



EUROPEAN COMMISSION

DG Competition Annual Management Plan 2006

Final

1. Mission statement

The mission of the Directorate General for Competition is to enforce the competition rules of the Community Treaties, in order to ensure that competition in the EU market is not distorted and that markets operate as efficiently as possible, thereby contributing to the welfare of consumers and to the competitiveness of the European economy. Competition policy is now broadly recognized as a crucial factor for the creation of proper conditions for economic growth and prosperity, since it influences investment decisions, business acquisitions, pricing policies and economic performance. Competition policy helps promote a better allocation of resources and strengthen the competitiveness of European industry to the benefit of the citizens.

As is explained in detail in the sections below, the work of DG COMP is essential to the achievement of the EU's strategic objectives as expressed in the "Community Lisbon Program"¹, because it makes a significant contribution to the efficient functioning of the internal market and promotes the conditions necessary to **stimulate knowledge and innovation, to make Europe a more attractive place to invest and work, and to create more and better jobs**. The principal instruments available to DG COMP for accomplishing its mission are:

a) The enforcement of competition rules on anti-trust, mergers, State infringements and State aid control. Merger control and individual proceedings against undertakings or Member States having infringed the competition rules allow the prevention or remedy of specific competition problems, like cartels or abuses of dominant position. Competition enforcement has a positive effect for consumers, because effective competition contributes to a larger choice of products and services, lower prices and better quality. Moreover, effective competition creates incentives for business to invest in research and development towards innovation, thus stimulating knowledge and contributing to the creation of more and better jobs. Finally, enforcement actions have a further positive impact in that they act as a deterrent to potential infringers. DG COMP's enforcement strategy is built around four basic principles:

- Ø Prioritization of enforcement actions;
- Ø economic approach to the assessment of cases;
- Ø effective remedies and deterrence;
- Ø networking and cooperation, both within the EU through the European Competition Network (ECN), and at international level.

Detailed explanations of competition enforcement as regards different types of infringement are provided in the relevant subsections in section 4 below.

b) Sector inquiries and market monitoring. Informal market monitoring and formal sector inquiries launched under Article 17 of Regulation 1/2003 are indispensable instruments to feed the Commission's enforcement activities, especially in sectors characterized by particular complexities. In such cases, only a deep understanding of the functioning and dynamics of the specific market can reveal the existence of competition problems that call for enforcement actions. Formal sector inquiries may be launched in markets where: (i) on the basis of informal market monitoring carried out, it emerges that markets are not working effectively and where the reasons for this dysfunction remain unclear; (ii) only a more systematic fact-finding exercise could help to clarify the matter; (iii) the use of formal investigative powers is necessary to gather the information; (iv) the competition problem is likely to concern several economic actors and/or to be related to the existence of close interactions among them.

c) Policy development. The area of policy development encompasses a range of activities, including in particular the design and review of procedural and substantive competition rules; the provision of internal guidance for the Commission's enforcement activities; the coordination of the actions of competent Member States' authorities; and the external communication of EU competition policy. This activity involves designing competition rules that are based on a sound legal and economic assessment of market realities and practices. It thus allows the Commission to focus on major obstacles to competition at the EU level and reduces the risk that firms or Member States are prevented from

¹ COM(2005) 330 final, of 20 July 2005

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engaging in legitimate or efficiency-enhancing behavior. The comprehensive reform of State aid rules begun in 2005 or the review of enforcement practices towards abuses of dominant position, for example, aim to ensure a more sophisticated economic approach, as well as better regulation and more effective enforcement.

d) Competition advocacy. Competition advocacy, as opposed to enforcement, refers to actions aimed at influencing regulatory processes both at EU and national level to ensure better and pro-competitive regulations. Competition advocacy within the European institutions can take different forms, including the participation in the preparation of other DGs' regulatory proposals and cases, public consultations, reports on the state of competition, promotion of best practices, etc.

e) International cooperation. The increasing integration of the world economy makes it essential for the Commission to cooperate with competition authorities outside the EU, in particular to address the rise in multi-jurisdictional mergers and anti-competitive conduct across borders. By creating tools for bilateral and multilateral co-operation, the Commission aims to promote international convergence of competition policy in general, with the aim of ensuring the effective enforcement of the EU competition rules in an international environment and avoiding conflicts with the competition authorities of other countries. Such convergence is also beneficial to businesses that operate in several jurisdictions.

In the framework of enlargement, the main objective of international cooperation is to assist the candidate countries to meet the conditions for EU accession in the competition and especially in the State aid policy area. The result of this activity can be seen in the fact that, by the time of their accession to the EU on 01 May 2004, the ten new Member States had established competition regimes on a level with those of the EU-15.

2. DG COMP's general objectives and priorities in a multi-annual perspective.

The work of DG Competition is characterized by a great deal of continuity from one year to the next. 2004 was, in many ways, an extraordinary year that brought major changes affecting our strategic priorities: enlargement of the EU to 25 members, the modernization of the antitrust enforcement system, the arrival in November of a new Commission, and the completion of the DG's internal re-organization as a consequence of modernization. While marking the first full year of the Barroso Commission, 2005 was a period of consolidation, on whose foundation DG COMP's work program for 2006 is built.

In 2005, DG COMP defined its multi-annual general objectives in line with the political priorities of the new Commission. The key objective in the political agenda of the new Commission was to reinvigorate the Lisbon process, whose overall aim is to make the EU the most dynamic and competitive knowledge-based economy in the world. The Commission's Annual Policy Strategy Decision (APS) for 2005 had already highlighted an upturn in growth as the central policy objective, striving to improve the competitiveness of the European model while maintaining prosperity, employment, cohesion and environmental protection.

