



**International Competition Network**

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**Advocacy Working Group**

**Model Advocacy Provisions Subgroup**

# Advocacy Provisions

Report prepared by the Model Advocacy  
Provisions Subgroup

June 2003

## **Introduction**

The Model Advocacy Provisions Subgroup was formed in order to identify and create models for advocacy provisions and to recommend best practices in this field. The purpose of the models to be created is to help countries that wish to adopt advocacy provisions find the provisions that fit their systems and needs, and to help them draw lessons from the experience of other countries.

It became clear to the subgroup members right from the start, that framing advocacy provisions appropriate for all countries is a complex undertaking. In framing beneficial advocacy provisions one must consider the constitutional configuration of the specific country, the position of the competition authority in the constitutional framework, the competition culture and tradition in the specific country, and other relevant considerations. All these vary from country to country.

Moreover, as we have learned in the process of the subgroup work, there is no necessary connection between the amount or effectiveness of advocacy work that is being done by the competition authority, and the advocacy provisions adopted in that country. Some competition authorities have reported conducting much advocacy work without using any advocacy provision. This might be because of a well-established competition tradition or because of the good reputation of the relevant competition authority. Good examples of this are Germany and the Netherlands. On the other hand, the lack of an express provision may inhibit advocacy in other countries.

As a result of the complexity in reaching common ground for all countries, the subgroup decided to start its work by collecting as many advocacy provisions as possible. The first stage was, therefore, to send a short questionnaire to ICN members regarding advocacy provisions in their countries and about any experience they might have in implementing such provisions. The questionnaire asked not only for formal provisions established in competition and other laws, but also for informal provisions, recognizing that competition advocacy is done by virtue of provisions of different degrees of institutionalization. The scope of the questionnaire was designed to achieve a descriptive overview of the advocacy provisions that ICN members have in their countries.

30 members of the ICN responded to the questionnaire, sharing with us their advocacy provisions and their experience from implementing them. We take this opportunity to thank all the countries that took the effort to answer our questionnaire. The variety of responses helped the subgroup attain a broad view of the different ways to handle the issue. After receiving such a variety of responses from different countries, it was decided by the subgroup

that it would be more beneficial to present the different advocacy provisions that are used by different countries rather than create one recommended model.

From the responses to the questionnaire it can be inferred that in some countries the advocacy provisions are not included in the competition law itself but are to be found in other sectorial laws. Good examples of this are the provisions categorized as “**Sector advocacy provision articles**”, many of which are found outside competition law. In addition, we have discerned that the institutional setup has important influence on how advocacy efforts are conducted. For example, in places where the competition authority is integrated in the executive structure in some manner, the authority’s opportunity to comment on legal drafts or on regulatory proceedings is much broader.

The answers to the questionnaire were processed by the subgroup with the aim of categorizing them in different sections.

The competition advocacy provisions that were included in the contributions can be classified in alternative manners:

A broad distinction can be made between general provisions and more specific provisions. Several jurisdictions have general advocacy provisions that may empower the competition authority with important advocacy faculties, but these powers are stated in general terms. Another example of general provisions exist in some sector laws that emphasize the importance of competition, but do not assign a specific role to the competition authority. On the other hand, we found advocacy provisions that were more specific, establishing a more precise role for the competition authority in diverse procedures, and addressing issues that could be crucial for maintaining and promoting competition.

Another relevant distinction is, as mentioned above, between advocacy provisions in competition laws and regulations, in sector laws, and in other laws, e.g., in foreign trade laws.

A useful criterion for categorizing advocacy provisions is by the relationships between the competition authority and 1) the various government agencies, 2) the different administrative levels of the government, and 3) other economic agents, for instance, trade organizations and the public. After analyzing the contributions, we decided to classify the provisions into the following categories:

1. *The relationship between the legislative authority and the legislation process and the competition authority*
2. *The relationship between the executive authority and the competition authority*
3. *The relationship between the judicial authority and the competition authority*

4. *Sector advocacy provision articles*
5. *The relationship between trade organizations and the competition authority*
6. *The relationship between the public and the competition authority, and miscellaneous issues*

Even though these categories are broad and can be divided into subsections, we believe that they are the basis for normative advocacy provisions models.

We suggest the categorization according to the institution with which the competition authority is interacting, because experience has shown that this division is not purely formal, but has material aspects to it. For example, the interaction of the competition authority with the legislative authority usually concerns the legislative procedure, and deals with the ability of the competition authority to influence the content of the legislation.

Three additional remarks must be made regarding the different categories:

First, we have frequently found that advocacy provisions that were included in the contributions fit more than one category. In such cases we have put the provisions in both categories. This happened mostly regarding the competition authority involvement in legislation. In many countries the executive authority (the government) initiates most of the legislation. Hence, the competition authority can influence the legislation procedure at the stage in which it is crystallized in the various governmental institutions, or at the stage in which it is discussed by the legislative authority. Therefore, many advocacy provisions were relevant in both the first and the second categories.

Second, some categories were found to be relevant for only a few countries. Good examples of this are the categories related to trade organizations and the judicial authority. Nevertheless, we decided to retain the categories, since this kind of provisions have been found to be beneficial for some countries.

Third, for the purpose of the present report we adopted the definition of competition advocacy suggested in the report presented in Naples, Italy 2002:

*“Competition advocacy refers to those activities conducted by the competition authority related to the promotion of a competitive environment for economic activities by means of non-enforcement mechanisms, mainly through its relationships with other governmental entities by increasing public awareness of the benefits of competition.”*

As some of the subgroup members pointed out, there are a few provisions that were presented by the contributing countries as advocacy provisions, even though they do not meet the above

definition of advocacy. Nevertheless, we included these provisions in the following report in order to give the broadest picture possible.

The report is an ensemble of the advocacy provisions we have collected, categorized in the manner discussed above, with some remarks regarding the implementation of the provisions.

*The relationship between the legislative authority and the legislative procedure and the competition authority*

The advocacy provisions in this category deal with the relationship between the legislative authority and the competition authority. In Ireland, for example, one of the functions of the competition authority is to identify and comment upon competition constraints imposed by legislative practice. In Italy the competition authority must notify the parliament of any distortion arising from a legislative measure. In Mexico, the Federal executive or legislative power can request the specialized opinion of the FCC about proposals to reform national laws. Some of the provisions empower the competition authority to prepare reports that may be requested by the congress of their country.

It is interesting to observe that the relevant advocacy provisions reviewed by the subgroup did not mention the exact stage in which the competition authority's opinion should be requested or the exact procedure through which the opinion should be given. Moreover, the different provisions do not specify whether the consultation with the competition authority is mandated or discretionary. The exception to this general rule is the advocacy rule cited in the contribution of Latvia. According to the Latvian provision, consultation with the competition authority is mandatory.

We believe that this category should be one of the pillars of the advocacy role of the competition authorities. The more extensive the relationship between the legislature and the competition authority, the better the outcome will be.

<i>State</i>	<i>The advocacy provision articles</i>	<i>Remarks</i>
<i>Australia</i>	<p><b><u>TRADE PRACTICES ACT 1974 SECT 28</u></b></p> <p>In addition to any other functions conferred on the Commission, the Commission has the following functions</p> <p>1(b) to examine critically, and report to the Minister on, the laws in force in Australia relating to the protection of consumers in respect of matters referred to the Commission by the Minister, being matters with respect to which the Parliament has power to make laws;</p> <p>(c) to conduct research in relation to matters affecting the interests of consumers, being matters with respect to which the Parliament has power to make laws.</p> <p>...</p> <p>(d) to make available to the public general information in relation to matters affecting the interests of consumers, being matters with respect to which the Parliament has power to make laws</p>	
<i>Belgium</i>	<p><b><u>Article 21 of the Belgian Act regarding protection of competition</u></b></p> <p>sets out the competition Commission provide advice on its own initiative or at the request :</p> <p>" of the Crown, on any draft Order in Council made in implementation of this Act and on which consultation with the commission is provided for</p> <p>of the Minister, on any matter of general competition policy and any green</p>	

	<p>paper providing for amendments to this Act;</p> <p>of the competition Council, in any matter of general competition policy and also in the cases provided for by articles 28."</p>	
<p><i>Canada</i></p>	<p><b><u>The Competition Act R.S., 1985, c. 19 (2<sup>nd</sup> Supp.), s. 45; 1999, c.2, s. 37</u></b></p> <p>125.(1) The Commissioner, at the request of any federal board, commission or other tribunal or on his own initiative, may, and on direction from the Minister shall, make representations to and call evidence before the board, commission or other tribunal in respect of competition, whenever such representations are, or evidence is, relevant to a matter before the board, commission or other tribunal, and to the factors that the board, commission or other tribunal is entitled to take into consideration in determining the matter.</p> <p>2) For the purposes of this section, "federal board, commission or other tribunal" means any board, commission, tribunal or person that carries on regulatory activities and is expressly charged by or pursuant to an enactment of Parliament with the responsibility of making decisions or recommendations related directly or indirectly to the production, supply, acquisition or distribution of a product.</p> <p>126.(1) The Commissioner, at the request of any provincial board, commission or other tribunal, or on his own initiative with the consent of the board, commission or other</p>	<p>Section 126 was added when amendments were made to the <i>Competition Act</i> in 1986. It enables the Commissioner to make representations to provincial boards. However, the Commissioner may only make representations in respect of competition at the "request" of these provincial boards or on his own initiative "with the consent" of these boards.</p>



