they were implemented twice within only several months.

Many of the accused companies have the past experience of violating the AMA.

[12] Punishment by fines of 6 to 8 million yen against 8 accused companies and by imprisonment with work of 6 months to 1 year (with suspension of 2 years) against 15 accused individuals

3.6.5. Prioritising enforcement action in the cement industry – a case study by the Romanian Competition Council (RCC)

Seeing that the three cement producers active in the Romanian cement market simultaneously raised their prices, the Industry Directorate of Romanian Competition Council *(*RCC*)* conducted a preliminary analysis of the cement market with a view to assess whether, with regard to the structure of the market, there are competition concerns that could necessitate opening an investigation.

The factors which were taken into account in the pre-investigation phase in deciding to initiate a full-scale cartel investigation were

- an alleged hardcore violation of competition was presumed due to the significant and simultaneous increase of cement prices by the local cement producers operating on the specific market;

- the alleged infringement had an effect at national level, due to the particular spread of the plants owned by the 3 cement producers on the Romanian territory;

- the alleged infringement concerned an input (cement) for which there is high demand in a sector essential for the Romanian economy, i.e. the construction industry

In addition, in order to assess the alleged competition infringement in the right market context, the Industry Directorate also made an analysis of the following indicators:

- the concentration rate in the relevant market (the value of the HHI Index on the Romanian cement market was found to be very high, meaning that the alleged infringement occurred in a highly concentrated market);

- the presence and level of barriers to entry (due to the oligopolistic structure of the market a new undertaking would need important investments to start operating and as a result of Romania’s size and the sizeable distances from alternative sources, cement imports were relatively expensive, so imports were not a viable alternative).

As concerns the behaviour of the 3 undertakings, RCC found:

- possible structural links between the companies due to the fact that in the past one of the cement companies sold a cement plant to its competitor and in this way, after the completion of the transaction, each of all 3 cement producers owned three plants;

- that all three companies were members of a professional association that could have served as a setting for the conclusion of a collusive agreement.

Examining all of these factors together, the Industry Directorate established that the overall impact on competition of the alleged infringement would be high, if true, and so submitted to the Plenum of RCC a proposal to open formal proceedings. On the basis of this pre-investigative assessment of the overall impact on competition of the alleged infringement made by the Industry Directorate, RCC's Plenum adopted a decision to open a formal investigation.

Following the investigation, the RCC's Plenum adopted a decision establishing the participation in a price fixing cartel of the three cement producers on the Romanian cement market and sanctioned all three incumbents with fines amounting to approximately 30 million Euros.

3.6.6. Prioritising enforcement and advocacy projects in the oil industry – a case study by the Federal Antimonopoly Service of Russia (FAS)

When deciding whether to pursue a case or a series of enforcement and/or competition advocacy efforts in a particular sector FAS relies on several criteria. The most important criteria include the volume of commerce affected by a suspected anticompetitive practice, the influence of the suspected violation on the national economy, and the recurrence of similar violations at regional and national level.

For example, ensuring competition in the oil industry is a permanent priority because of its significance for the national economy, as well as the importance of maintaining a competitive level of prices for fuel, given the long surface transportation routes and cold winters in Russia.

Following periodic monitoring by the analytical department of FAS, it was revealed that the oil industry is highly concentrated and there are signs of collusion among the major suppliers, and price discrimination among the petrol stations belonging to the major suppliers and the independent ones.

After a series of consultations with external stakeholders who are normally invited to participate in the FAS Consultative Council addressing issues of the relevant sector of economy, and after collecting opinions of the members of the Council, the FAS management (one of the deputies of the agency's chairman) made a decision to conduct a series of compliance checks of activities of the major players in the oil industry to assess compliance with the national competition law and to identify competition advocacy actions to introduce pro-competitive amendments in sector regulation and to secure voluntary compliance of business with the competition law.

In particular, FAS addressed and continues to address the competition problems in the sector by bringing cases against the major producers at national and regional levels for the infringement of Articles 10 and 11 of the Federal Law on Protection of Competition prohibiting unilateral and concerted competition law violations, respectively. Furthermore, FAS promotes changes in the sector regulations, in particular seeking to introduce a rule prescribing that all the trade in oil products in Russia should be made via a commodity exchange.