In support of the competitiveness framework laid down in the APS 2005, DG COMP made important progress on its ambitious legislative review process in competition policy, with the adoption of the State Aid Action Plan and the DG COMP discussion paper on the application of Article 82 to exclusionary abuses. DG COMP delivered on its commitment to pro-active enforcement of competition rules across the EU in 2005, focusing on the most harmful anti-competitive practices for the European economy, continuing to build on the improvements begun in 2004 - such as better prioritization of cases and enhancing the economic approach to assessment -, and by ensuring the proper functioning of the European Competition Network (ECN). In the area of cartels, a dedicated Directorate was set up with the aim of further enhancing enforcement and policy initiatives, a development that has been welcomed by the OECD². A milestone in the implementation of Regulation 1/2003 was the launching of the first two sector inquiries pursuant to Article 17: one in the energy sector (gas and electricity) and one in the financial services sector.

In 2005, DG COMP was subject to an OECD peer review. It also carried out a risk assessment exercise to identify risks that might jeopardize the attainment of our objectives and agree on the required responses during 2006. This exercise identified three categories of risks: risks affecting our enforcement activity, risks affecting the functioning of the DG, and risks having an impact on the Commission's reputation and/or causing harm to third parties. The required responses to these risks – such as the new working methods in anti-trust - have been built into our 2006 work program, where appropriate, in accordance with the Commission's principles of risk management.

2.1 DG COMP's general objectives in 2006.

Looking forward to 2006 and beyond, it is clear that the role played by competition policy takes on a particular importance in the context of the economic and social challenges currently facing the EU. The speed and intensity of globalization and technological change in the world economy create both opportunities and challenges. There is wide consensus and compelling evidence that, subject to some essential ground rules to ensure fair as well as free trade, exposure to international trade stimulates productivity and growth. However, facing global competition requires EU and national policies aimed at greater flexibility for firms to meet the challenges of rapid change, as well as public support to research and development (R&D), education and infrastructure investment – all of this while ensuring that individuals have the skills and training to retain employment in a world where specific jobs may rapidly appear and disappear.

As a response to this common challenge, in July 2005 the Commission tabled a comprehensive plan called the "Community Lisbon Program", based on a previous proposal for a fundamental review of the

² See OECD, "Peer review of the competition law and policy in the European Community". To be published in January 2006, p. 44.

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Lisbon Strategy that had received the full support of the European Council and the European Parliament earlier in the year. Extending and deepening of the internal market and ensuring open and competitive markets inside and outside Europe are key policy objectives of this renewed strategy for growth and jobs. This program foresees specific actions aimed at completing the internal market, as well as other actions that support and complement national measures, including in particular in the field of State aid policy, in three major areas of activity: **promoting knowledge and innovation for growth, making Europe a more attractive place to invest and work**, and promoting the creation of **more and better jobs**.

The objectives of the Community Lisbon Program are in line with the strategic objectives defined in the Commission's Annual Policy Strategy 2006, which proposed to continue to concentrate on the most urgent priority, namely, **restoring dynamic and sustainable growth in Europe and providing for more and better jobs to citizens**. One fundamental operational goal for the Commission in 2006 was to continue ensuring the proper functioning of the enlarged Europe, the continuity of ongoing activities and the full application of the policies and rules within all the Member States.

EU competition policy has an essential contribution to make to the achievement of both the EU's strategic objectives as set out in the Lisbon Program and of the Commission's objectives as expressed in the APS 2006 decision. In particular, competition policy contributes to Europe's ability to meet the economic and social challenges of rapid change in today's global economy in the following ways:

- ∅ By protecting competition in markets, EU competition policy helps ensure that European consumers, whether businesses or individuals, get a high standard and wide choice of goods and services at affordable prices.
- ∅ By protecting the competitive process, EU competition policy improves the competitiveness of European business. Rivalry between firms stimulates technological development and innovation, bringing faster growth in the economy. Moreover, ensuring open markets with possibilities for new entrants can attract more investment, generate employment and accelerate growth.
- ∅ Thirdly, by targeting international cartels, mergers, and abusive practices of firms of any nationality which harm competition inside the EU, competition policy helps to protect European business and citizens against the potentially harmful aspects of globalization.
- ∅ Finally, competition policy provides an appropriate framework in which Member States can give financial support to R&D, innovation, risk capital facilitation, environmental protection, employment, training, and public services without harming competition and jobs in the rest of the Union, while facilitating structural change in the context of globalization.

DG COMP has defined three multi-annual general objectives that will allow it to continue making a significant contribution to the achievement of the Commission's strategic objectives as defined in the Commission's APS decision 2006, the Community Lisbon Program and the Commission's Social Agenda:

2.1.1 To focus enforcement actions on the most harmful anti-competitive practices for the European economy.

In all enforcement areas, competition policy has been a tool for structural reform. Protecting competition contributes to ensuring that markets operate as efficiently as possible. Open and competitive markets are an important means to foster economic efficiency and competitiveness, innovation and growth. In the long run, they represent the best guarantee of providing consumers with a wide choice of good quality goods and services at competitive prices.

2.1.2 To enhance competitiveness within the EU by helping to shape the regulatory framework.

The dismantling of unnecessary regulatory barriers to competition contributes to enhancing the competitiveness of the European economy. Competition enforcement and advocacy initiatives can ensure that EU and national public policy do not hold back competition to the detriment of businesses

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and final consumers, and that those restrictions to competition which are deemed necessary for the achievement of other legitimate policy objectives remain proportionate to that aim.

In this way, competition policy plays a key role in improving the competitiveness of European business. Protecting the competitive process stimulates technological development and innovation, which in turn bring about faster growth in the economy. Moreover, ensuring open markets with possibilities for new entrants can attract more investment, generate employment and accelerate growth.

