

Annex 1: Statement of the Resources Director.

I declare that in accordance with the Commission's communication on clarification of responsibilities of the key actors in the domain of internal audit and internal control in the Commission (SEC(2003) 59 of 21/01/2003), I have reported my advice and recommendations to the Director-General on the overall state of internal control in the DG.

I hereby certify that the information provided in Part III of the present annual activity report and in its annexes II and III is, to the best of my knowledge, accurate and exhaustive.

Brussels, 30 March 2006.

[signed]
Michel MAGNIER

Annex 2: Follow-up of 2004 synthesis objectives.

Governance issues		
Objective	Initiative(s) to meet the objective	Action taken by DG COMP in 2005
1. Achieving effective functioning of internal control system and ownership of internal control concepts and processes at all level in each DG and service.	<ul style="list-style-type: none"> ➤ To ensure the effectiveness of internal control, with the assistance of central services, the internal control coordinator in each service should carry out a regular review of the effectiveness of internal control issues, based on available information on results of controls, exceptions made and relevant scoreboards, in order to enhance related procedures or modify control systems. This review should be conducted, at least, in the context of the twice-yearly information to Commissioners and of the annual activity report. 	See section 2.2 above.
2. Promoting Commission's accountability through a synthesis report solidly based on assurances from managers in the annual activity reports.	<ul style="list-style-type: none"> ➤ The Commission will continue fully to exert its accountability, by using the synthesis to bring transparency to the critical crosscutting issues emerging from services' assurances. The latter will give a full account on whether the assurance is consistent with the reservations identified. 	See sections 2.1, 2.2, part 4 and annexes to this report.
3. Establishing effective and comprehensive risk management making it possible to identify and deal with all major risks at service and Commission level and to lay down appropriate action to keep them under control, including disclosing resources needed to bring major risks to an acceptable level.	<ul style="list-style-type: none"> ➤ The Commission-wide methodology which will be set up by the autumn of 2005 will introduce risk assessment into the decision-making process on priorities and resource allocation. This will be given firmer shape in the management plans and annual activity reports of services. ➤ In the medium-term perspective, the methodology should also address how to deal with risk management within 'families' of similar activities in services. 	See section 2.2 of this report and the relevant annex to DG COMP's AMP 2006.

Activity-based management		
Objective	Initiative(s) to meet the objective	Action taken by DG COMP in 2005
5. Reinforcing annual activity reports to ensure better accountability.	<ul style="list-style-type: none"> ➤ Commission departments should give, where needed, a fuller explanation of their environment and the risks faced, including risks that remain even after mitigating measures have been taken. The impact of their environment and risks on management and controls should be made more explicit and in most cases fuller explanations should be given on the overall impact of reservations on the reasonable assurance. ➤ A reflection on the possible simplifications to strike a better balance between policy results and internal control and financial management issues at the level of both annual activity reports and synthesis will be held in the second half of 2005. ➤ Guidance to the services will be reinforced and will integrate all instructions referenced in several Commission decisions in one global set. ➤ With the assistance of central services, a common methodology to determine the materiality threshold of weaknesses, including systemic ones, will be prepared for the 2005 annual activity reports and in order to assess more coherently their impact on the reasonable assurance for 'families' of <i>shared management, research and internal policies</i>. 	<p>See section 2.2 of this report.</p> <p>DG COMP participated in the seminar of Directors General on 2 March 2006.</p> <p>Not relevant for DG COMP.</p>

Financial management and reporting		
Objective	Initiative(s) to meet the objective	Action taken by DG COMP in 2005
6. Improving efficiency and strengthening accountability by further harmonisation and better focusing of ex post controls.	<ul style="list-style-type: none"> ➤ Further attempts have to be made to achieve closer harmonisation of methodology and definition of common ex-post control strategies, at least at the level of 'families' of services operating in the same budget area. Specific proposals and possible action in this respect will be progressively explored and the next synthesis report will clearly identify the progress made and remaining weaknesses to be addressed. 	DG COMP manages a very small operational budget (see section 2.1 above) and therefore belongs to the "family" of DGs less directly concerned by this action. However, in its own field, DG COMP carries both ex-post controls of financial transactions (see 2.2 above) and ex-post evaluations of the effects of its measures (remedies, fines, etc.), which serve as the basis for ongoing and future work.