	<p>tribunal, may make representations to and call evidence before the board, commission or other tribunal in respect of competition, whenever such representations are, or evidence is, relevant to a matter before the board, commission or other tribunal, and to the factors that the board, commission or other tribunal is entitled to take into consideration in determining the matter.</p> <p>(2) For the purposes of this section, "provincial board, commission or other tribunal" means any board, commission, tribunal or person that carries on regulatory activities and is expressly charged by or pursuant to an enactment of the legislature of a province with the responsibility of making decisions or recommendations related directly or indirectly to the production, supply, acquisition or distribution of a product.</p>	
<p><b><i>The Czech Republic</i></b></p>	<p><b><u>Article 5.1</u></b>          “A relevant administration body making a proposal of the legislative intention of the relevant act (<b>proposing institution</b>) shall send this proposal by the members of government or heads of other organ of state administration letter for comments to following commentary places:</p> <p>a) Other ministries</p> <p>b) Other central bodies of state administration (<i>including the Office for the Protection of Competition</i>)....”</p> <p><b><u>Article 5.7 :</u></b>          “If commentary places consider any of their</p>	<p>The negotiations between the proposing institution and the Office follow. If they do not reach an agreement on the issue, the contradiction is finally solved by the decision of the government after consideration of arguments of both the proposing institution and the Office. We can say that most comments of the Office are fully accepted by the proposing institution. The same procedure is in</p>

	<p>comments to be “substantial” they identify it by the wording “the organ considers the comments to be substantial”. If the body that has made a draft is not going to comply with these comments, the comments become a subject of contradiction.</p>	<p>force in the case of a draft of act, a draft of government regulation and a draft of decree. The draft must be sent to the commentary places as they are listed in the Article 5.1.</p>
<i>Finland</i>	<p><b><u>The Decree on the Finnish Competition Authority.</u></b> <b><u>Article 1:</u></b></p> <p>The Finnish Competition Authority shall:</p> <p>(6) follow the preparation of economic legislation and give statements about questions related to its field;</p> <p>(7) take initiatives to promote competition and to dismantle restrictive rules and regulations;</p>	<p>In a vast number of cases, the advocacy operations of the FCA have influenced laws and other regulations that unduly prevent, restrict or distort competition</p>
<i>France</i>	<p><b><u>COMMERCIAL CODE (Legislative part)</u></b> <b><u>TITLE VI: The Conseil de la concurrence</u></b> <b><u>Chapter II: Powers</u></b> <b><u>Article L462-1</u></b></p> <p>The <i>Conseil de la concurrence</i> may be consulted by the parliamentary committees on proposed laws and on any issue concerning competition.</p>	<p>It gives its opinion on any issue concerning competition at the request of the government. It may also give its opinion on such issues at the request of territorial units (communes, departments, and overseas territories), professional and labour organisations, approved consumers' organisations, chambers of agriculture, chambers of trade or chambers of commerce and industry, with respect to the interests for which each is responsible.</p>

<i>Hungary</i>	<p><b><u>Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices</u></b></p> <p><b><u>Section 36</u></b></p> <p>(2) The President of the Hungarian Competition Authority (Gazdasági Versenyhivatal; hereinafter: GVH)</p> <p>a) may take part in the sessions of Parliament;</p> <p>b) will, when requested, give expert advice to Parliament on issues relating to economic competition;</p> <p>c) submits annual reports to Parliament, and upon request to the competent parliamentary committee on the activities of the GVH and, on the basis of his law enforcement experience, on how fairness and freedom of competition are observed;</p>	
<i>Ireland</i>	<p><b><u>Section 30 (1) of the Competition Act 2003</u></b> (“the Act”) lists various functions of the Competition Authority (“the Authority”). Among these are certain advocacy functions, as follows:</p> <p>1(f) Identifying and commenting upon competition constraints imposed either by legislation or administrative practice</p>	
<i>Israel</i>	<p><b><u>Section 26 of the Israeli Restrictive Trade Practices Law, 5748-1988 provides as follows:</u></b></p> <p><b>26. Monopoly and Monopolist</b></p> <p>e) Once every six months, the General Director shall give the Knesset Economic Committee a list of all Monopolists.</p>	
<i>Israel</i>	<p><b><u>Rule 14 of the Rules of Procedure of the Knesset (the Israeli parliament) provides as follows:</u></b></p>	

	<p><b>14. <u>Duties and Power of Permanent Committee</u></b></p> <p>(a)...</p> <p>(b) The committee (i.e. – parliament committee) is entitled to call upon the Minister concerned for explanations and information on the issue referred to it, or which falls within its jurisdiction, and the Minister, in person or by means of his representatives, is obliged to give the explanations or information.</p> <p><b><u>Rule 106 of the Rules of Procedure of the Knesset (the Israeli parliament) provides as follows:</u></b></p> <p><b>106 Invitation of Experts, Etc.</b></p> <p>A permanent committee is entitled, from time to time, to invite to its sittings –</p> <ol style="list-style-type: none"> <li>(1) An expert on the matter being deliberated by the Committee, whether he be a Member of the Knesset or not;</li> <li>(2) Any person, or the representative of any particular body or circle, who has an interest in the matter being deliberated by the Committee, so as to hear his opinion, and to ask him to reply to questions it sees fit to put to him.</li> </ol> <p><b><u>Rule 106a of the Rules of Procedure of the Knesset (the Israeli parliament) provides as follows:</u></b></p> <p><b><u>106a. Invitation of Employees and Office Holders</u></b></p> <p>(a) Without derogating from the provisions of article 106, and subject to the provisions of article 21(b) of Basic Law: The Knesset, permanent committee is entitled to invite to its meetings civil servants, employees of government corporations, employees of associations established by law, employees of</p>	
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	<p>local authorities, an employees of religious councils, concerning any matter which the Knesset plenum has referred for deliberation by the Committee under articles 14(a), 111, 118 and 138, and under any other legal provision; Any person so invited, must appear before the Committee and furnish it with the information that he has regarding the issue under deliberation; However, the Minister in charge, or the head of the body in whose service the invitee acts, may notify the Committee that he himself will appear instead of the person summoned.</p>	
<p><i>Italy</i></p>	<p><b><u>Law No. 287 of October 10th, 1990</u></b>  <b><u>Section 21 - Powers to notify Parliament and the Government</u></b></p> <p>1. In order to contribute to more effective protection of competition and the market, the Authority shall identify cases of particular relevance in which the provisions of law or regulations or general administrative provisions are creating distortions to competition or to the sound operation of the market, which are not justified by the requirements of general interest.</p> <p>2. The Authority shall notify Parliament and the Prime Minister of any distortions arising as a result of legislative measures, and the Prime Minister, other relevant ministers, and the relevant local authorities of distortions arising in any other cases.</p> <p>3. At its discretion, the Authority shall issue an opinion on any measures needed to remove or prevent distortions, and it may also publish</p>	<p>Furthermore, Section 24 of the Italian Competition Act provides also that the Competition Authority should present three Reports to the Government regarding the measures to be taken in order to adapt the legislation relating to public tenders, commercial distribution and public franchise-holders to the principles of competition</p>

	<p>the cases notified and the opinions as appropriate according to the nature and the importance of the distortions.</p>	
<i>Latvia</i>	<p><b><u>The Competition Law of Latvia, Article 7</u></b></p> <p>Rights of the Competition Council</p> <p>(2) The Competition Council is entitled to evaluate draft legislation prepared by other institutions and other documents and to provide opinions in respect of them, if such draft legislation includes norms, which influence the market mechanism, the realisation of which may directly or indirectly restrict competition.</p>	
<i>Lithuania</i>	<p><b><u>the Law on Competition of the Republic of Lithuania Article 19 (1):</u></b></p> <p>The Competition Council shall:</p> <p>4) examine the conformity of legal acts or other decisions adopted by public and local authorities with the requirements of Article 4 of this Law, and, where there is sufficient cause, apply to public and local authorities with the request to amend or revoke legal acts or other decisions restricting competition. In case of failure to satisfy the requirement the Council shall have the right to appeal against decisions of public authorities, except for the statutory acts issued by the Government of the Republic of Lithuania, to the Supreme Administrative Court of Lithuania, against decisions of local authorities to the Vilnius County Administrative Court;</p> <p>8) within its competence carry out expert examination of drafts of laws and other legal acts, submit findings on the effect of said acts</p>	

	on competition to the Seimas and the Government of the Republic of Lithuania	
<i>Mexico</i>	<p><b><u>The Federal Law of Economic Competition (FLEC)</u></b></p> <p><b><u>ARTICLE 24.</u></b> - The Commission shall have the following powers: [...]</p> <p>...</p> <p>V. When requested by the Federal Executive, to comment on the amendments of the drafts of laws and regulations, on those items dealing with competition and free market access;</p> <p>VI. When deemed pertinent, to give its opinion on competition and free market access regarding the laws, regulations, agreements, circular letters and administrative acts, and those opinions shall not have legal effects and the Commission shall not be bound to issue an opinion; [...]</p>	
<i>Mexico</i>		<p>The specialized opinion of the FCC about proposals to reform national laws can be requested by the Federal Executive or by the Legislative power. There is no rule that establishes in which moment of a reform procedure the opinion of the FCC has to be requested. Thus far, the criterion has been adopted by the Federal Government or the Legislative of inviting the FCC to issue its specialized judgment since the early</p>

		<p>stages of a reform proposal. In addition, the FCC is in contact with other government agencies and participates in several forums in order to verify the observance of the provisions of the FLEC and to prevent its infringement in time, as well as to enhance coordination with other areas of the public administration in order to enforce competition policy effectively. The goal of this participation is to promote a competition culture among policy-makers, as well as to assess trends on several sector policies, to acquire technical knowledge, and to promote competition policy on a regular basis. This participation is not in all cases formalized.</p>
<p><i>Norway</i></p>	<p><b><u>Act No. 65 of 11 June 1993 relating to Competition in Commercial Activity (the Competition Act) Section 2-2 d) and 2-2 e)</u></b></p> <p>“The competition authorities shall supervise competition in the various markets. Among other things they shall:</p> <p>.....</p> <p>d) Call attention to the restraining effects on competition of public measures, where appropriate by submitting proposals aimed at</p>	<p>The Norwegian Competition Act is at present under review and among the changes that are recommended is a proposal to delete section 2-2 d). The reason is among others that for the future organization it would be more appropriate that this kind of intervention were the responsibility of</p>