2.1.3 To focus action on key sectors for the internal market and the Lisbon agenda.

Public monopolies established to provide telecommunications, post, energy and transport services have not always proved efficient and able to satisfy consumers' needs in the best possible way. Liberalization of these key input services for businesses can contribute to the competitiveness and growth of the European economy. The gradual opening up of these markets to private enterprise allows consumers to benefit from lower prices and new and more efficient services. The evolution of the telecommunications and air transport sectors, where in the last 10 years prices have steadily fallen while the number of providers has increased, is a good example of the positive effect that competition policy can have on consumer welfare³ in those sectors.

State aid control in these sectors further contributes to these goals by promoting efficient and effective public services irrespective of whether they are provided by the State or by the market. It also provides a framework in which Member States can give financial support to address recognized market failures, promote structural change and ensure the availability of public services, while prohibiting State aid which distorts competition. State aid rules also play an important role in the efforts to increase the availability of risk capital for start-ups and small and medium-sized enterprises, which are recognized as motors for innovation and employment.

2.2 DG COMP's priorities in 2006.

In 2006, DG COMP will give the highest priority to two tasks: the **prevention and deterrence of cartels** and the **reform of State aid**. **Cartels** artificially raise the price of goods and services, reduce supply and hamper innovation, so that consumers end up paying more for less quality. Cartels can also significantly increase the input costs for European businesses. Precisely estimating the harm caused by cartels is difficult, but according to data collected by the OECD, the "mark up" above the competitive price that cartels cause may typically be 15 to 20%, but can be as much as 50% or more⁴. The detection and deterrence of cartels therefore brings important benefits to the EU economy and to European consumers.

As regards the field of **State aid**, the specific enforcement priorities to be pursued in 2006 are laid down in the State aid action plan. Regarding policy review, DG COMP will introduce a more economic approach in the design of State aid rules, focusing in particular on market failures that State aid is meant to rectify, strengthening transparency and predictability of State aid policy. We will revise the current horizontal texts accordingly, both on substance and procedure, focusing at the same time on adopting measures (best practices) for the efficient treatment of cases, pending the entry into force of the super block exemption regulation, and developing case-law to focus on the most distortive measures as regards the effect on trade.

Furthermore, we will increase control of the most distortive type of cases by adopting measures to ensure that Member States respect the obligation to notify, strengthening the economic analysis in case assessment and through the systematic recovery of incompatible aid granted. Third, in order to sanction illegality and incompatibility, DG COMP will focus on developing a new approach to remedies, geared to a better functioning of the market where the beneficiary is present. Fourth, DG COMP will continue to apply a more integrated approach in the assessment of cases as well as in the scrutiny of major proposals.

³ See SGEI horizontal evaluation report available at http://europa.eu.int/comm/internal_market/en/update/economicreform/index.htm

⁴ OECD, "Report on the nature and impact of hard core cartels and sanctions against cartels under national laws", 9 April 2002, DAF/COMP(2002)7, Part II, p. 72, 80.

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Our next priority will be **merger control**, where, apart from the core enforcement activities, the emphasis will be on ensuring continuity in how we assess the effects of business restructuring. We will continue to identify competition concerns only on the basis of sound economic analysis and solid fact finding. Particular attention will also need to be paid to mergers which might impede the achievement of EU liberalization objectives. Work will begin on the re-examination of the two-thirds rule, contained in Article 1(2) and (3) of Council Regulation (EC) No 139/2004, which is one of the criteria relevant for establishing the Commission's jurisdiction for mergers with a Community dimension.

DG COMP's other priority in 2006 will be the completion and effective follow-up of the **sector inquiries** launched by the Commission in 2005, into the gas and electricity markets, on the one hand, and into the retail banking and insurance sectors, on the other. The findings of the sector inquiries will allow the Commission to decide on the right type of policy mix to solve the problems identified. The 'mix' will include competition enforcement and/or advocacy, and, possibly, regulation in the areas of internal market and/or consumer protection. The inquiries will also cast light on other market conditions that permit anti-competitive behavior.

In support of the above priorities, our guiding principles as regards enforcement will continue to be **prioritization of enforcement actions** according to the degree of harmfulness of anti-competitive practices *vis-à-vis* consumers, both business and individuals. Priority will be given to those actions that address competition problems with the highest negative impact on consumer welfare, account being taken of the volume of spending affected by the anti-competitive practice and the nature of the conduct. The existence of a significant impact on the competitive process (market foreclosure) can be used as a proxy for consumer harm. An additional element to be taken into account when defining the priorities for enforcement is the precedent value of a specific intervention which achieves the objective of clarifying the application of competition rules to complex legal or economic issues.

Also, we will implement the measures identified as risk responses, with particular attention to those risks that would affect our enforcement activity or have an impact on the Commission's reputation and/or cause harm to third parties. In 2006 we will continue to give the greatest attention to ensuring the **quality of our decisions**. Measures will be undertaken to strengthen and enhance an investigative culture among our staff. DG COMP will continue to strengthen the role of sound economic analysis in the application of EU competition law and, in general, improve the quality of competition assessment, as legal and economic thinking develops. In line with the Commission's impact assessment guidelines, DG COMP will assess the impact on the market of the conduct of firms or State measures even more carefully, with the help of a more sophisticated economic analysis.

Work will continue in order to strengthen the **effectiveness of competition remedies** and to enhance deterrence. Furthermore, effective remedies to competition problems in the fields of antitrust and merger proceedings will be addressed both by removing the specific distortions identified and by ensuring that Commission decisions produce a deterrent effect. Similarly, in the field of State aid the emphasis will be on ensuring the respect of the obligation to notify and of recovery orders. As a complement to this work, DG COMP will develop ex-post analysis of past enforcement actions with a view to drawing lessons about their impact.