3.6.7. Prioritising enforcement action – a case study by UK Office of Fair Trading (OFT)

A manufacturer in the UK was alleged to have abused its dominant position in a market or markets by taking action to prevent effective competition to its product. In exercising its discretion over whether or not to pursue the case, the OFT applied a published set of principles that it uses to make prioritisation decisions (the Prioritisation Principles).[13]

The OFT has developed and applies the Prioritisation Principles in the context of its mission to make markets work well for consumers.[14] The OFT generally prioritises its work according to the following principles:

> Impact: What would be the likely direct effect on consumer welfare in the market or sector where the intervention takes place? What would be the likely indirect effect on consumer welfare? What would be the expected additional economic impact on efficiency/productivity?
>
> Strategic significance: Does the work fit with the OFT's strategy as set out in the current annual plan and/or with other OFT objectives? Is the OFT best placed to act? What would be the impact of the new work on the balance of the OFT's current portfolio of work?
>
> Risks: What is the likelihood of a successful outcome?
>
> Resources: What are the resource implications of doing the work?[15]

Where appropriate, the OFT may also take account of other relevant factors. Account is also taken of whether the OFT has a legal duty to act once certain circumstances have materialised. [16]

The factors that the OFT took into account in its prioritisation assessment of this specific case included the following:

---

[13] OFT Prioritisation Principles (OFT 953), October 2008, available at: www.oft.gov.uk/advice_and_resources/publications/corporate/general/oft953.

[14] This is explained further in part 1 of the Prioritisation Principles.

[15] These principles are explained further in parts 3 and 4 of the Prioritisation Principles.

[16] Part 2 of the Prioritisation Principles explains in more detail how the OFT applies these principles.

Impact: Similar practices in the sector in question were understood to be long-standing, and give rise to widely recognised concern. As a result action would have a significant deterrent effect, discouraging others from engaging in similar types of conduct in the future, as well as bringing about behavioural changes in relation to current conduct in the sector. Furthermore, such practices potentially involved a high cost to consumers, and a significant impact on potential innovation and entry to the market. They could also create costs to the public purse.

Strategic significance: The case concerned an area of high international interest, where the case law is being developed with related cases in a number of other jurisdictions. As such, the case presented an opportunity to contribute to cutting-edge antitrust assessment, and assist international convergence and impact. In considering whether the OFT was best placed to act, the OFT took account of the fact that private actions were possible. However, if settled in private, these would fail to provide any precedent, or realise much of the deterrence effect that could be established by an OFT decision, and would undermine the potential for other follow-on damages claims.

Risks: The allegations related to an area characterised by relatively little case law relating to the specific practice, though this was balanced against a persuasive theory of harm, and strong arguments based on established legal principles.

Resources: Resources were available to take on a significant unilateral conduct case and existing knowledge of the sector could be utilised and expanded. As an innovative unilateral conduct case, it also presented an opportunity to develop the knowledge and capabilities of OFT staff which would be valuable in taking forward other cases in this and other sectors.

As in other cases, all relevant principles were balanced in the round, and the OFT also considered the timing and resource requirements of its work to ensure that its duties were appropriately met within the confines of the resources available to the OFT.

ANNEX 1: A summary of academic and management consultancy literature on strategic planning

Introduction

The purpose of this annex is to summarise some of the findings of academic and management consultancy literature on strategic planning, primarily in the private sector (hereinafter, ***the literature***). This annex is provided as a background document to facilitate further reflections in the area of strategic planning and prioritisation and is without prejudice to the good practices identified in the rest of the chapter.

The growing importance of strategic planning

Effective organisations contribute to sustainable socio-economic development and by extension, the effectiveness of the State. The process of globalisation has increased pressures on governments and organisations to be more responsive to the demands of their internal and external stakeholders for good governance, transparency, effectiveness, and demonstration of tangible results. In other words, people want governments – and organisations - that are agile.[17]

In this scenario, it may be possible to manage an organisation without a strategy – but this is not a long-term solution. A well-thought out strategy provides a more likely path to "success."

There is global consensus on this thinking. For 12 years, Bain & Company, a management consulting firm, has asked companies how many management tools they use and how satisfied they are with them.[18] Their findings, summarised in the figure, show that strategic planning has taken centre stage.