	<p>increasing competition and facilitating entry for new competitors.</p> <p>e) When required, assist other authorities in monitoring adherence to other rules where infringements may have harmful effects on market and competition conditions.”</p>	the political authorities
<i>Serbia and Montenegro</i>	<p>A new Act is in the process of being made. It provides for the legal grounds for the Antimonopoly Agency to have a consultative role as regards the formulation of draft laws and regulations as well as to initiate the review of the existing laws and regulations relevant to the Antimonopoly Policy in case an article or any articles should affect the competition rules.</p>	
<i>Spain</i>	<p><b><u>The Spanish Act 16/1989 of 17<sup>th</sup> July, for Competition Defence</u></b></p> <p><b><u>Article 30</u></b> of the Act establishes its specific functions:</p> <p>To inform the draft versions of regulations affecting competition.</p> <p><b><u>article 26</u></b> of the act establishes Consultative Functions which are related to the competition advocacy activity:</p> <p>“1. The TDC may be consulted on competition issues by the Legislative Chambers, the Government, the various ministerial Departments, Regional &amp; Local Governments, Chambers of Commerce and business organisations, trade unions or consumer associations.</p>	
<i>United Kingdom</i>	<p><b><u>ENTERPRISE ACT – PART 1 – THE OFFICE OF FAIR TRADING</u></b></p> <p><b><u>7 Provision of information and advice to Ministers etc.</u></b></p> <p>(1) The OFT has the function of-</p>	

	<p>(a) making proposals, or</p> <p>(b) giving other information or advice, on matters relating to any of its functions to any Minister of the Crown or other public authority (including proposals, information or advice as to any aspect of the law or a proposed change in the law).</p>	
<i>USA</i>	<p><b><u>Federal Trade Commission Act, Section 6, 15 U.S.C. § 46</u></b></p> <p><b>Section 46 -Additional powers of Commission</b></p> <p>The Commission shall also have power –</p> <p>(f)</p> <p>To make public from time to time such portions of the information obtained by it hereunder as are in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use....</p>	
<i>USA</i>	<p><b><u>CODE OF FEDERAL REGULATIONS</u></b></p> <p><b><u>TITLE 28--JUDICIAL ADMINISTRATION</u></b></p> <p><b><u>CHAPTER I--DEPARTMENT OF JUSTICE</u></b></p> <p><b><u>PART 0--ORGANIZATION OF THE DEPARTMENT OF JUSTICE</u></b></p> <p><b><u>SUBPART H--ANTITRUST DIVISION</u></b></p> <p>The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Antitrust Division:</p> <p>(f) Assembling information and preparing reports required or requested by the Congress or the Attorney General as to the effect upon the</p>	

	<p>maintenance and preservation of competition under the free enterprise system of various Federal laws or programs, including the Defense Production Act of 1950, the Small Business Act, the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 208- 2), the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7431(b) (2) ), and the joint resolution of July 28, 1955, giving consent to the Interstate Compact to Conserve Oil and Gas.</p> <p>(g) Preparing for transmittal to the President, Congress, or other departments or agencies views or advice as to the propriety or effect of any action, program or practice upon the maintenance and preservation or competition under the free enterprise system.</p>	
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### *The relationship between the executive authority and the competition authority*

The advocacy provisions in this category deal with the relationship between the executive authority and the competition authority. When using the term executive authority, we tried to include all the government authorities and branches. In this category we also included the relationship between the authority and the regulators.

The different provisions grant the competition authorities several powers and abilities. For example, provisions in the competition laws and regulations often grant the competition authority the right to issue opinions and comments. This entitlement can address different issues and be directed to different levels of government, depending on the wording of the provisions. Other provisions address administrative procedures, regulation or proposals of deregulation obstacles to effective competition. Some provisions specify that the opinion of the competition authority must be given upon request. In Mexico, it is explicitly mentioned that the opinions of the authority on laws, regulations and administrative acts are not legally binding.

Another type of provision within this category establishes the possibility that government agencies may address the competition authority with competition issues. Some of the provisions explicitly empower the authority to publish its opinions. This is the case, for example, in Italy.

In Ukraine the Antimonopoly Committee must interact with bodies of self-government in matters concerning the development of competition. In the USA, some of the advocacy provisions ensure that the DOJ gets timely notice of proceedings, and grant the DOJ the right to comment. The provisions expressly require that the regulator shall consider competitive issues. In Hungary, if the GVH (the Hungarian competition authority) finds that any public administrative decision violates the freedom of economic competition, it may request the public administrative institution to amend or revoke the decision in question. If the public administrative institution fails to do so, the GVH may seek a court review of the decision.

We believe that this category is of the utmost importance; the need for competition advocacy arises from the substantial impact that the executive authority (including the regulators) has on competition.

<i>State</i>	<i>The advocacy provision articles</i>	<i>Remarks</i>
<i>Australia</i>	<p><b><u>TRADE PRACTICES ACT 1974 SECT 28</u></b></p> <p>In addition to any other functions conferred on the Commission, the Commission has the following functions:</p> <p>1(b) to examine critically, and report to the Minister on, the laws in force in Australia relating to the protection of consumers in respect of matters referred to the Commission by the Minister, being matters with respect to which the Parliament has power to make laws;</p> <p>2) Where a matter of a kind mentioned in paragraph (1)(b) is referred by the Minister to the Commission for examination and report:</p> <p>(a)</p> <p style="padding-left: 40px;">the Commission shall cause to be published in the <i>Gazette</i> and in such newspapers and other journals as the Commission considers appropriate a notice: (i) stating that the reference has been made and specifying the matter to which the reference relates; and (ii) inviting interested persons to furnish to the Commission their views on that matter and specifying the time and manner within which those views are to be furnished;</p> <p>(b)</p> <p style="padding-left: 40px;">the Commission shall not furnish its report to the Minister until a reasonable opportunity has been given to interested persons to furnish to the Commission their views on the matter to which the reference relates; and</p>	

	<p>(c)</p> <p>the Commission shall include in its report to the Minister any recommendations that it considers desirable with respect to the reform of the law relating to the matter to which the reference relates, whether those recommendations relate to the amendment of existing laws or the making of new laws.</p>	
<i>Belgium</i>	<p><b><u>Article 21 of the Belgian Act regarding protection of competition</u></b></p> <p>sets out the competition Commission provide advice on its own initiative or at the request :</p> <p>" of the Crown, on any draft Order in Council made in implementation of this Act and on which consultation with the commission is provided for</p> <p>of the Minister, on any matter of general competition policy and any green paper providing for amendments to this Act;</p> <p>of the competition Council, in any matter of general competition policy and also in the cases provided for by articles 28."</p>	
<i>Belgium</i>	<p><b><u>Article 25 §2 of the Belgian Act on the protection of competition</u></b></p> <p>" in those economic sectors subject to policing or monitoring by a public body or other specific public institutions, the Crown may after consultation with such bodies or institutions regulate the co-operation between the competition Service and the corps of examiners and such bodies or institutions with regard the investigations."</p>	

<p><i>Canada</i></p>	<p><b><u>The Competition Act R.S., 1985, c. 19 (2<sup>nd</sup> Supp.), s. 45: 1999, c.2, s. 37</u></b></p> <p>125.(1) The Commissioner, at the request of any federal board, commission or other tribunal or on his own initiative, may, and on direction from the Minister shall, make representations to and call evidence before the board, commission or other tribunal in respect of competition, whenever such representations are, or evidence is, relevant to a matter before the board, commission or other tribunal, and to the factors that the board, commission or other tribunal is entitled to take into consideration in determining the matter.</p> <p>3) For the purposes of this section, "federal board, commission or other tribunal" means any board, commission, tribunal or person that carries on regulatory activities and is expressly charged by or pursuant to an enactment of Parliament with the responsibility of making decisions or recommendations related directly or indirectly to the production, supply, acquisition or distribution of a product.</p> <p>126.(1) The Commissioner, at the request of any provincial board, commission or other tribunal, or on his own initiative with the consent of the board, commission or other tribunal, may make representations to and call evidence before the board, commission or other tribunal in respect of competition, whenever such representations are, or evidence is, relevant to a matter before the board, commission or other tribunal, and to the factors that the board, commission or other</p>	<p>Section 126 was added when amendments were made to the <i>Competition Act</i> in 1986. It enables the Commissioner to make representations to provincial boards. However, the Commissioner may only make representations in respect of competition at the "request" of these provincial boards or on his own initiative "with the consent" of these boards.</p>
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	<p>tribunal is entitled to take into consideration in determining the matter.</p> <p>(2) For the purposes of this section, "provincial board, commission or other tribunal" means any board, commission, tribunal or person that carries on regulatory activities and is expressly charged by or pursuant to an enactment of the legislature of a province with the responsibility of making decisions or recommendations related directly or indirectly to the production, supply, acquisition or distribution of a product.</p>	
<p><i>The Czech Republic</i></p>	<p><b><u>Article 5.1</u></b></p> <p>“A relevant administration body making a proposal of the legislative intention of the relevant act (proposing institution) shall send this proposal by the member’s of government or head’s of other organ of state administration letter for comments to following commentary places:</p> <p>c) Other ministries</p> <p>d) Other central bodies of state administration (<i>including the Office for the Protection of Competition</i>)....”</p> <p><b><u>Article 5.7</u></b></p> <p>“If commentary places consider any of their comments to be “substantial” they identify it by the wording “the organ considers the comments to be substantial”. If the body that has made a draft is not going to comply with these comments, the comments become a subject of contradiction.</p>	<p>The negotiations between the proposing institution and the Office follow. If they do not reach an agreement on the issue, the contradiction is finally solved by the decision of the government after consideration of arguments of both the proposing institution and the Office. We can say that most comments of the Office are fully accepted by the proposing institution.</p> <p>The same procedure is in force in the case of a draft of act, a draft of government regulation and a draft of decree. The draft must be sent to the commentary places as</p>



		they are listed in the Article 5.1.
<i>France</i>	<p><b><u>COMMERCIAL CODE (Legislative part)</u></b></p> <p><b><u>TITLE VI: The <i>Conseil de la concurrence</i></u></b></p> <p><u>Chapter II: Powers</u></p> <p><b><u>Article L462-1</u></b></p> <p>The <i>Conseil de la concurrence</i> may be consulted by the parliamentary committees on proposed laws and on any issue concerning competition.</p> <p>It gives its opinion on any issue concerning competition at the request of the government. It may also give its opinion on such issues at the request of territorial units (communes, departments, and overseas territories), professional and labour organisations, approved consumers' organisations, chambers of agriculture, chambers of trade or chambers of commerce and industry, with respect to the interests for which each is responsible.</p> <p><b><u>Article L462-2</u></b></p> <p>The government shall consult the Council on any proposed regulation establishing a new regime the direct effect of which is to:</p> <ol style="list-style-type: none"> <li>1) Place quantitative restrictions on the practice of a profession or access to a market;</li> <li>2) Establish exclusive rights in certain zones;</li> <li>3) Impose uniform practices with regard to pricing or with regard to selling conditions.</li> </ol>	
<i>Hungary</i>	<p><b><u>Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices</u></b></p> <p><b><u>Section 36.</u></b></p> <p>(2) The President of the Hungarian Competition</p>	