One of the major risks to our enforcement activity, as also recognized by the OECD⁵, is lack of **coherence in the application of EC competition rules** by national competition authorities and national courts. Improving coordination within the European Competition Network (ECN) and ensuring effective interface with national competition authorities will therefore continue to be a major priority of DG COMP's work in 2006-2007. In the State aid area, DG COMP will continue to promote an increased sense of shared responsibility between Commission and Member States for the reform of State aid rules. We will also continue to encourage national courts to play a more active role in the enforcement of State aid rules at national level. Finally, DG COMP will continue its efforts to increase predictability and transparency in the application of competition rules through horizontal policy instruments and intensified communication *vis-à-vis* the public, the business community and the other institutions.

⁵ OECD, "Peer review of the competition law and policy in the European Community". To be published in January 2006, p. 41.

3. Resources

After 4 years of reinforcements in human resources between 2000 and 2004, in 2005-2006 DG COMP has experienced a moderate increase in staff levels. Especially in view of the increased workload necessarily caused by enlargement, optimizing the use of human resources has become a constant and major concern for the DG.

In 2005, DG COMP responded by further enhancing use of the workforce scheduling tool created in 2004 (CHOPIN) in order to better identify and respond to changing and often competing priorities. Also, in 2005 the DG once again reviewed its working methods with a view to streamlining them as much as possible. Besides this review, the completion of the DG's internal reorganization in 2005 has increased our possibilities to reallocate tasks and redeploy resources internally. Thanks to these measures, at any given time some 10% of the DG's staff is being redeployed internally. However, this improved capacity to redeploy has its limitations.

The trend in 2006 is clearly towards an increase in the DG's workload. The main demands on our human resources will come from our priority areas of work: cartel fighting, the implementation of the State Aid Action Plan, the expected increase in the number of mergers notified to the Commission in 2006-2007, and the conclusion and follow-up of the sector inquiries launched in 2005.

In general, as recognized by the OECD⁶, the demands of our case work on DG COMP's resources will continue to rise as cases become more complex and the trend to appeal decisions by the Commission continues. Also, the revision of a large number of legislative texts, the adoption of new initiatives announced in the State Aid Action Plan, and the application of the refined economic analysis in enforcement activities will have a significant impact on our resources, especially as the beneficial effects of the increased use of block exemption regulations in the State aid area will not be felt before 2007.

The consequences of enlargement will also continue to affect our workload, in particular due to the obligation to work in the national language within tight legal deadlines in some areas, notably State aid, to the Commission's obligation to ensure the proper functioning of the ECN, and to the preparation of Bulgaria's and Romania's accession in 2007.

In 2006, apart from the 25 net full-time posts allocated to DG COMP in the Annual Policy Strategy (APS) decision, credits for two A* level contract agents will be made available as part of the front-loading for enlargement to Bulgaria and Romania. Furthermore, DG COMP will be able to transform credits for 12 auxiliaries/contractual agents available from 2005 into full-time posts in 2006. **The total full-time equivalents for 2006 will therefore be 37 permanent posts** broken down as follows: **24 A*, 6 B* and 7 C* plus 2 A* enlargement contract agents from Bulgaria and Romania** (each for a period of 9 months).

Taking into account the transformation of 7 A*, 3 B*, and 2 C* level enlargement auxiliary posts into permanent ones, the net allocation of human resources in 2006 will be 17 A*, 3 B* and 5 C* posts. Adding the credits for the 2 contract agents from Bulgaria and Romania (both at A* level), we will have a net total of **27 new posts to allocate** in 2006.

The allocation of these human resources was decided according to the principles of Activity-Based Management and Budgeting, that is: resources were assigned to those areas dealing with the DG's priorities as described in section 2.2 above.

- To reinforce our enforcement capabilities, 7 A*, 1 B* and 3 C* posts will be dedicated to the cartels area.
- The State aid area will be allocated 2 A*, 1 B* and 1 C* posts, plus the credits for two contractual agents for Bulgaria and Romania for nine months, in order to be able to advance in the completion of the SAAP and cope with the preparations for enlargement to EU-27. Also, to support the Deputy Director General for State Aid, one C* post will be allocated to this function.

⁶ Ibid, p. 42.

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- The mergers area will be allocated 4* A and 1 B* posts in order to enable it to handle a growing number of notifications and the increasing complexity of cases, as well as planned policy development work such as the review of the 2/3 rule and the design of more effective remedies.
- The Directorates dealing with sectoral inquiries will be allocated each 1 A* post on a temporary basis, until the end of 2006.
- Finally, a key factor in our enforcement strategy is ensuring coherence in the implementation of EC antitrust rules by national authorities and courts through the European Competition Network (ECN). It is therefore essential that we are able to ensure the good functioning of the network. To this aim, 1 A* post will be allocated to the competent area.

As to financial resources, in 2006 DG COMP has been allocated 11 769 960⁷ Euros for administrative expenditure. This budget can be considered sufficient to support DG COMP's operations, in the framework of the general budget constraints. Budget execution has traditionally been close to 100%. New needs can only be met through strict financial management and constant redeployment of resources towards priorities.

The 2006 budget will be concentrated on our traditional priorities. External staff (approximately 50% of total administrative expenditure) will be used according to the following priorities: replacement of officials on maternity leave, in accordance with the DG's action plan for equal opportunities, and a pool of 18 paralegals assisting case handlers with a view to ensuring the highest possible quality of our decisions. The mission budget (approximately 8% of total) will be shared among Directorates, with an emphasis on inspections (in particular aiming at detecting cartels) and international activities. A significant studies budget (20% of total in 2005) will be dedicated to sector inquiries, market monitoring activities as well as enforcement activities (e.g. the defense of the Microsoft case to the Court of First Instance). Finally, the DG will continue to support the training of national judges in Competition Law through its small subsidy program, trying to reach full use of the 800.000€ budget for the first time.