What does the strategic planning process entail according to the literature?

- ☐ What are the **MAJOR FORCES** that which will shape the organisation over the next few years, *i.e.*, changes and challenges, perhaps brought about by an increase in mergers and acquisitions?
- ☐ What are the most significant **COMPONENTS** of your organisation's **STRATEGY**, *i.e.*, the short-list of things it must do extremely well to achieve desired results?
- ☐ What are the most important **CAPABILITIES and SKILLS** your organisation needs to acquire and/or develop to successfully implement its mission?

[17] See "*Improving Performance In The Public Sector*," an A.T. Kearney study on Agile Government, available at http://www.atkearney.com/images/global/pdf/Agile_Government_S.pdf. Their finding: the most agile agencies focus on customer service, organisational change capabilities and leadership.

[18] The Economist, *The Cart Pulling the Horse?*, 7 April 2005; text of the article can be viewed at www.ricardofabricio.com/images/Favourite_management_tools.pdf (link checked on 9 December 2009)

- [ ] Which **PEOPLE PRACTICES** are most important in helping acquire and/or develop these capabilities/skills, *i.e.*, training and development, HR policies, incentives, etc.?

The Fundamentals: Mission, Vision, and Strategy

According to the literature, it is important to start from the basics and formally articulate the organisation's *mission*, statement of *values*, the *vision*, and the *strategy* formulation process. These elements form a unifying and coherent link underpinning basic management.

Mission

"The first question is always, what's the mission? Ask yourself what you'd like to achieve – not day to day, but your overarching goal," is the advice offered by Rudy Guiliani.[19] A mission statement defines the core purpose of the organisation – why it exists.

Regardless of their fields of endeavour, people are motivated to do something of value. David Packard, of Hewlett Packard, held this belief deeply and made it the cornerstone of his management philosophy and defined the essence of a mission statement in a 1960 speech to employees, which is as relevant today:

> A group of people get together and exist as an institution that we call a company so they are able to accomplish something collectively that they could not accomplish separately – they make a contribution to society … do something which is of value.

Perhaps the most fundamental principle is that a mission statement should be easily understood, remembered, and communicated. In his book, *Winning*,[20] Jack Welch says that most mission statements are dull, uninspired, and even unhelpful. Most groups write their mission statement to describe only what they are in business to do. While this is not wrong *per se*, it may create mission statements that all look the same and are not really valuable in terms of appealing to people's emotions.

Welch suggests that a good mission statement not only describes what the company is in business to do, but how they are going to succeed at it.

> At the end of the day, effective mission statements balance the possible and the impossible. They give people a clear sense of the direction to profitability and the inspiration to feel they are part of something big and important.[21]

As an example, Ford Europe's mission statement is "we are a global, diverse family with a proud heritage, passionately committed to providing outstanding products and services." According to Welch, while noble, what it lacks is the *how*. On the other hand, Toyota's mission statement is "To attract and attain customers with high-valued products and services and the most satisfying ownership experience in America."

[19] Rudolph Guiliani, *Leadership*, Hyperion, 2002

[20] Jack and Suzy Welch, "*Winning*," HarperCollins, 2005

[21] Source: The Welch Way, the Official Website of Jack and Suzy Welch, http://www.welchway.com/Principles/Mission-and-Values.aspx

In Welch's view, there is another business principle at hand here: *Ambiguity is the enemy of progress.* Ford wants to provide outstanding products and services, but there is no formula or direction given in their mission statement as to how they plan to do this. Toyota states it will succeed by providing the best customer experience and dealer support. Obviously, Toyota addresses the "what" and "how" of an effective mission statement, in Welch's view.

What makes a good mission statement according to the literature? Some factors are:

- Clear and simple. Peter Drucker said that one of the greatest mistakes made by organisations is to turn their missions into "hero sandwiches of good intentions."[22] The metaphor implies that organisations tend to pile on layer upon layer of societal good they will accomplish. Though these intentions are admirable, they are not practical. Organisations cannot be all things to all people.
- Not too simple. The converse of the point made above. It is also unwise to write a mission statement that is overly restrictive and leaves little room for the organisation to manoeuvre and adapt to changing circumstances.
- Inspire change. While the mission does not change, it should be a catalyst for change in the organisation. Since the mission can never be fully realised, it should propel the organization forward stimulating change and growth.
- Long-term in nature. While strategies and plans will change to adapt to changing circumstances, the mission statement must remain the bedrock, serving as the pivotal point around which all future decisions are based. The mission of the Internal Revenue Service of the United States is to provide America's taxpayers with top-quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all. This mission will be valid ten, even a hundred years, from today.