	<p>Authority (Gazdasági Versenyhivatal; hereinafter: GVH)</p> <p>d) attends, with consultative rights, the meetings of the Government where issues relating to the scope of duties of the GVH are discussed.</p> <p>(3) The President of the GVH, except for the provisions of Section (4) below, shall be solicited for his opinion concerning all measures drafted, and draft legislation that have a bearing on the responsibilities of the GVH, in particular if such planned measures or legislation restrict competition /performance of some activity or entry into the market/, grant exclusive rights or contain provisions pertaining to prices or terms of sale.</p> <p>(4) The notary of a municipality may solicit the President of the GVH for his opinion concerning draft municipality regulations which have, as set out in Section (3) above, a bearing on the responsibilities of the GVH.</p> <p>(5) At the request of the Government, ministers, or international organisations, the President of the GVH shall report on experience gained in the course of his activities relating to economic competition and on issues relating to economic competition. For this purpose the President of the GVH may, on a voluntary response basis, collect data and request information.</p>	
<i>Hungary</i>	<p><b><u>Section 85.</u></b></p> <p>(1) Where in the course of its operation the GVH finds that any public administrative decision</p>	

	<p>violates the freedom of economic competition, it shall request the public administrative institution to amend or revoke the decision in question.</p> <p>(2) Where such a public administrative institution fails to comply within 30 days with the request defined by the above Section (1), the GVH may seek a court review of the decision of such a public administrative institution violating the freedom of economic competition, except in cases where the law excludes a court review of such public administrative decisions. No such claim may be lodged after six months have elapsed from the entry into force of such a decision, and no application for justification may be submitted where the time limit is missed.</p>	
<i>Ireland</i>	<p><b><u>Section 30 (1) of the Competition Act 2003 (“the Act”) lists various functions of the Competition Authority (“the Authority”). Among these are certain advocacy functions, as follows:</u></b></p> <p>(1)(c): Advising Government about the competition implications of proposals for legislation</p> <p>(1)(e): Advising public authorities on competition issues which may arise in the performance of their functions</p> <p>(1)(f): Identifying and commenting upon competition constraints imposed either by legislation or administrative practice</p>	
<i>Israel</i>	<p><b><u>Section 20 of the Israeli Restrictive Trade Practices Law, 5748-1988 provides as follows:</u></b></p> <p><b><u>20. Merger Notice</u></b></p> <p>(c) In the case that a Merger Notice is delivered to the General Director and the sphere of activity of the companies seeking to merge comes under the jurisdiction of one of the government ministries,</p>	

	the General Director shall forward a copy of the application to the director-general of such ministry.	
<i>Italy</i>	<p><b><u>Law No. 287 of October 10th, 1990</u></b></p> <p><b><u>Section 21 - Powers to notify Parliament and the Government</u></b></p> <p>1. In order to contribute to more effective protection of competition and the market, the Authority shall identify cases of particular relevance in which the provisions of law or regulations or general administrative provisions are creating distortions to competition or to the sound operation of the market which are not justified by the requirements of general interest.</p> <p>2. The Authority shall notify Parliament and the Prime Minister of any distortions arising as a result of legislative measures, and the Prime Minister, other relevant ministers, and the relevant local authorities of distortions arising in any other cases.</p> <p>3. At its discretion, the Authority shall issue an opinion on any measures needed to remove or prevent distortions, and it may also publish the cases notified and the opinions as appropriate according to the nature and the importance of the distortions.</p>	Furthermore, Section 24 of the Italian Competition Act provides also that the Competition Authority should present three Reports to the Government regarding the measures to be taken in order to adapt the legislation relating to public tenders, commercial distribution and public franchise-holders to the principles of competition
<i>Italy</i>	1. The Authority may express opinions on draft legislation or regulations and on problems relating to competition and the market whenever it deems this appropriate or whenever requested to do so by the government departments and agencies concerned. The Prime Minister may also request the opinion of the Authority in relation to legislation or regulations whose direct effect is:	

	<ul style="list-style-type: none"> <li>- to place quantitative restrictions on the exercise of an activity or access to a market;</li> <li>- to lay down exclusive rights in certain business areas;</li> <li>- to impose general pricing practices or conditions of sale.</li> </ul>	
<i>Latvia</i>	<p><b><u>The Competition Law of Latvia, Article 7</u></b></p> <p>(2) provide opinions regarding conformity of the activities of market participants with regulatory enactments that regulate competition</p>	
<i>Lithuania</i>	<p><b><u>Article 4. Duty of Public and Local Authorities to Ensure Freedom of Fair Competition</u></b></p> <p>1. When carrying out the assigned tasks related to the regulation of economic activity within the Republic of Lithuania, public and local authorities shall ensure freedom of fair competition.</p> <p>2. Public and local authorities shall be prohibited from adopting legal acts or other decisions which grant privileges to or discriminate against any individual undertakings or their groups and which bring about or may bring about differences in the conditions of competition for competitors in the relevant market, except where the difference in the conditions of competition cannot be avoided when the requirements of the laws of the Republic of Lithuania are complied with.</p>	
<i>Lithuania</i>	<p><b><u>the Law on Competition of the Republic of Lithuania (No VIII-1099) Article 21(3)</u></b></p> <p>The Chairperson of the Competition Council or, in his absence, another member of the Competition Council appointed to act for him shall have the right to participate in the meetings</p>	

	<p>of the Government of the Republic of Lithuania without the right to vote and must voice his comments should the decisions proposed for adoption contradict this Law.</p>	
<p><i>Mexico</i></p>	<p><b><u>The Federal Law of Economic Competition (FLEC)</u></b>  <b><u>ARTICLE 24.</u></b>  - The Commission shall have the following powers: [...]</p> <p>IV. To comment on the adjustments of the federal public administration programs and policies when their effects may be contrary to competition and free market access;</p> <p>V. When requested by the Federal Executive, to comment on the amendments of the drafts of laws and regulations, on those items dealing with competition and free market access;</p> <p>VI. When deemed pertinent, to give its opinion on competition and free market access regarding the laws, regulations, agreements, circular letters and administrative acts, and those opinions shall not have legal effects and the Commission shall not be bound to issue an opinion; [...]</p>	<p>The specialized opinion of the FCC about proposals to reform national laws can be requested by the Federal Executive or by the Legislative power. There is no rule that establishes in which moment of a reform procedure the opinion of the FCC has to be requested. Thus far, the criterion has been adopted by the Federal Government or the Legislative of inviting the FCC to issue its specialized judgment since the early stages of a reform proposal.</p> <p>In addition, the FCC is in contact with other government agencies and participates in several forums in order to verify the observance of the provisions of the FLEC and to prevent its infringement in time, as well as to enhance</p>

		<p>coordination with other areas of the public administration in order to enforce competition policy effectively. The goal of this participation is to promote a competition culture among policy-makers, as well as to assess trends on several sector policies, to acquire technical knowledge, and to promote competition policy on a regular basis. This participation is not in all cases formalized.</p>
<i>Mexico</i>	<p><b><u>Code of Regulations of the Foreign Trade Law</u></b>  <b><u>Participation of the FCC on the CFT</u></b>  <b><u>ARTICLE 2</u></b>  The Commission [on Foreign Trade] shall be made up of representatives of each of the following agencies and bodies: [...] VIII. Federal Competition Commission. [...]"</p>	
<i>Romania</i>	<p><b><u>the Competition Law no. 21/1996,</u></b>  <b><u>Article 27:</u></b>  letter n) that Competition Council can draw up studies and reports on its field of activity, and inform the Government, the public and the specialized international organizations about this activity;</p>	
<i>Romania</i>	<p><b><u>The Government Decision no. 277/2001 Article 3 (1)</u></b>  <b><u>Article 3 (1)</u></b></p>	

	<p><b><u>that Competition Office has the following main attributions:</u></b></p> <p><b><u>21</u></b></p> <p>Co-operates with the Ministries and the other central and local public authorities, with Competition Council, and with the professional associations or with non-governmental bodies</p>	
<i>Serbia and Montenegro</i>	<p>A new Act is in the process of being made. It provides for the legal grounds for the Antimonopoly Agency to have a consultative role as regards the formulation of draft laws and regulations as well as to initiate the review of the existing laws and regulations relevant to the Antimonopoly Policy in case an article or any articles should affect the competition rules.</p>	
<i>Spain</i>	<p><b><u>The Spanish Act 16/1989 of 17<sup>th</sup> July, for Competition Defence</u></b></p> <p><b><u>Article 30 of the Act establishes its specific functions:</u></b></p> <p>k) To direct reports and/or recommendations on matters related to competition, to any of the ministerial Departments, Regional or Local Governments, local, Chambers of Commerce and business organisations, trade unions or consumer associations.</p> <p>l) To study and submit to the Government the opportune proposals for amendment of the Competition Act, in accordance with the experience in national and European Community Legislation.”</p> <p><b><u>article 26 of the Act establishes Consultative Functions which are related to the competition advocacy activity:</u></b></p> <p>1. The TDC may be consulted on competition issues by the Legislative Chambers, the Government, the various ministerial Departments, Regional &amp; Local Governments, Chambers of Commerce and</p>	