The tables below summarize the resources, human and financial, that DG COMP will dispose of in order to fulfill its tasks in 2006. It should be underlined that, although it is not its primary objective, as a by-product of its enforcement activities, through the imposition of fines on companies having infringed competition rules under Articles 81 and 82 EC, DG COMP generates resources that contribute to the Community's finances and which may amount to hundreds of millions of Euros in a given year.

Human Resources (person years)

ABB Activity	Officials and temporary staff	Auxiliaries and Contractual agents	Interim personnel	Seconded national experts	Other	Total
Anti-trust, mergers, liberalization and cartels	298	25	2	32*		357
Control of State aid	160	19		9		188
International cooperation	10					10
Policy, strategy and coordination	98	7	1	2		108
Administrative support	67	7			13**	87
Total	633	58	3	43	13	750

* 2 of these are Seconded National Experts at no cost to the Commission, one from the Dutch National Competition Authority and one from the UK Treasury.

** The 13 service providers in this line are not paid from DG COMP's budget, but from DG DIGIT's.

⁷ *General Budget of the European Communities for the financial year 2006*, Vol. 4 – Book I, section III Commission.
http://europa.eu.int/eur-lex/budget/data/PEL12006_VOL4/EN/nmc-titleN116D5/nmc-chapterN11704/index.html#N11704

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Financial Resources (€)

ABB Activity	Operational expenditure	Administrative expenditure (DG managed)	Total
Anti-trust, mergers, liberalization and cartels	800 000		800 000
Control of State aid			
International cooperation			
Policy, strategy and coordination			
Administrative support			
		11 769 960	12 569 960

4. Activity-Based Budgeting (ABB) Activities

According to the structure used for Activity Based Management (ABM), DG Competition's work is divided into the following activities:

- Mergers, anti-trust, market liberalization and cartels.
- Control of State aid
- International co-operation
- Policy, strategy and coordination
- Administrative support

After the reorganization of the DG, these activities are carried out by ten directorates. Directorate A is the horizontal directorate dealing with competition policy, coordination, the European Competition Network, international affairs and relations with other Institutions. Directorates B to E deal with anti-trust and merger cases. Directorate F was created in 2005 for the purpose of enhancing DG COMP's cartel fighting capabilities and is dedicated to this task. Directorates G, H and I deal with State aid. Directorate R is in charge of strategic planning, resources and information/communication.

4.1 Activity "Anti-trust, mergers, liberalization and cartels"

This activity involves the application of Articles 81, 82 and 86 of the Treaty establishing the European Community (TEC) and derived legislation, notably the Anti-trust Regulation and the EC Merger Regulation. It is important to note that for formal reasons, this title groups three areas that together make up the majority of the work of DG COMP, namely anti-trust (which includes cartels and other anticompetitive practices), mergers and liberalization.

The aim of anti-trust law enforcement under Articles 81 and 82 is to ensure that companies compete on their merits rather than engaging in anti-competitive conduct. Article 81 prohibits anti-competitive agreements in the common market. One of DG COMP's priorities in this area will be to identify, investigate, dismantle and impose fines on firms participating in anti-competitive arrangements prohibited by Article 81 and especially in cartels.

Cartels are illegal arrangements, generally between competing firms, designed to limit or eliminate competition between them with the objective of raising prices and profits, without producing any objective countervailing benefits. Cartels typically involve agreements to fix prices, limit output, share markets, allocate customers and/or territories among firms, rig bids and/or a combination of any of these, and as such represent the most pernicious form of violation to Article 81, since they have a direct negative effect on consumers.

Another important area of competition law enforcement is sanctioning abuses of dominant position, in particular situations where a company uses its power in a market to hinder potential competitors from offering new products or services to consumers under more attractive conditions. Such conduct is forbidden by Article 82 of the EC Treaty. By preventing new entries or squeezing competitors out of the market, abuses of dominance hamper competition and negatively affect incentives to innovation and growth, as well as consumer welfare. The application of Article 82 allows the Commission to put an end to abuses of dominance, while respecting dominant companies' right to compete aggressively on the merits of their products or services.

Merger control is another important instrument of competition law enforcement. Companies may combine their activities to develop new products or to lower costs. However, some mergers may reduce competition in the market, in particular by creating or strengthening dominant positions in the market. Merger control is therefore primarily aimed at preventing the emergence of market structures which are not conducive to effective competition, or the deterioration of market structures which are already less than effectively competitive. Under the Merger Regulation the Commission has exclusive competence to assess concentrations with a Community dimension: those where at least two of the merging parties obtain an aggregate annual Community-wide turnover of over 250 million Euro, and where the

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combined aggregate worldwide annual turnover of all the merging parties is over 5 billion Euro, unless each of the parties achieves more than two-thirds of its aggregate annual Community-wide turnover within one and the same MS (additional criteria to define Community dimension are included in Art. 1.3 of the Merger Regulation).

In terms of procedure the EC Merger Regulation guarantees efficient enforcement by providing a “one-stop-shop” service for merging companies, which involves a rapid assessment and clearance of non-problematic mergers. Mergers that do not have Community dimension are in principle dealt with at Member State level. However, recent changes to the Merger Regulation have improved the scope for re-allocating cases from the national competition authorities (NCA) to the Commission and vice versa. In order to facilitate the operation of the new framework that entered into force on 01 May 2004, a Merger Network was created, comprising the Commission and the NCAs.

The pre-notification referral system for mergers, which has been praised as an improvement by the OECD⁸, has been a considerable success. An average of 10 per cent of cases notified to the Commission are now the result of the referral arrangements. As an example of how this system helps European business, the 35 referrals to the Commission between May 2004 and September 2005 would, under the previous regime, have resulted in 239 separate national reviews. The Commission has approved well over 90 per cent of the more than 250 cases examined in the first ten months of 2005, most of them within one month. In another 5 per cent of cases, it has resolved any concerns about the possible effects of a merger through remedies. Prohibition is the last resort. But when it is essential to ensure that consolidation does not undermine the benefits of liberalization for consumers, and when no suitable remedies are on offer, the Commission has no choice but to prohibit a merger.