Vision

According to the literature, a *mission* statement determines the core purpose of an organisation; *values* are considered essential for achieving that purpose. The **vision** statement defines where the organisation wants to go in the future. The vision, thus, is the transformation from the mission and values to the dynamic world of strategy.

A vision statement is a word picture of what the organisation intends to become in the future. It should engender an emotional commitment from the employees. The vision also defines the organisation's purpose, but does so in terms of the organisation's values rather than bottom line measures. The vision statement communicates both the purpose and values of the organisation. For employees, it gives direction about how they are expected to behave and inspires them to give their best. Shared with stakeholders, it shapes their understanding of why they should work with the organisation.

John Kotter[23] identifies three important purposes served by vision statements during periods of change:

1. By clarifying the general direction for change, the vision simplifies many detailed decisions;
2. The vision motivates people to steps in the right direction, even if personally painful;
3. Without a clear compelling vision, employees can lack direction and will not be able to implement any strategy. Actions of many people are co-ordinated quickly and efficiently. For

[22] Peter Drucker, "*Managing the Non-Profit Organisation*," 1990

[23] John Kotter, *Leading Change*, Harvard Business Press, 1996

example, in the 1990s, Starbucks Coffee had as its vision statement "2,000 [stores] by [the year] 2000."

Organisational learning expert Peter Senge said "vision translates into truly meaningful intended results – and guides the allocation of time, energy, and resources."[24]

Vision is perhaps the most critical component in the process of strategic planning because it acts as a conduit between one's reason for being, as reflected in the mission, the values representative of one's culture, and the strategy one will execute to reach one's desired future state. Without a clear and compelling vision to guide the actions of all employees, the likelihood of having a workforce that lacks direction and being unable to benefit from any strategy put into place is high.

Benefits of a Vision Statement

Provides guidance: A clear and succinct vision statement provides all stakeholders the opportunity to see how they fit into the organisation's "big picture." The vision supplies clear and compelling guidance of what the future looks like and what is necessary for success.
Creates positive tension: While realistic and feasible, the vision must stimulate people to reach new heights of collective performance. This creates a constructive tension between "What is" and "What could be" if they work to achieve the vision.
Complements leadership. A clear and inspirational vision can empower people to make decision in accordance with the bet intention of the organisation in mind. While leader cannot, in a practical sense, meet and discuss organisational goals with every stakeholder, the vision can portray the organisation's ultimate aims and guide the actions of its people accordingly.
Forces the discussion of trade-offs: Even the clearest vision will be open to some interpretation depending on how and where one fits into the overall organisational structure. The vision should be focused enough to guide high-level decision making but flexible enough to encouraging active dialog and individual initiative. Achieving the vision should facilitate co-operation and collaboration, not promote a "silo" mentality.
Appeals to a variety of senses: A well-crafted vision taps into the entire human experience - one can literally see, feel and hear the future. How effective would Dr. Martin Luther King's "I have a Dream" speech have been if he began by saying, "I have a business strategy?" The best visions resonate within us and appeal to all that is human.

Strategy

The effort spent in writing the mission and vision statements as well as in articulating the statement of values will have been wasted if not accompanied by a strategy. Statements of mission, values, and vision deal more with the "who" and "why" but it is the strategy that deals with the "how."

Strategy is truly everywhere but a consensus of the definition of strategy is hard to come by. In his 1973 book, *Management Tasks and Responsibilities*,[25] Peter Drucker found the same problem. He listed four misconceptions arising from the term "strategic planning." He said:

[24] Peter Senge, "The Practice of Innovation," *Leader to Leader*, 9 (Summer 1998) pp 16-22.

[25] Peter Drucker, "Management: Tasks, Responsibilities, Practices," Harper Paperbacks, 1993.

John Kay on Strategy Buzzwords

No self-respecting business today would be without a strategy. But what is a strategy? The modern student is often confused by the many different uses of the words strategy and strategic.