	<p>business organisations, trade unions or consumer associations.</p> <p>2. The TDC shall promote and carry out research projects and studies on competition.</p> <p>3. The TDC shall inform the government bills or draft laws by which the Competition Act is amended or repealed and the draft regulations developing them.”</p> <p>4. The TDC is also entailed to asses ex- officio the concession criteria of State Aids concerning its effects on market competition and to issue a report to the Government aiming at changing that criteria.</p>	
<i>Sweden</i>	<p><b><u>The Administrative Procedure Act 1986:223</u></b>  <b><u>Issued: 1986-05-07 As amended – up to and including 1999:286</u></b></p> <p><b><u>Cooperation between authorities</u></b>  <b><u>Section 6</u></b></p> <p>Every authority shall assist other authorities within the framework of its own activity.</p>	
<i>Sweden</i>	<p><b><u>The Regulation (1996:353) with Instructions for the Competition Authority Issued: 1996-05-09 As amended – up to and including 2000:1028</u></b></p> <p><b><u>Tasks</u></b>  <b><u>Section 4</u></b></p> <p>The Competition Authority should</p> <ol style="list-style-type: none"> <li>1. submit proposals on deregulation measures,</li> <li>2. observe obstacles to effective competition in public sector activities and submit proposals for measures to eliminate these obstacles, and</li> <li>3. follow up measures referred to in points 1 and</li> </ol>	

	<p>2 which have been carried through.</p> <p>The Competition Authority should consult with those authorities affected by the Authority's proposals for measures.</p>	
<i>United Kingdom</i>	<p><b><u>ENTERPRISE ACT – PART 1 – THE OFFICE OF FAIR TRADING</u></b>  <b><u>7 Provision of information and advice to Ministers etc.</u></b></p> <p>(1) The OFT has the function of-</p> <p>(a) making proposals, or</p> <p>(b) giving other information or advice, on matters relating to any of its functions to any Minister of the Crown or other public authority (including proposals, information or advice as to any aspect of the law or a proposed change in the law).</p> <p>(2) A Minister of the Crown may request the OFT to make proposals or give other information or advice on any matter relating to any of its functions; and the OFT shall, so far as is reasonably practicable and consistent with its other functions, comply with the request.</p>	
<i>Ukraine</i>	<p><b><u>Parts 1 and 2 of Article 20 (Relations of the Antimonopoly Committee of Ukraine with Bodies of State Power, Bodies of Local Self-government, Bodies of Administrative and Economic Government and Control, with the Mass Media and Public Organisations) of Law of Ukraine of 26 November 1993 No 3659-XII On the Antimonopoly Committee of Ukraine:</u></b></p> <p>"The Antimonopoly Committee of Ukraine and its territorial offices shall interact with bodies of state power, bodies of local self-government, bodies of administrative and economic government and control in matters having relation to the development of competition and the</p>	

	demonopolisation of the economy. ...."	
<i>USA</i>	<p><b><u>49 U.S.C. § 41309:</u></b></p> <p>(c) Notice and opportunity to respond or for hearing.</p> <p><b><u>49 U.S.C. § 41309(b)(1):</u></b></p> <p>(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.</p> <p>The statute also includes competition as a factor to consider in reviewing the immunity request and provides that the Secretary must disapprove any agreement that “substantially reduces or eliminates competition unless the Secretary finds that (A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and (B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive.”</p>	<p>The competition advocacy provisions of § 41309 have been effective in allowing DOJ to provide input on competitive issues raised by international aviation agreements. The statute ensures that DOJ gets timely notice of proceedings, gives DOJ the right to comment, and expressly requires that DOT consider competitive issues in making its decision. In our experience, this provision has worked well.</p> <p>DOJ has on several occasions participated in DOT proceedings under this statute. In some cases this participation has involved informal consultations with DOT and in others DOJ has filed public comments on proposed regulations</p>
<i>USA</i>	<p><b><u>CODE OF FEDERAL REGULATIONS</u></b></p> <p><b><u>TITLE 28--JUDICIAL ADMINISTRATION</u></b></p> <p><b><u>CHAPTER I--DEPARTMENT OF JUSTICE</u></b></p>	

	<p><b><u>PART 0--ORGANIZATION OF THE DEPARTMENT OF JUSTICE</u></b></p> <p><b><u>SUBPART H--ANTITRUST DIVISION</u></b></p> <p>“The following functions are assigned to and shall be conducted by, handled, or supervised by, the Assistant Attorney general Antitrust Division</p> <p>(b) Intervention or participation before administrative agencies functioning wholly or partly under regulatory statutes in administrative proceedings which require consideration of the antitrust laws or competitive policies, including such agencies as the Civil Aeronautics Board, Interstate Commerce Commission, Federal Communications Commission, Federal Maritime Commission, Federal Energy Regulatory Commission, Federal Reserve Board, Federal Trade Commission, Nuclear Regulatory Commission, and Securities and Exchange Commission, except proceedings referred to any agency by a federal court as an incident to litigation being conducted under the supervision of another Division in this Department.</p> <p>(g) Preparing for transmittal to the President, Congress, or other departments or agencies views or advice as to the propriety or effect of any action, program or practice upon the maintenance and preservation or competition under the free enterprise system.</p>	
USA	<p><b>International Trade Commission</b> The International Trade Commission is required under <b><u>Section 337 of the Tariff Act of 1930 (19 U.S.C. §§ 1330 et seq.)</u></b> to investigate alleged unfair methods of competition and unfair acts that have the effect or tendency to substantially injure or prevent the establishment of a United States</p>	

	industry, or to restrain or monopolize trade or commerce in the U.S. The ITC must also “consult with, and seek advice and information from...the Department of Justice, the Federal Trade Commission” and other appropriate agencies	
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*The relationship between the judicial authority and the competition authority*

This category refers to the relationship between the judicial authority and the competition authority. Although there are only a few provisions in this category (only Belgium, France and Finland have specific advocacy provisions regarding this issue), we consider this category important.

Belgium cited a provision that establishes the possibility of the competition authority to submit its comments to the Court of Appeals in Brussels. France cited a provision that allows the courts to consult with the Competition Council on anticompetitive practices that arise in cases brought before it. In Finland the courts must hear the competition authority.

Many of the countries with competition traditions established them through civil litigation. We therefore believe, that when competition issues arise in court, it is of great importance that, in the name of the public interest (as “amicus curiae”), the competition authority be able to issue its opinion before the court.

<i>State</i>	<i>The advocacy provision articles</i>	<i>Remarks</i>
<b>Belgium</b>	<p><b><u>Article 42 bis §4 of the Belgian Act on protection of competition:</u></b></p> <p>"the competition Council, the Examiners and the Minister may each submit their written comments to the Court of Appeal in Brussels. They may consult the file without taking it away."</p>	<p>The entitled authorities may act under these provisions only in the public interest (as amicus curiae) and not in the interest of one of the parties. Such provisions aim at permitting national competition authorities to draw the court's attention on specific issues or very important issues for the consistent application of law or regulation. However the Courts are not bound to follow the expressed opinion.</p> <p>When a preliminary question is asked to the Court of appeal in Brussels by the Courts and Tribunals, the law entitles the competition Council, the Examiner, and the Minister to make comments</p>
<b>Finland</b>	<p><b><u>Article 27(2)</u></b></p> <p>The Court shall, when handling a competition restriction infringement issue, grant the Finnish Competition Authority an opportunity to be heard. If deciding the issue requires special knowledge of competition matters, the Court may, on its own initiative or that of a party concerned, request a statement from the Market Court. (1529/2001).</p>	

	<p><b><u>Article 18a</u></b>(303/1998)</p> <p>(4) During its proceedings regarding an action for damages, the court may request a statement from the Finnish Competition Authority.</p>	
<i>France</i>	<p><b><u>Article L462-3</u></b></p> <p>The investigatory courts and the courts hearing the case may consult the Council on the anticompetitive practices defined in Articles L420-1, L420-2 and L420-5 that have arisen in cases brought before them. The Council may give an opinion only after a proceeding has been completed with full argument on both sides.</p> <p>Nevertheless, if it has information that has already been collected in a prior proceeding, it may give its opinion without the new proceeding provided for above.</p> <p>The statute of limitations shall be suspended, if necessary, by consulting the Council.</p> <p>The opinion of the Council may be published after the dismissal or judgement of the case.</p>	
<i>Israel</i>	<p><b><u>Section 1 to the Ordinance of Procedure (the Appearance of the Attorney General) provides as follows:</u></b></p> <p>If the Attorney General sees that the right of the State of Israel or public right or public interest are influenced or combined or might be influenced or combined in a specific procedure before the court... he may, if he sees it fit, to appear in such a procedure and to express his opinion or authorize specifically his representative to do so.</p>	



### *Sector advocacy provision articles*

The provisions in this category are part of sector laws and not part of the competition laws that each country has. Most of the provisions deal with the obligation of the regulators and committees to inform the competition authorities of proposed licenses or regulations affecting the economic competition. In Belgium, a provision establishes that it is the competition authority that rules on disputes between operators or providers of telecommunications relating to issues regarding interconnections, leased lines, etc. Mexico cited provisions relating to concessions and permits, and declarations of market power in order to empower regulator to impose additional regulations or specific obligations.