Liberalization involves the application of Article 86 TEC, which establishes the applicability of competition rules to public undertakings and those to which Member States grant special or exclusive rights, including undertakings entrusted with the operation of services of general public interest. The application of the competition rules plays an important role in sectors which have recently been liberalized by complementing the regulatory reforms. In particular competition policy prevents incumbents from raising new barriers or protecting themselves against emerging competition after State barriers have been removed.

Specific objectives for this ABB activity.

Expected impact of the ABB Activity in 2006:

- Ø Increased competition in the common market.
- Ø Increased consumer welfare
- Ø Enhanced competitiveness of European industry
- Ø Enhanced effectiveness of action at EU level

Impact indicators:

- Ø Number of leniency applications by firms: indicates success of COM's leniency policy in motivating firms to denounce cartels. May be monitored on a yearly basis.
- Ø Evolution of number of providers or of consumers changing suppliers in the recently liberalized sectors: indicates positive effect of enhanced competition for consumers. Monitored on a multi-annual basis.
- Ø Turnover of markets affected by anti-trust decisions: indicates the scope of the enforcement action.
- Ø Turnover of markets affected by corrective merger decisions (remedies or prohibitions). Indicates scope of the enforcement action.
- Ø Turnover of markets affected by regulatory initiatives. Idem.
- Ø Turnover of product markets affected by cartel decisions. Idem.

⁸ OECD, “Peer review of the competition law and policy in the European Community”. To be published in January 2006, p. 45.

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4.1.1 Objective “Concentrate enforcement actions on the most harmful cartels and increase the efficiency of cartel proceedings.”

Besides ensuring effective enforcement against the most harmful cartels, in 2006 work will concentrate on improving the DG's investigatory capabilities and speeding up cartel proceedings.

This specific objective is related to General Objective 2.1.1 “To focus enforcement actions on the most harmful anti-competitive practices for the European economy” and 2.1.2 “To enhance competitiveness within the EU by helping to shape the regulatory framework”.

Major actions contributing to the objective:

- Ø Investigating, as a priority, those cartels that are likely to have a clear impact on consumer welfare or that are in areas where there has not been significant previous enforcement action.
- Ø Contributing to the cartel work within the ECN.
- Ø Contributing to the cartel work within the International Competition Network (ICN).
- Ø Ensuring communication with all stakeholders.

Output indicator(s):

- Ø Progress on revisions to further enhance the effectiveness of the Leniency Program.
- Ø Progress on initiatives to develop direct settlements.
- Ø Number of statements of objections adopted in cartel cases (p.m. 9 in 2005).
- Ø Number of decisions adopted in cartel cases (p.m. 5 in 2005).
- Ø Number of inspections (p.m. 5 in 2005).

4.1.2 Objective “Concentrate enforcement actions on anti-competitive practices other than cartels that have a high impact in terms of safeguarding/restoring effective competition within the EU”.

Anti-competitive agreements (other than cartels) between companies and abusive behaviour by dominant firms may be used to restrict market access and to limit competition by other firms. Sometimes the conduct leads directly to the exploitation of consumers. Anti-competitive practices that hinder effective competition and keep prices artificially high inflict a direct damage on consumers as well as industries purchasing the overpriced products as inputs, which in turn endangers their competitiveness. Restoring effective competition to the markets is essential in order to prevent companies from keeping prices at artificially high levels, to provide an incentive for innovation, better quality and service.

Anti-competitive conduct can also prevent parallel trade between Member States, which would otherwise allow consumers located in a country to buy the cheaper products sold in another country. Prevention of parallel trade, which conflicts with single market objectives, also penalizes those businesses that wish to provide products or services in different Member States.

Work in this area in 2006 will focus on exclusionary practices with a view to providing a broader long-term protection for consumers, taking due account of efficiencies generated by undertakings' conduct. Enforcement against exploitative practices should however be pursued where barriers to the market exist that cannot be overcome by potential competitors. Parallel trade-cases will be prioritized according to their effect on the market.

Enforcement actions will be launched where they are most needed and where the impact of corrective action is most important.

This specific objective is related to General Objective 2.1.1 “To focus enforcement actions on the most harmful anti-competitive practices for the European economy.”

Major actions contributing to the objective:

- Ø Investigating, as a priority, abuses of dominant positions and other anticompetitive practices that have a clear impact on consumer welfare.

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- Ø Completing ongoing sector inquiries and ensuring their appropriate follow-up.
- Ø Contributing to the good functioning of the European Competition Network (ECN), ensuring that the Community competition rules are applied consistently throughout the internal market.

Output indicator(s):

- Ø Number of inspections (p.m. 4 in 2005).

(Abuses of dominant position)

- Ø Number of prohibition decisions in Art. 82 cases (p.m. 2 in 2005)
- Ø Number of Statements of Objections in Art. 82 cases (p.m. 1 in 2005)
- Ø Number of commitment decisions in Art. 82 cases (p.m. 1 in 2005)

(Other anti-competitive behavior in anti-trust)

- Ø Number of Statements of Objection in Art. 81 cases (p.m. 9 in 2005)
- Ø Number of prohibition decisions in Art.81 cases (p.m. 2 in 2005)
- Ø Number of Art. 9 Decisions in Art. 81 cases (p.m. 1 in 2005)

(Sectoral inquiries and market monitoring activities)

- Ø Follow-up to sector inquiries in the gas and electricity markets.
- Ø Follow-up to the sector inquiries in financial services (retail banking and business insurance)
- Ø Study on the impact of Regulation 1400 on motor vehicles distribution (publication and public consultation).

The specific output indicators concerning the recently liberalized sectors and financial services are listed under specific objective 4.1.4 below.