Human resources		
Objective	Initiative(s) to meet the objective	Action taken by DG COMP in 2005
7. Aligning resources and needs better to make sure that staff have the skills and qualifications necessary to perform their duties, in particular in areas such as financial management, audit, science, linguistics and IT.	➤ An analysis of human resource devoted to internal control will be progressively carried out as requested by the Court of Auditors	N.A.

Annex 3: Human and financial resources by activity.

For the allocation of human resources by activity in 2005, please see annexed table.

EXECUTION OF COMMITMENT APPROPRIATIONS		
Other de-centralized administrative expenditure - 03 01 02 11 01 à 03 01 02 11 06		
Code Activité	Activité	Exécution des crédits d'engagement
4.1	Anti-trust, mergers, liberalization and cartels	1.750.000
4.2	State Aid control	1.300.000
4.3	International cooperation	600.000
4.4	Policy, strategy and coordination	350.000
4.5	Administrative support	450.000
	Total	4.450.000

Annex 4: Draft annual accounts and financial reports.

DG Competition launched 23 calls for tender during 2005. Six were published in the Official Journal since the estimated budget exceeded 50,000€ DG Competition awarded 4 contracts using the negotiated procedure, two for a reason of extreme urgency, and two because there existed a “monopoly” situation where we had no choice but to choose one supplier.

The main reason for the high proportion of negotiated procedures in 2005 was the fact that one large contract was awarded in relation to a complex court case. The contract itself constituted 65% of all negotiated procedures concluded in 2005. Hypothetically, then, had the contract not been signed, the total of negotiated procedures in 2005 would have been 12% of the total contracts awarded in the year.

An unfortunate and unforeseen chain of events in this court case made it impossible for us to comply with the time limit set in the normal procedure. The fact that the party is a dominant player on the market also made it very difficult to find a candidate with enough experience and knowledge, who at the same time was not subject to a conflict of interest.

An open call for tender for the said contract had been published in April, but having received no valid candidates, the procedure was cancelled and was due to be re-published. Following the filing of a new annulment application before the CFI, in order to defend the interests of the Commission without having to rely exclusively on third-party submission, it became urgent and imperative to find an expert to double-check in time all the relevant evidence in a highly specialized technical area. We therefore had no choice but to launch a negotiated procedure according to article 126.1c of the Financial Regulation.

Within the same context, a smaller contract was awarded to cover the period between the cancellation of the first open procedure and the award of the second negotiated procedure. As these kinds of events are exceptional, we see no reason why this high proportion of negotiated procedures should be repeated in the years to come.

A third contract was awarded to OECD for a “Peer review of the EU competition regime in the context of the OECD Competition Committee. Given the nature of the study, the OECD was the only institution capable of producing these results.

Finally, in relation to one of our sector enquiries, two reports made by RBR were purchased. RBR is recognized as the most authoritative source of strategic information on the European market and their reports seemed, after a comparison with other reports made within the same area, to best correspond to our needs.

As to income, in 2005, DG COMP issued 48 recovery orders for a total amount 792.529.000€ and 24 negative recovery orders for an amount of 92.912.937,46€ giving a total income of 699.616.062,54€

In total 20 negative recovery orders were above an established amount receivable of 100.000€, 17 were cancellations as a result of a mistake as to a point of law and 3 were waivers on the basis of sound financial management. The three waivers relate to the following Commission decisions:

1. Commission decision C(2005)3146 of 18/08/2005 waiving 1.000.000€
A fine dating from 1998. The company disappeared before the decision in question was adopted and had therefore never been notified.
2. Commission decision C(2005)1780 of 16/06/2005 waiving 1.231.107,46€
A fine dating from 2002. In a bankruptcy procedure the Commission accepted a partial payment of the fine and waived the rest.
3. Commission decision C3859 of 17/10/2005 waiving 11.500.000€
A fine dating from 1995. The company went bankrupt in 2004.

For a complete overview of draft annual accounts and financial reports, see annexed tables.