Probably the commonest sense in which the word strategy is used today is as a synonym for expensive.

You can always be sure that this meaning is intended when the term strategy is used in a context which involves advice.

Here are some examples of **strategy meaning costly.** "We are strategy consultants," "Can we help you with your strategy?" "I advise company x on its strategy." These can be interpreted respectively as "our fees are very high," "we hope to send you a large bill," and "company x pays me a lot of money."

Another useful term is **"strategy weekend,"** which means a lot of people eating good food and fine wine at a country house hotel.

"Strategy means expensive" is also the key to understanding phrases like "strategic investment" and "strategic acquisition." This is a "strategic investment" should be translated as "we are going to lose a lot of money on this project." "This is a strategic acquisition" means "we are paying more for this company than it is worth."

The word strategy is also often used to mean **important.** You can recognise this in the phrase "I'm in strategy," which means "I have a large office, large salary, and the ear of the chief executive."

"An interesting proposal, but does it have strategic significance?" can be translated as "I am not going to waste my time with things like this." And when the accountants, the human resources department, and the public relations people explain how they need to be involved in the firm's strategic planning, what they are saying is that they don't receive enough attention.

This interpretation of the word strategy has crept into everyday usage. When I picked up a leaflet the other day which described an English language gospel ministry as a truly strategic enterprise, I think what they meant was that they were engaged in an important activity.

"Strategy means important" is closely related, but not identical to, another meaning of strategy. In this, strategy is what the chief executive does. Thus, "Mr. A deals with the strategic issues while Ms. B is concerned with operations" means "Mr. A has a much larger salary and many more share options than Ms. B." Importance is, of course, a relative concept, specific to the environment of the firm. What is important is, by definition, what the important people do. Running the business is not necessarily important.

There is more **vacuity** about strategy than about any other topic in business today. (I wrote that down but I'm not sure I believe it — there is a lot of vacuity about.) But there is a real issue and a real subject of strategy for the corporation.

And because strategy is based on distinctive capabilities, there are no generic strategies.

There really are many interpretations of strategy. **Strategy is what is right for you**. [Source: What is Strategy, John Kay, Financial Times, 5 August 1998

1. Strategic planning is not a box of tricks, a bundle of techniques;
2. Strategic planning is not forecasting;
3. Strategic planning does not deal with future decisions;
4. Strategic planning is not an attempt to eliminate risk.

As opposed to "a bundle of techniques," he described strategy as "analytical thinking and commitment of resources to action." He described attempts at predicting the future as "foolish," because it is of little use to people who seek to "innovate and change the ways in which people work and live."

For Drucker, strategy was about how to make decisions today about a future that is inherently uncertain. Most importantly, he recognised that strategy cannot eliminate risks. Because one cannot predict the future, risks inevitably must be taken. The purpose of strategy is to not to eliminate risk, but in Drucker's words, to take the "right risks."

Drucker's definition of "strategic planning" is what we simply call the science of strategy:

> "Strategic planning is the continuous process of making present entrepreneurial (risk-taking) decisions systematically and with the greatest knowledge of their futurity; organizing systematically the efforts needed to carry out these decisions; and measuring the results of these decisions against the expectations through organized, systematic feedback."
> "Some of the most important questions in strategic planning can be phrased only in terms such as 'larger' or 'smaller,' sooner' or 'later,' and some equally important areas cannot be quantified at all. They can be handled only as restraints, or parameters, but not as factors in the equation itself."

In other words, it is the science of making good decisions about the future.
In his analysis, Drucker said that strategic planning "starts with the <u>mission</u> of the organisation." After that, strategy must consider the climate and what is changing. He described decision-making as "a time machine which synchronizes into the present a great number of divergent time spans." His focus on decision-making makes it clear that the Leader (the maker of decisions) is an important element.

Drucker viewed decision-making as a process of innovation. The key is what one chooses to do differently. Drucker described the essential questions as, "What new and different things do we have to do, and when?" And that it was not only about what one decides on doing but about what one fails to decide to do.

> "It is meaningless to speak of short-range and long-range plans. There are plans that lead to action today - and they are true plans, true strategic decisions. And there are plans that talk about action tomorrow - they are dreams, if not pretexts for nonthinking, nonplanning, nondoing."