4.1.3 Objective “Use the instruments provided by the new Merger Regulation in order to prevent the anti-competitive effects of mergers and further increase the effectiveness and efficiency of merger control.”

Mergers may have the effect of significantly impeding effective competition in the common market or in a substantial part of it, in particular if they create or strengthen a dominant position. The EC Merger Regulation provides the Commission with the power to carefully assess the impact of these concentrations with a view, on the one hand, to clearing unproblematic mergers and, on the other hand, to prohibit the mergers conducive to the impediment of effective competition.

Besides the core assessment function, DG COMP's activities in the field of mergers will continue to focus on providing guidance for the legal and business community and on enhancing the transparency and predictability of merger control as essential factors for business in Europe. Particular attention will be given to developing the assessment of both coordinated and unilateral effects, ensuring effective design of remedies and appropriate implementation process in the light of the lessons provided by the recent remedies study.

Current business climate leads the Commission to believe that a new wave of concentrations will take place in 2006, particularly in markets such as network industries and financial sectors.

This specific objective is related to General Objective 2.1.1 “To focus enforcement actions on the most harmful anti-competitive practices for the European economy”.

Major action(s) contributing to the objective:

- Ø Focus enforcement action on concentrations that are likely to impede effective competition and provide rapid assessment of remaining cases, using simplified procedures when appropriate.
- Ø Make appropriate use of the new referral mechanisms of merger cases between the Commission and Member States to reduce the number of multiple notifications and ensure that the Commission enforcement action focuses on cases with cross-border effects.

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- Ø Ensure effective remedial action of anti-competitive mergers and monitor effective compliance with remedies submitted
- Ø Co-operate with NCAs to ensure coherent approaches between EU and national merger procedures, both within the EU and at international level.

Output Indicator(s):

- Ø Based on the activity in 2005, 300 first phase (Article 6.1) decisions in 2006, of which about 20 may require corrective intervention (“remedies”) by the Commission.
- Ø Based on the activity in 2005 up to 12 (Article 8) decisions in phase II cases.

4.1.4 Objective “Focus enforcement on anti-competitive State behavior.”

Under certain circumstances measures by Member States may be harmful to competition in the EU and therefore contrary to the Treaty. These can be addressed by the Commission through specific case-related enforcement action. This is in particular the case where (i) Member States require or favor the adoption of anti-competitive agreements by companies, or (ii) Member States take measures contrary to *inter alia* the Community competition rules in the case of public undertakings and undertakings that have been granted special or exclusive rights.

The liberalization of markets where competition is restricted or even excluded by exclusive or special rights granted to undertakings has become an important priority in the last decade. The aim of liberalization is to turn these into competition-driven markets that will enhance competitiveness and innovation in the EU to the benefit of consumers and the European economy as a whole. Examination under the anti-trust rules of international airline alliances, for example, provides the opportunity to seek liberalization of the often restrictive bilateral international agreements governing air transport.

At the same time, universal public services, to which all citizens should have equal access at affordable prices, must be safeguarded in areas where market forces are inadequate.

This specific objective is related to General Objective 2.1.1 “To focus enforcement actions on the most harmful anti-competitive practices for the European economy” and 2.1.3 “To focus action on key sectors for the internal market and the Lisbon agenda”.

Major action(s) contributing to the objective:

- Ø Address key issues to improve competition in the liberalized network industries and financial services, in particular non-discriminatory access to infrastructure, and full and proper transposition of legislation.
- Ø Cooperation with National Regulatory and Competition Authorities to deal with regulatory and other competition issues.

Output indicator(s):

- Ø Number of Art. 86 decisions.
- Ø Number of competition infringement proceedings launched.
- Ø Number of letters of formal notice.
- Ø Number of Art. 226 decisions.

Energy markets:

- Ø Follow-up actions to the sector inquiry in the gas and electricity markets.

Telecommunications and postal markets:

- Ø 2 investigations.

Transport markets:

- Ø 2 investigations.

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4.1.5 Objective “Helping to shape the regulatory framework to promote competition.”

Regulatory measures in various domains (e.g. industrial policy, consumer protection or intellectual property rights) pursue mostly positive policy aims. However, they may also bring about unnecessary hindrances to competition, which could harm businesses’ ability to innovate and thus create more and better jobs. Ultimately, of course, such a development negatively affects both the EU economy and individual consumers. The dismantling of unnecessary regulatory barriers to competition is therefore an important contribution to enhancing the competitiveness of the European economy: it helps to ensure that EU and national public policy do not hold back competition to the detriment of businesses and final consumers.

Providing guidance also helps to ensure that those restrictions to competition that are deemed necessary for the achievement of other legitimate policy objectives remain proportionate to those aims. The Commission is therefore actively engaged in competition advocacy, in order to ensure that regulatory measures do not unduly and disproportionately interfere with the competitive process of markets.

As regards EU legislation, the Commission is set to strengthen the assessment of the economic impact of proposed measures and include a competition test. The new Impact Assessment will allow the Commission to evaluate whether restrictions on competition might arise as a result of the proposal and, if so, whether the policy objective sought can be achieved without such restrictions or, at least, through less restrictive means. It is proposed that Member States carry out a similar screening exercise with respect to domestic rules, so as to remove unnecessary regulatory or other barriers that hinder competition.

The outcome of the sector inquiries begun in 2005 will allow DG COMP to provide authoritative input to shape the regulatory agenda. They will also provide useful knowledge on competition patterns and possible problems in the sectors concerned. DG COMP will be a major stakeholder in contributing to shape a competition-friendly regime for the liberalization sector.

This specific objective is related to General Objective 2.1.3 “To enhance competitiveness within the EU by helping to shape the regulatory framework”.

