United Kingdom: Research underlines deterrent Effect of UK Competition Regime

Research published on 7 December 2011 estimates that for each completed competition enforcement case, up to 40 potential competition law infringements are deterred.

The new deterrence ratios are published as part of independent research carried out by London Economics, which focused on trying to understand what drives businesses to comply with competition law, and what deters them from infringing it.

The research, which consisted of a survey of more than 500 large companies and 300 small and medium enterprises (SMEs), as well as a small survey of specialist competition advisers in legal firms, estimated that:

- For each abuse of dominance case, 12 potential infringements are deterred;
- For each cartel case, 28 potential infringements are deterred;
- For each anti-competitive agreement case, 40 potential infringements are deterred.

The report found that businesses viewed the reputational damage and criminal sanctions arising from competition enforcement as the most important drivers of compliance with the law, followed closely by the associated financial penalties. By contrast, competition advisers in legal firms placed the greatest emphasis on financial penalties, followed by criminal sanctions and leniency policy.

Businesses reported a lack of knowledge of competition law to be the most important driver of non-compliance. Around half of large businesses said that they are fairly or very knowledgeable about various basic aspects of competition law, although SMEs were less likely to report that they are knowledgeable.

Businesses in sectors with one or more OFT competition intervention since 2003 were found to be significantly more knowledgeable about various aspects of the UK competition regime and these companies also said they were more likely to use compliance measures.

Management commitment to compliance was also considered an important reason for companies staying within the law, by both businesses and legal advisors. Notably, businesses said that the perceived negative impact on profits of complying with the law and the actions of rogue employees were not significant reasons for competition law breaches, whereas these were rated fairly highly as factors by advisers in legal firms.

Businesses also diverged from advisers in legal firms when asked how the OFT could most improve its effectiveness. Over 50% of business respondents agreed with the OFT’s high impact enforcement approach, saying that effectiveness would be most improved if the OFT undertook fewer but more high profile cases, a point with which only 10% of advisers from legal firms agreed. By contrast, over 65% of advisers from legal firms felt that the OFT would best improve its effectiveness by undertaking more cases.

See Final Report.