In some of the regulated sectors, there is a specific exemption from the competition laws (for example international aviation agreements in the USA). This makes the need for competition advocacy more important.

The sectors in which the provisions of this category can be found are telecommunications, energy, gas, aviation and mineral industries. It should be mentioned that this kind of advocacy requires the competition authorities to acquire some expertise in the sectors at stake.

Although this category spreads over many areas of expertise and interest, we think it is beneficial for members of the ICN to see, as part of the advocacy efforts, the way other countries have coped with the conflicts that often arise between regulation and competition.

<i>State</i>	<i>The advocacy provision articles</i>	<i>Remarks</i>
<i>Belgium</i>		A Royal Decree is expected to be published in the next few months as regards co-operation between CREG (Commission for regulation of Gas and Electricity) and the competition Service and the Corps of Examiners. It deals with namely exchange of information, and collaboration concerning investigations.
<i>Belgium</i>	<p><b><u>Article 14 §2 e of the Act on the statute of the regulator:</u></b></p> <p>" (...) Institute co-opere with the Belgian authorities in charge of competition."</p> <p><b><u>Article 4 of the Act of 17 January 2003 regarding appeal and dealing with disputes :</u></b></p> <p>"The competition Council (...) rules on disputes between operators or providers related to interconnections, leased lines, unbundled access to the local loop and on disputes between postal operators related to implementation of licences. However, procedure before the competition Council shall be suspended in case of mediation" (paragraph 1).</p> <p>"An official from the Institute shall be appointed to the Examiner in order to investigate the case in question with the competition Council" (paragraph 2).</p>	<b>Telecommunication</b>
<i>Lithuania</i>	<p><b><u>Law on Telecommunications</u></b></p> <p><b><u>Article 11</u></b></p> <p>1. Supervision of competition in the telecommunications sector, with the exception of</p>	

	<p>supervision of competition undertaken by the Competition Council of the Republic of Lithuania pursuant to the Law on Competition of the Republic of Lithuania, shall be carried out by the Communications Regulatory Authority in co-operation with the Competition Council of the Republic of Lithuania following the procedure set forth in this Law and other legal acts.</p> <p>10. When carrying out supervision of competition on the telecommunications market, the Communications Regulatory Authority shall be entitled to obtain conclusions of the Competition Council.</p>	
<i>Mexico</i>	<p><b><u>Regulatory Law of the Railroad Service</u></b></p> <p><b><u>ARTICLE 9</u></b></p> <p>The concessions to which this chapter refers [concessions to build and operate railways and to provide railroad services] shall be granted by means of public bidding, in accordance with the following: [...]</p> <p>IV. The interested parties shall provide evidence of their legal, technical, administrative and financial capacity, and should indicate in a preliminary manner the activities whose execution they intend to contract with third parties, and comply with any other requirements that may be established.</p> <p>Among such requirements, the interested parties should have the opinion of the Federal Competition Commission regarding their participation in the bidding in question [...]"</p> <p><b><u>ARTICLE 47</u></b></p> <p>When the Ministry, on its own account or at the request of the affected party, considers that there is no effective competition, it shall request the opinion of the Federal Competition Commission, so that, if</p>	<b>Railroads</b>

applicable, the Ministry may establish rate bases. Said regulation shall be maintained only while the conditions that motivated it persist.

**ARTICLE 173**

The Ministry shall resolve the requests mentioned in the foregoing article according to the following procedure: [...] V. Having received the letter from the concession or permit-holder, or the term for the latter to present it in accordance with subsection III (1) of this article having elapsed or, if applicable, the stage provided for in the foregoing subsection IV (2) having been processed, it should request the opinion of the Federal Competition Commission within the following five working days, for which purpose it should turn over to it a copy of the respective file. The Commission should issue its opinion within the following twenty working days, and VI. Having received said opinion or the period indicated having elapsed, the Ministry should resolve the pertinent matter within the following twenty-five working days, [...]"

{Opinion of the FCC on conditions of effective competition as part of the procedure for resolving requests for the establishment of regulation}

**ARTICLE 175**

For the setting of rate bases, the Ministry shall establish a methodology that shall take into account the competitive rate that an efficient carrier would charge for the same service. In order to prepare said methodology, the Ministry shall request the opinion of the Federal Competition Commission.

When it is a question of the public railroad transportation service to the isolated communities referred to in Article 43 of the Law (3), rates shall be set by the Ministry, bearing in mind the corresponding

	subsidy, if applicable. [...]”	
<i>Mexico</i>	<p><b><u>ARTICLE 43</u></b></p> <p>When the Ministry, on its own account or at the request of the affected party, considers that there is no effective competition among the different holders of concessions or permits, it shall request the opinion of the Federal Competition Commission, so that, if applicable, the Ministry may establish bases for rate regulation. Said regulation shall be maintained only while the conditions that motivated it persist.</p> <p>In the regulation, the Ministry may establish specific rates for the provision of services, as well as adjustment mechanisms and periods when such rates are in effect.</p> <p>The holders of concessions and permits subject to such regulation may request the Federal Competition Commission to issue an opinion on the application and continuance of such conditions.”</p>	<b>Aviation and airports</b>
<i>Mexico</i>	<p><b><u>ARTICLE 33</u></b></p> <p>The operation or exploitation of vessels in ocean shipping, which includes international shipping and towage, is open to ship operators and vessels from all countries when there is reciprocity under the terms of international treaties.</p> <p>Subject to the opinion of the Federal Competition Commission, the Ministry may totally or partially reserve a specific type of international ocean shipping so that it can only be carried out by Mexican shipping companies, with Mexican vessels or reputed as such, when the principles of free competition are not respected and the national economy is affected.”</p> <p><b><u>ARTICLE 36</u></b></p> <p>The granting of concessions and permits to which</p>	<b>Sea carriage</b>

	this law refers shall be adjusted to the provisions on matters of economic competition.	
<i>Mexico</i>	<p><b><u>ARTICLE 19</u></b></p> <p>Should the Ministry consider that on one or several routes there is no effective competition in the operation of the federal road passenger transportation service, it shall request the opinion of the Federal Competition Commission so that, if favourable, the respective rate bases are established. Said regulation shall be maintained only while the conditions that motivated it persist. “</p>	<b>Roads and transportation</b>
<i>Mexico</i>	<p><b><u>ARTICLE 3</u></b></p> <p>For the fulfilment of its purpose, the Commission [Energy Regulatory Commission] shall have the following powers: [...] VII. Approving the terms and conditions to which first-hand sales of natural gas and liquefied petroleum gas should be subject and issuing the methodologies to determine their prices, unless there are conditions of effective competition in the opinion of the Federal Competition Commission.</p> <p>If when there are conditions of effective competition the Federal Competition Commission determines that anti-competitive practices have been resorted to in carrying out first-hand sales of natural gas or liquefied petroleum gas, the Energy Regulating Commission shall re-establish the terms and conditions to which said sales should be subject; [...]</p> <p><u>X</u>. Issuing the methodologies to calculate the considerations for the services to which the last two subsections refer, unless conditions of effective competition exist in the opinion of the Federal Competition Commission.”</p>	<b>Energy</b>
<i>Spain</i>	Along with the advocacy activity of the Competition	<b>Energy and</b>

	<p>Authorities, Spanish Sectorial Regulators -the “Comision Nacional de la Energia (CNE)” for the energy sector, and the “Comisión del Mercado de las Telecomunicaciones (CMT)” for the Telecommunication sector- also have to inform in advance any draft of regulations affecting the energy or telecommunication markets.</p>	<b>telecommunication</b>
<i>USA</i>	<p><b><u>Deep Seabed Hard Minerals Act (30 U.S.C. §§ 1401-1473, as amended) Under Section 103(d) of this Act (30 U.S.C. § 1413(d))</u></b></p> <p>The Administrator of the National Oceanic and Atmospheric Administration in the Department of Commerce must provide the Attorney General and the Federal Trade Commission with an opportunity to review and make recommendations concerning the antitrust implications of proposed licenses for the extraction of minerals from deep seabed sites. The Administrator may not take action until he has received the recommendations of the Attorney General or the FTC, and if he chooses to act in a fashion inconsistent with those recommendations, he must notify the agencies of his reasons before doing so.</p>	<b>Sea Minerals</b>
<i>USA</i>	<p><b><u>Defense Production Act (50 U.S.C. App. § 2158, as amended)</u></b></p> <p>The Defense Production Act provides defenses from antitrust action for industry participants in voluntary agreements entered into under government sponsorship to expedite mobilization in a national emergency. For those defenses to apply, the Attorney General, in consultation with the Chairman of the FTC, must certify that the agreements are necessary to meet preparedness goals that could not be achieved by the industry through agreements having less anticompetitive effects or without any agreement. The Attorney General and the Chairman of the FTC must also monitor the implementation of</p>	<b>Security and defense agreements</b>

	the agreements and may modify or terminate them at any time, in which case the antitrust immunity comes to an end.	
<i>USA</i>	<p><b><u>Energy Conservation (42 U.S.C. §§ 6201 et seq.)</u></b></p> <p>The Secretary of Energy is required by the statute to consult with the FTC and the Department of Justice with respect to the development, implementation and monitoring of voluntary agreements established by oil companies to deal with emergency domestic oil shortages. The involvement of the agencies throughout the process tracks very closely the similar provisions of the Defense Production Act and antitrust immunity is also available.</p>	<b>Energy</b>
<i>USA</i>	<p><b><u>The Federal Power Act (16 USC 791a-828c) and the Natural Gas Act (15 USC § 717-717(z))</u></b></p>	<p>The requirement that proceedings take place on the record and include interested parties has allowed the DOJ to participate effectively in both rulemakings and in individual adjudications that could affect competition. The rulemaking provisions of the FPA and NGA ensure that DOJ gets timely notice of proceedings, and gives DOJ the right to comment or intervene in cases. These provisions give the antitrust agencies the same right to intervene as any interested party, but no special right to intervene. Moreover, the US Supreme Court has ruled that these statutes require the agency to weigh competitive consequences of its</p>