In the book, *Strategy Safari*,[26] the authors give five different uses of the word strategy:

1. A plan as a consciously intended course of action;
2. A ploy as a specific manoeuvre intended to outwit an opponent or competitors;
3. A pattern representing a stream of actions;
4. A position as a means of locating an organisation in an environment;
5. A perspective as an integrated way of perceiving the world.

One of the authors of *Strategy Safari*, Henry Mintzberg, a strategy expert, said: "My research and that of many others demonstrates that strategy making is an immensely complex process, which involves the most sophisticated, subtle, and, at times, subconscious elements of human thinking."[27] It thus seems that strategy is a flexible term that can have a different meaning at a different point in time.
Strategy Safari makes the point that "organisations don't stand still; they are dynamic entities constantly evolving. Unlike buildings, strategies do not get finished."[28] The benefit of strategic planning will be that organisations will get a chance to look at themselves comprehensively in light of new information and the changing environment.

There are many books, guidelines, courses, and schools of thoughts on developing strategy. One can never be wanting for the latest thinking on this subject. Some of this can be complicated but it is helpful to remember that the best strategies are built incrementally over time and are based on efforts to engender institutional learning and by allocating resources appropriately. Here's Jack

Welch on the strategy development process:

> Lots of people – most notably academics and consultants – tend to talk about strategy as if it's some kind of high-brain scientific methodology.
> We come from a different school of thought. That strategy is a living, breathing, totally dynamic game. It's fun – and fast. And it's alive. Forget the arduous number crunching and data grinding that "gurus" say you have to go through to get strategy right. Forget the scenario planning, yearlong studies, and 100-plus page reports. They're time consuming and expensive, and you just don't need them. In real life, strategy is very straightforward. You pick a general direction and implement like hell.
> First, come up with a big "a-ha" for your business – a smart, realistic, relatively fast way to gain sustainable competitive advantage. We don't know any better way to come up with this

[26] Mintzberg, Lampel, Ahlstrand, *Strategy Safari: A Guided Tour Through The Wilds of Strategic Management*, 1998.

[27] Henry Mintzberg, "The Rise and Fall of Strategic Planning," Harvard Business Review, Jan-Feb 1994, pp 107-114.

[28] Supra 19.

> big a-ha than by answering a set of questions we call The Five Slides,[29] an assessment process that should take a group of informed people somewhere between a day and a month.
>
> Second, put the right people in the right jobs to drive the big a-ha forward. To drive your big a-ha forward, you need to match certain kinds of people with commodity businesses and a different type entirely with high value-add businesses. We don't like to pigeonhole, but the facts are, you get a lot more bang for your buck when strategy and skills fit.
>
> Third, relentlessly seek out the best practices to achieve your big a-ha, whether inside or out, adapt them, and continuously improve them. Strategy is unleashed when you have a learning organisation, where people thirst to do everything better every day. They draw on best practices from anywhere, and push them to ever-higher levels of effectiveness. You can have the best big a-ha in the world, but without this learning culture in place, any sustainable competitive advantage will not last.
>
> Strategy, then, is simply finding the big a-ha and setting a broad direction, putting the right people behind it, and then executing with an unyielding emphasis on continuous improvement.[30]

A well-conceived and well-executed strategy defines the specific set of priorities that organisations will allocate resources towards. Rather than focus on routine everyday operations, strategy will focus everybody's efforts towards achieving what is truly important for the organisation. Decision-making can be improved is all actions are viewed from the perspective of the organisation's strategy – *is this what we should be doing?* – as opposed to perspective of urgent - *this needs to be done!* Performance is enhanced as a strategic focus ensures that people work towards achieving overall goals

Strategy execution comes down to an effort to match organisational strengths with requirements for success. There is, however, a gap between strategy formulation and execution and there is sufficient literature and evidence that organisations with good strategies often do not reap the benefits. In *Executing Your Strategy*,[31] the authors make an attempt to explain why failures of strategic execution happen. The authors explain how executives can strengthen the odds that their organisation will transform strategies into action that generates the desired results. The authors identify six imperatives – a crucial roadmap – that leaders must continually align to ensure that they are defining the right strategic projects and implementing those projects right:

1. **Ideation**—how to clarify and communicate the company's identity (its inherent value), purpose (its reason for being in business), and long-range intention (what it will create in five, ten, twenty, or more years into the future).
2. **Vision—**tactics for translating the identity, purpose, and long-range intention into clear goals and metrics that enable leaders to determine whether goals have been achieved.
3. **Nature**—a framework for aligning the organisation's strategy, culture (the values it cherishes and the kinds of people, activities, and achievements it celebrates), and structure (including decision authority, reporting relationships, information flows, and performance evaluation and incentive systems).
4. **Engagement—**ways to manage the company's portfolio of strategic initiatives dynamically, so that the right mix of projects is continuously redefined to execute its strategy in the face of rapidly evolving markets and technologies; and so that strategic projects receive continuous

[29] See http://www.welchway.com/getdoc/16573786-5e29-4de0-885e-7f978bdeae10/Questions-on-Strategy.aspx

[30] Supra Hata: Başvuru kaynağı bulunamadı, http://www.welchway.com/Management/Strategy.aspx

[31] Mark Morgan, Raymond E. Levitt, and William Malek, "*Executing Your Strategy: How to Break It Down and Get It Done*," Harvard Business School Press, 2008. For more, see "*Business Strategy: Execution is the Key*" by Lawrence G. Hrebiniak, available at http://www.whartonsp.com/articles/article.aspx?p=360437&seqNum=5

reviews for on-going relevance, and adequate resources (time, money, skills, equipment, and attention) to succeed.

5. **Synthesis**—methods for monitoring and aligning project work to ensure that all scarce resources —especially scarce human resources — are being dynamically deployed to maximise strategic benefits.
6. **Transition**—how to move the results of strategic projects into the mainstream of the company's operations, so the organisation can rapidly reap the projects' benefits.

Of Interest: Performance Evaluation and the Baldrige National Quality Award

The Baldrige National Quality Award was signed into American Law in 1987 as an attempt to improve the competitiveness of US organisations in facing increasing global challenges. The Baldrige Award is given by the President of the United States to businesses—manufacturing and service, small and large—and to education, health care and nonprofit organisations that apply and are judged to be outstanding in seven areas: leadership; strategic planning; customer and market focus; measurement, analysis, and knowledge management; workforce focus; process management; and results.

The criteria for the Baldrige Award are designed to help organisations enhance their competitiveness by focusing on two goals: delivering ever improving value to customers and improving overall organisational performance. While extensive description of the Award is beyond the scope of this document, some of the questions used in the evaluation process are helpful in illuminating the importance of what has been written above.[32]

Section 1.1 (a) Vision, Values, and Mission

1. How do SENIOR LEADERS set organisational VISION and VALUES? How do SENIOR LEADERS DEPLOY your organisation's VISION and VALUES through your LEADERSHIP SYSTEM, to the WORKFORCE, to KEY suppliers and PARTNERS and to CUSTOMERS and other STAKEHOLDERS, as appropriate? How do SENIOR LEADERS' personal actions reflect a commitment to the organisation's VALUES?
2. How do SENIOR LEADERS personally promote an organisational environment that fosters, requires, and results in legal and ETHICAL BEHAVIOR?
3. How do SENIOR LEADERS create a SUSTAINABLE organisation? How do they create an environment for organisational PERFORMANCE improvement, the accomplishment of your MISSION and STRATEGIC OBJECTIVES, INNOVATION, competitive or role-model PERFORMANCE leadership, and organisational agility? How do they create an environment for organisational and WORKFORCE LEARNING? How do they develop and enhance their personal leadership skills? How do they participate in organisational LEARNING, in succession planning, and in the development of future organisational leaders?

Section 2.1 Strategy Development

a. Strategy Development PROCESS
    1. How does your organisation conduct its strategic planning? What are the KEY PROCESS steps? Who are the KEY participants? How does your PROCESS identify potential blind spots? How do you determine your CORE COMPETENCIES, STRATEGIC CHALLENGES, and STRATEGIC ADVANTAGES (identified in your Organisational Profile)? What are your short- and longer-term planning time horizons? How are these time horizons set? How does your strategic planning PROCESS address these time horizons?
    2. How do you ensure that strategic planning addresses the KEY factors listed below? How do you collect and analyze relevant data and information pertaining to these factors as part of your strategic planning PROCESS?

