



Effective Enforcement and Quality of Decision-making

Agency Heads Roundtable

Tuesday, March 27, 2012

Washington, DC

Agenda

9:15-9:45 Registration and coffee

10:00-10:15 Opening Remarks, Jon Leibowitz, Chairman, US Federal Trade Commission

10:15-12:15 Morning Session: Mechanism for Effective Enforcement

Andreas Mundt, President, Bundeskartellamt (Session Chair)

- We have various tools at our disposal to obtain information we need to determine whether an infringement has been committed. What are the benefits in using the legal tools available to us? How do the tools influence our decision-making process? What additional or different tools would we like to have, and why?
- How do we take forward only sound cases? What are our internal checks and balances for review? How do we strike a balance between efficient and lean procedures and increasingly complex legal and economic analyses / massive amounts of documents and data?
- How do we ensure a cohesive approach between our enforcement work and policy units? What are our mechanisms for internal cooperation?

12:30-1:45 Buffet lunch at the FTC conference center

Lunch talk "Agency Branding" by Professor William Kovacic, George Washington University Law School

2:00-4:00 Afternoon Session: Building Confidence in Decision-making

John Fingleton, CEO, UK Office of the Fair Trading (Chair)

- Evidence: How do we as agency heads ensure that the evidence on which decisions are based is as robust as possible? What mechanisms do we rely on for that assurance (e.g., meetings with parties at key stages in the investigations, oral hearings, third party testing)? Is it the same for all cases (or is it risk-based or different depending on the particular decision)?
- Judgment: Where in the agency is judgment exercised and how is it influenced? How do we ensure this is done in a fair and transparent way? Are our decision-making processes known to the outside world? How do we avoid confirmation bias?
- Transparency: How transparent are we about the process of decision-making? How visible externally (to parties, to courts) are the assurance mechanisms? How do we avoid the perception of confirmation bias? How do we balance the protection of confidential information with transparency, for example when announcing the fact of an investigation: how early should we go public?

4:00-4:30 Closing Remarks, Sharis Pozen, Assistant Attorney General, Antitrust Division

Notes to Participants

- *Participants should use the roundtable to discuss issues that we would not discuss in public events. The Chatham House Rule will apply to all discussions.*
- *For both the morning and afternoon sessions, the focus should not be on describing the details of our systems but to focus on:*
 - *Areas of concern,*
 - *Changes that we have made and whether they have made a difference, and*
 - *Changes we would like to make, as well as trade-offs and principal restrictions or barriers to making these changes.*