		actions in determining the public interest in its decisions
<i>USA</i>	<p><b><u>The Telecommunications Act of 1996, in 47 U.S.C. § 271 (d) (2):</u></b></p> <p>The Commission ( the FCC) shall notify the Attorney General promptly of any application under paragraph (1). Before making any determination under this subsection [i.e. on the BOC’s application], the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission’s decision. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of the application using any standard the Attorney General considers appropriate. The Commission shall give substantial weight to the Attorney General’s evaluation, but such evaluation shall not have any preclusive effect on any Commission decision under paragraph (3)</p>	<p>Congress granted the Department an express role in evaluating BOC (Bell operating company) applications for authority to provide in-region long distance because of the long history of Department involvement in the telecommunications industry</p>
<i>USA</i>	<p><b><u>Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. § 1337)</u></b></p> <p>Under this Act, the Attorney General, in consultation with the Commission (the FTC), provides reports to the Secretary of the Interior respecting the expected competitive effects of proposed leases for the extraction of oil and gas from the Outer Continental Shelf. If the agencies advise that the granting of a lease may lead to a “situation inconsistent with the antitrust laws” the Secretary may nevertheless issue the lease but must provide his reasons.</p>	
<i>USA</i>	<p><b><u>Interstate Commerce Commission Termination Act of 1995 (codified at scattered sections of the U.S. Code, particularly 49 U.S.C. §§ 10101-11917)</u></b></p> <p>Under the Act the Federal Trade Commission, in</p>	

	<p>consultation with the Department of Justice, is required to file with the Surface Transportation Board within the Department of Transportation periodic reports that assess and make recommendations concerning possible anticompetitive features of rate agreements among common carriers. Those reports are then made available to the public.</p>	
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*The relationship between trade organizations and the competition authority*

In this category we refer to the provisions that determine the relationship between trade organizations, competition ethics and the competition authority. Although these provisions are not common, they turn out to be highly important in some countries, particularly because the trade organizations (chambers of commerce) are to some extent self-governing institutions that act according to their own code of conduct.

Some provisions in this category concern consultation with the competition authority regarding codes of ethics of chambers of commerce. Other provisions mention chambers of commerce as one of several agents that can consult with the competition authority on issues concerning competition.

This category emphasizes, in our opinion, that there are many aspects of competition advocacy.

<i>State</i>	<i>The advocacy provision articles</i>	<i>Remarks</i>
<i>France</i>	<p><b><u>COMMERCIAL CODE (Legislative part)</u></b></p> <p><b><u>TITLE VI: The Conseil de la concurrence</u></b></p> <p><b><u>Chapter II: Powers</u></b></p> <p><b><u>Article L462-1</u></b></p> <p>The <i>Conseil de la concurrence</i> may be consulted by the parliamentary committees on proposed laws and on any issue concerning competition.</p> <p>It gives its opinion on any issue concerning competition at the request of the government. It may also give its opinion on such issues at the request of territorial units (communes, departments, and overseas territories), professional and labour organisations, approved consumers' organisations, chambers of agriculture, chambers of trade or chambers of commerce and industry, with respect to the interests for which each is responsible.</p>	
<i>Hungary</i>	<p><b><u>Act CXXI of 1999 On Chambers of Commerce Supervision Section 29:</u></b></p> <p>(9) The Minister shall consult the Hungarian Competition Authority as to whether the code of ethics of a chamber of commerce is in harmony with the Act on the Prohibition of Unfair Market Practices.</p>	<p>The chambers of commerce are to some extent self governing institutions which enact some of their own code of conduct or statute which – in some cases - might cause problems concerning competition. In this context the code or statute of a chamber might contain anti-competitive provisions that are viewed as a</p>

		<p>restrictive agreement. Also the joint decision of chambers can have anti-competitive content. Therefore it is well thought of the legislator to provide the GVH the right to express its opinion on these codes or statutes. The drawback of the provision is that the GVH is only entitled to express its opinion on the codes of the chambers of commerce, whereas the same concern is much stronger in relation to the professional chambers.</p>
<i>Spain</i>	<p><b><u>article 26 of the Act establishes Consultative Functions which are related to the competition advocacy activity:</u></b></p> <p>1. The TDC may be consulted on competition issues by the Legislative Chambers, the Government, the various ministerial Departments, Regional &amp; Local Governments, Chambers of Commerce and business organisations, trade unions or consumer associations.</p>	
<i>Ukraine</i>	<p><b><u>Article 33 (Rules of Professional Ethics) of Law of Ukraine of 7 June 1996 No 236/96–BP On the Protection Against Unfair Competition:</u></b></p> <p>"Economic entities (entrepreneurs), assisted by the Chamber of Commerce and Industry of Ukraine and other interested organisations, may develop rules of professional ethics to be adhered to in competition in corresponding entrepreneurial activities and in certain branches of the economy. The rules of professional ethics in competition, which are developed by economic entities (entrepreneurs) shall be agreed with the</p>	<p>Rules of professional ethics, must be approved by the Antimonopoly Committee of Ukraine. The goal of this measure is to exercise control over the content of the rules. It must be limited only to cases of unfair competition and must not include the provisions which could result in the limitation of competition.</p>

	<p>Antimonopoly Committee of Ukraine.</p> <p>The rules of professional ethics in competition may be applied during the conclusion of contracts and the elaboration of establishing and other documents of economic entities (entrepreneurs)."</p>	
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*The relationship between the public and the competition authority, and miscellaneous issues*

In this category we gathered the provisions that deal with the relations between the authority and the general public. In Sweden, for example the competition authority must provide information, guidance and advice to all persons, concerning matters falling within the scope of its functions. In Zambia the authority is to undertake studies and make available to the public reports on the operation of the Competition and Fair Trading Act of Zambia.

Encouraging the competition culture is, in our opinion, one of the most important roles of a competition authority. This category presents a variety of tools available for the competition authorities to improve the competition culture in their countries, e.g., by conducting and publishing studies, by making the authority more accessible to the public and by exchanging information with foreign and domestic authorities.

<i>State</i>	<i>The advocacy provision articles</i>	<i>Remarks</i>
<i>Australia</i>	<p><b><u>TRADE PRACTICES ACT 1974 SECT 28</u></b></p> <p>In addition to any other functions conferred on the Commission, the Commission has the following functions</p> <p>(d) to make available to the public general information in relation to matters affecting the interests of consumers, being matters with respect to which the Parliament has power to make laws</p> <p>(e) to make known for the guidance of consumers the rights and obligations of persons under provisions of laws in force in Australia that are designed to protect the interests of consumers</p>	
<i>Finland</i>	<p><b><u>The Decree on the Finnish Competition Authority.</u></b></p> <p><b><u>Article 1:</u></b></p> <p>The Finnish Competition Authority shall</p> <p>(9) look after issues falling under its jurisdiction as a competent national authority under the EC legislation and engage in international co-operation in its field;</p> <p>(10) produce publications and other relevant information pertaining to its field; and</p> <p>(11) tend to other tasks prescribed or ordained to it.</p>	
<i>France</i>	<p><b><u>COMMERCIAL CODE (Legislative part)</u></b></p> <p><b><u>TITLE VI: The Conseil de la concurrence</u></b></p> <p><b><u>Chapter II: Powers</u></b></p> <p><b><u>Article L462-1</u></b></p> <p>The <i>Conseil de la concurrence</i> may be consulted by the parliamentary committees on proposed laws and on any issue concerning competition.</p>	



	<p>It gives its opinion on any issue concerning competition at the request of the government. It may also give its opinion on such issues at the request of territorial units (communes, departments, and overseas territories), professional and labour organisations, approved consumers' organisations, chambers of agriculture, chambers of trade or chambers of commerce and industry, with respect to the interests for which each is responsible.</p>	
<i>Hungary</i>	<p><b><u>Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices</u></b></p> <p><b><u>Section 36</u></b></p> <p>(6) The President of the GVH may issue, together with the President of the Competition Council, notices which describe the basic principles of the law enforcement practice of the GVH. Notices have no binding force, their function is to increase the predictability of law enforcement.</p>	
<i>Hungary</i>	<p><b><u>Act XXXIX of 1995 on the Sale of State-Owned Entrepreneurial Assets Organization of ÁPV Rt.</u></b></p> <p><b><u>Section 12.</u></b></p> <p>(6) The President of the Hungarian Competition Authority, or his representative, shall take part in the meetings of the Board of Directors as a permanent invited party, whose opinion on the decisions affecting the enforcement of market competition shall be taken into consideration by the Board of Directors</p>	<p>It is recognized that the participation of the GVH in the privatisation process from is the outset was very important in order to prevent situations where the only remedy to solve concentration problems would have been to prohibit a merger (by merger control), or where even this option could not work. This does not mean that</p>

		merger control loses importance but it is better to participate in this process where the possibilities to shape a market structure are still open. The role of the GVH in this process is more observatory and consultative than supervisory. The opinion of the GVH is not compulsory
<i>Ireland</i>	<p><b><u>Section 30 (1) of the Competition Act 2003 (“the Act”) lists various functions of the Competition Authority (“the Authority”). Among these are certain advocacy functions, as follows:</u></b></p> <p><b><u>Sub-section (1)(a):</u></b></p> <p>Studies and analyses of practices or methods of competition, both within and outside the State</p> <p><b><u>Sub-section (1)(g):</u></b></p> <p>Carrying on any activities appropriate to informing the public about competition.</p>	
<i>Israel</i>	<p><b><u>Section 42 of the Israeli Restrictive Trade Practices Law, 5748-1988 provides as follows:</u></b></p> <p><b><u>42. Maintenance of a Register and Publications in the Official Gazette</u></b></p> <p>(a) The General Director shall keep a register of applications for restrictive arrangements and of restrictive arrangements approved, a register of temporary permits issued, a register of exemptions granted in accordance with section 14, a register of mergers of companies for which the consent of the General Director or approval of</p>	