[32] Details on the Criteria for Performance Evaluation can be found at http://www.baldrige.nist.gov/PDF_files/2009_2010_Business_Nonprofit_Criteria.pdf

- your organisation's strengths, weaknesses, opportunities, and threats
- early indications of major shifts in technology, markets, products, CUSTOMER preferences, competition, or the regulatory environment.
- long-term organisational SUSTAINABILITY, including needed CORE COMPETENCES.
- your ability to execute the strategic plan

b. STRATEGIC OBJECTIVES

1. What are your KEY STRATEGIC OBJECTIVES and your timetable for accomplishing them? What are your most important GOALS for these STRATEGIC OBJECTIVES?
2. How do your STRATEGIC OBJECTIVES address your STRATEGIC CHALLENGES and STRATEGIC ADVANTAGES? How do your STRATEGIC OBJECTIVES address your opportunities for INNOVATION in products, operations, and your business model? How do your STRATEGIC OBJECTIVES address current and future CORE COMPETENCIES? How do you ensure that your STRATEGIC OBJECTIVES balance short- and longer-term challenges and opportunities? How do you ensure that your STRATEGIC OBJECTIVES consider and balance the needs of all KEY STAKEHOLDERS?

Summary

Based on the literature, organisations need to articulate their statement of purpose and their destination. These help develop an ineffable clarity that can be communicated effectively inside and outside.

The strategic planning process, regularly undertaken, will allow frequent snapshots to be taken of the organisation and its environment. The assessment of capacity and environmental dynamics will help develop clarity and highlight the change in both internal and external environments.

The human factor is of critical importance. Earlier in this write-up, we talked about which people practices will be most important in helping acquire and/or develop capabilities/skills for organisations to deliver on their missions. It is helpful to touch upon this briefly.

To deliver on their mandates, organisations need to **[i]** spend a great deal of time and effort in selecting people properly in the first place; **[ii]** focus performance by legislating outcomes; **[iii]** focus training time and money on educating each person about their strengths and figuring out ways to build on these strengths; and **[iv]** devise ways to help each person grow in their career without necessarily promoting them up the ladder and out of their area of strength.

While this may ostensibly appear to be a human resource management issue, this is also a broader leadership challenge that organisations need to face and address. And leadership in this context means the ability of:

- **DIAGNOSING** the organisation – which capabilities exist and which need to be developed
- Focusing on **INSTILLING CAPABILITIES** throughout the organisation
- Investing in activities that **ENGENDER CAPABILITIES**
- Achieving **RESULTS** by **LEVERAGING CAPABILITIES** that contribute to the business focus and the customer value proposition
- Sharing **KNOWLEDGE**
- Providing **CLARITY** and **DIRECTION**

ANNEX 2: Good practices relating to strategic planning and prioritisation

The following list reflects key practices common to many of the competition agencies. This list does not purport to present all of the possible practices, nor does it necessarily recommend these practices over others, as such a choice will depend on the circumstances particular to any given situation. The list is meant to provide a concise summary of common and widely reported practices in the area of strategic planning and prioritisation.

I. Strategic planning

It is good practice:

1. to strategically plan the activities of an agency.

2. to have a mission statement that is clearly articulated, reflects the agency's legislative mandate, focuses on outcomes, and is consistent with the agency's resources.

3. to define strategic objectives that flow logically from the mission statement and identify goals that are to be achieved within a realistic time frame.

4. for an agency to consider how it will assess its progress towards reaching its strategic objectives.

5. in formulating a strategic plan, to consider constraints (e.g. legal, institutional, political, resource) that may impact the agency's selection of appropriate objectives.

6. if leadership sets the strategic objectives in consultation with management and staff.

7. to think about the duration of a strategic plan and how frequently the strategic planning exercise should take place.

8. for the leadership to communicate the strategy to management and staff.

9. to consider communicating the agency's strategy or key elements thereof externally.

10. to implement the strategy.

11. to evaluate the strategic plan on a regular basis.

II. Prioritisation

It is good practice:

1. to prioritise projects and to give careful consideration to the criteria for doing so.

2. to review periodically the priority status of projects.

3. to communicate priorities and, where possible, the factors that are considered in determining priorities, to management and staff.