	<p>the Tribunal was issued, and a register of monopolies.</p> <p>(b) The register shall be open to public scrutiny; the Tribunal may, however, instruct that a particular matter shall not be open to public scrutiny if it believes such action is necessary in the interests of state security, foreign relations or some other vital interest, including the interest of a party in a commercial secret.</p> <p>(c) The General Director shall publish a notice in the Official Gazette regarding decisions of the Tribunal and regarding appellate decisions thereof of the Supreme Court, in the following matters:</p> <p>(1) Approval of a restrictive arrangement in accordance with Section 9;</p> <p>(2) An appellate decision regarding the merger of companies in accordance with Section 22;</p> <p>(3) Instructions to a Monopolist in accordance with Section 30.</p>	
<i>Latvia</i>	<p><b><u>The Competition Law of Latvia, Article 7</u></b></p> <p>4) publish the views and recommendations of the Competition Council.</p>	
<i>Lithuania</i>	<p><b><u>Article 4. Duty of Public and Local Authorities to Ensure Freedom of Fair Competition</u></b></p> <p>1. When carrying out the assigned tasks related to the regulation of economic activity within the Republic of Lithuania, public and local authorities shall ensure freedom of fair competition.</p> <p>2. Public and local authorities shall be prohibited from adopting legal acts or other decisions which grant privileges to or discriminate against any individual undertakings or their groups and which bring about or may bring about differences in the conditions of competition for competitors in the relevant market,</p>	

	<p>except where the difference in the conditions of competition cannot be avoided when the requirements of the laws of the Republic of Lithuania are complied with.</p>	
<p><i>Mexico</i></p>	<p><b><u>THE CODE OF REGULATIONS TO THE FEDERAL LAW FOR ECONOMIC COMPETITION“ Chapter VI On Consultations and Opinions</u></b></p> <p><b><u>ARTICLE 49</u></b></p> <p>Any person, whether natural or artificial, and including the agencies or other official bodies of the Federal, state or municipal public administrations may request consultation on the subject of competition and free participation in the market, for which purpose the following requirements shall apply:</p> <p>I. The said request shall be presented in writing, accompanied by any information relevant for the analysis that shall be carried out by the Commission;</p> <p>II. Should the information provided be considered insufficient, the Commission shall require the party concerned to provide the same, on one sole occasion, within ten days following the presentation of the request, which shall be presented during the fifteen days following the Commission’s requirement, and</p> <p>III. The Commission shall satisfy the inquiry in a maximum period of thirty days following the presentation of the request, or the delivery of the information, according to the case.</p> <p>If the said information is not provided within the period provided for in Section II above, the consultation shall be deemed not presented, without prejudice to the concerned’s entitlement to request an extension of the</p>	

	said period or to present a new inquiry.”	
<i>Netherlands</i>	<p>The NMA engaged in advocacy in the following sectors even though absent of specific authorization:</p> <p><b><u>Air transport</u></b> (on the tariffs charged by Schiphol Airport to the Ministry of Transport, Public Works and Water Management);</p> <p><b><u>Code of conduct of the Netherlands Order of Advocates</u></b> [Nederlandse Orde van Advocaten (NOvA)];</p> <p><b><u>Petrol</u></b> (on auctioning of petrol stations to the Ministry of Finance)</p>	Not included in statutes
<i>Netherlands</i>	<p><b><u>Article 18.3 Telecommunication Act</u></b></p> <p>1. Our Minister (the minister of economic affairs) shall give the Director-General of the Dutch Competition Authority, referred to in Article 2 of the Competition Act (Mededingingswet), the opportunity to give advice on the draft of a decision to deny or revoke a licence in so far as this relates to the considerable restriction of real competition on the relevant market, within the meaning of Articles 3.6, paragraph 2, under d., and 3.7, paragraph 2, under f.</p> <p>2. Before proceeding with a written announcement as referred to in Article 9.2, paragraph 2, Our Minister shall give the Board and the Director-General of Dutch Competition Authority the opportunity to give advice on the draft of the announcement.</p> <p>3. To the extent that in the exercise of the Board’s authority, concepts are interpreted which are used in the application of Article 24 of the Competition Act, the exercise of this authority shall take place in accordance with guidelines set by the Board in agreement with the Director-General of the Dutch Competition Authority. The Director-General will publish the guidelines in the Official Gazette.</p>	<p>In theory the Director General of the NMa only has a right to advise. However, practice showed that policy makers in these cases do not easily deviate from (non binding) advice.</p> <p>In addition to giving advice in accordance with the mentioned (legal) powers, a practice of giving advice on an ad hoc basis has developed, which does not have a statutory basis.</p>

	<p>4. The Board and the Director-General of the Dutch Competition Authority shall make agreements in the interest of effective and efficient decision-making on the way in which matters of mutual interest will be handled.</p>	
<p><b>Romania</b></p>	<p><u>Competition Law no. 21/1996,</u></p> <p><u>Article 27</u></p> <p><b>letter n)</b> that Competition Council can draw up studies and reports on its field of activity, and inform the Government, the public and the specialized international organizations about this activity;</p> <p><b>letter o)</b> that Competition Council can represent Romania and promote exchange of information and experience in the relationships with specialized international organizations and institutions, and co-operate with foreign and community competition authorities;</p> <p><b>letter h)</b> to promote exchanges of information and experience with specialized international organizations and institutions, and to co-operate with foreign and community competition authorities."</p>	
<p><b>Spain</b></p>	<p><u>The Spanish Act 16/1989 of 17<sup>th</sup> July, for Competition Defence</u></p> <p><u>Article 30</u> of the Act establishes its specific functions:</p> <p>“d) To study and carry out researches on economic sectors, analysing the situation and degree of competition in each one of them, as well as the possible existence of practices that restrict competition. As a result of the studies and researches that are carried out, it may propose the adoption of measures to remove the obstacles on which the restrictions are based.</p> <p><u>article 26 of the Act establishes Consultative Functions which are related to the competition advocacy activity:</u></p> <p>1. The TDC may be consulted on competition issues by the Legislative Chambers, the Government, the</p>	

	<p>various ministerial Departments, Regional &amp; Local Governments, Chambers of Commerce and business organisations, trade unions or consumer associations.</p> <p>2. The TDC shall promote and carry out research projects and studies on competition.</p>	
<i>Sweden</i>	<p><b><u>The Administrative Procedure Act 1986:223</u></b>  <b><u>Issued: 1986-05-07</u></b>  <b><u>As amended – up to and including 1999:286</u></b>  <b><u>Service-duties of the authorities</u></b></p> <p><b><u>Section 4</u></b></p> <p>Each authority shall provide information, guidance, advice and similar assistance to all persons concerning matters falling within the scope of its functions. The assistance shall be given to the extent that is deemed appropriate with regard to the nature of the matter, the person's need of assistance and the activity of the authority.</p> <p>Enquiries made by people shall be answered as soon as possible.</p> <p>If someone by mistake refers to the wrong authority the authority should set him right.</p>	
<i>United Kingdom</i>	<p><b><u>Enterprise act – part 1 – the office of fair trading</u></b></p> <p><b><u>6. provision of information etc. to the public:</u></b></p> <p>(1) the OFT has the function of –</p> <p>(a) making the public aware of the ways in which competition may benefit consumers in, and the economy of, the United Kingdom; and</p> <p>(b) giving information or advice in respect of matters relating to any of its functions to the public.</p> <p>(2) in carrying out those functions the OFT may –</p>	

	<p>(a) publish educational materials or carry out other educational activities; or</p> <p>(b) support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice.</p> <p><b><u>8 Promoting good consumer practice</u></b></p> <p>(1) The OFT has the function of promoting good practice in the carrying out of activities which may affect the economic interests of consumers in the United Kingdom.</p> <p>(2) In carrying out that function the OFT may (without prejudice to the generality of subsection (1)) make arrangements for approving consumer codes and may, in accordance with the arrangements, give its approval to or withdraw its approval from any consumer code.</p> <p>(3) Any such arrangements must specify the criteria to be applied by the OFT in determining whether to give approval to or withdraw approval from a consumer code.</p> <p>(4) Any such arrangements may in particular-</p> <p>(a) specify descriptions of consumer code which may be the subject of an application to the OFT for approval (and any such description may be framed by reference to any feature of a consumer code, including the persons who are, or are to be, subject to the code, the manner in which it is, or is to be, operated and the persons responsible for its operation); and</p> <p>(b) provide for the use in accordance with the arrangements of an official symbol intended to signify that a consumer code is approved by the OFT.</p> <p>(5) The OFT shall publish any arrangements under subsection (2) in such manner it considers appropriate.</p>	
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	<p>(6) In this section "consumer code" means a code of practice or other document (however described) intended, with a view to safeguarding or promoting the interests of consumers, to regulate by any means the conduct of persons engaged in the supply of goods or services to consumers (or the conduct of their employees or representatives).</p>	
<i>USA</i>	<p><b><u>Federal Trade Commission Act, Section 6, 15 U.S.C. § 46</u></b></p> <p><b><u>Section 46 -Additional powers of Commission</u></b></p> <p>The Commission shall also have power -</p> <p>(f)</p> <p>To make public from time to time such portions of the information obtained by it hereunder as are in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use....</p>	
<i>Zambia</i>	<p><b><u>Competition and Fair Trading Act, 1994 (the Act) of Zambia:</u></b></p> <p><b><u>Section 6(2)(f)</u></b></p> <p>to undertake studies and make available to the public reports regarding the operation of the Act</p> <p><b><u>Section 6(2)(g)</u></b></p> <p>to co-operate with and assist any association or body or persons to develop and promote the observance of standards of conduct for the purpose of ensuring compliance with the provisions of this Act;</p>	