Major action(s) contributing to the objective within particular sectors:

- Ø Contributing to the drafting of legislative proposals, Commission notices and guidelines, and general publications originating from other services of the Commission.
- Ø Cooperation with different DGs and Services in the Commission, in particular DG MARKT, DG TREN, DG ENTR and DG INFSO.
- Ø Contributing to shaping national regulatory frameworks.
- Ø Stimulating national screening initiatives in key sectors.
- Ø Screening selected EU legislative proposals having a major impact on the functioning of competition. Precedence is to be given to domains where there is scope for a more competition-oriented outcome and where competition advocacy can have more impact than individual enforcement actions.

Output Indicator(s):

- Ø Completion of the sector inquiry in the energy sector.
- Ø Completion of the sector inquiries in the financial services sector.
- Ø Advancement of energy liberalization packages.
- Ø Competition-related contributions in the context of the legislative process and implementation of REACH.
- Ø Monitoring raw materials markets.
- Ø Study on economic effects of regulations affecting professional services aspects of real estate transactions.
- Ø Market monitoring in health, airports and ports sectors.
- Ø Paper summarizing how competition law applies in the sport area.
- Ø Study on market developments in automotive retailing and after-sales sector.

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- Ø Monitoring price differentials in car sector.
- Ø Accompanying Common Agricultural Policy reform.
- Ø Guidance to sector on new policy questions under Block Exemption Regulation 1400/2002 (paper of DG Comp services to be published on the car sector web-page)

The specific output indicators concerning liberalized network industries and financial services are listed under section 4.1.4 above. Advocacy measures specific to the State aid area are listed under 4.2.3 below.

4.2 ABB Activity "Control of State Aid"

Article 87 of the EC Treaty prohibits any aid granted by a Member State or through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain firms or the production of certain goods in so far as it affects trade between Member States. The Commission has the exclusive power to declare State aid compatible with the Treaty, provided it fulfils clearly defined objectives of common interest and does not distort intra-community competition and trade to an extent contrary to the common interest.

State aid control is a particularly valuable tool for the achievement of the EU's strategic objectives. Faced with free trade between Member States and opening of public services to competition, national authorities sometimes use public resources to protect national industries. State aid control aims at guaranteeing that firms can compete fairly, without public funds being used to give a firm an undue advantage over another. At the same time, it also has an incentive effect to encourage the granting of aids that address market failure or equity objectives that have a beneficial impact on competitiveness, employment and growth, and thus on the welfare of society as a whole. State aid control has a key place in the achievement of both the Community Lisbon Program and the Commission's Social Agenda.

In line with the policy objectives of the European Council, the Commission seeks to ensure that the overall level of State aid is reduced, in particular with regard to those aids that most distort competition in the internal market, and that where aid is granted it is in proportion to its aims and focused on horizontal objectives of Community interest, in particular those contributing to the Lisbon Program, such as cohesion, employment, environmental protection, promotion of research and development and development of small and medium-sized enterprises (SMEs). Particular attention is given to ensuring that the beneficial effects of liberalization are not undermined by State-aid measures.

Control of State aid involves case-handling activity, the elaboration of regulatory instruments such as Council or Commission Regulations and other legal texts, and competition advocacy.

Specific objectives for this ABB activity.

Expected impact of ABB activity (impact indicator/s):

- Ø Less and better-focused State aid in an enlarged Union: the target is to progressively reduce the overall level of State aid expressed as percentage of GDP (in 2004 its level was 0.6% of EU-25 GDP, relatively stable since 2000), with a view to making state intervention in the form of state aid the clear exception.
- Ø Achieve a larger proportion of State aid that can be accepted despite its distortive effects on competition and intra-community trade because it enhances cohesion, employment, environmental protection, promotion of research and development and development of small and medium-sized enterprises. Target: to sustain the current trend toward increasing the percentage of State aid granted for horizontal objectives above the levels achieved in 2004 (76% of the overall amount of aid).

4.2.1 Objective "To ensure effective enforcement of State aid rules in the enlarged EU, with particular focus on the most distortive types of aid and on those sectors that are key to the development of the internal market and the competitiveness of the EU economy."

An efficient enforcement of State aid policy requires a correct assessment of priorities, taking into account the legal obligation on the Commission to take up a large number of the cases which are notified to it. Particular attention should be devoted to State intervention in recently liberalized sectors and network industries that largely contribute to the effective working of the internal market and the overall competitiveness of the EU economy, such as energy, postal services and telecommunications, with special regard to those that involve public service obligations. Consequently, State aid cases are being classified into three operational priority categories:

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1) Cases showing a significant distortion of competition and/or trade (leading to a formal investigation procedure), cases of high political priority, linked to the achievement of the strategic objectives as identified in the AMP, recovery cases and cases which have an important precedent value (ca. 118 cases). Particular attention will be given to rescue and restructuring cases, especially in new Member States, to the interaction between telecom and media, the integration of financial and postal services and the provision of health and other services in newly liberalized markets. In addition, priority will be given to Member States' action regarding R & D and innovation, environmental and training objectives and large regional investment projects, as they can contribute positively to the Lisbon objectives.

2) Other State aid cases for which there is a legal obligation to make a decision within a defined timeframe (ca. 310 cases).

3) Remaining State aid cases requiring background tasks (ca. 450 cases). The criteria used for assigning individual State aid cases to the above categories concern: (i) the contribution to the strategic objectives, (ii) the impact on competition (based on amounts of aid involved, effect on trade and/or structure of market), (iii) the economic and/or legal precedent value, (iv) the legal obligation to take a decision or to act, (v) whether there is a clearly established line to follow (because the case was previously assessed, is fully in line with guidelines or block exemptions or a clearly established line exists), and (vi) the legal and economic complexity of the case.

While facilitating well-targeted aid in support of the Lisbon priorities, the enforcement activity in the field of State aid will be stepped up and focus on those aid measures that may lead to the largest misallocation of resources. Particular attention will be paid to aid to ailing firms, investment aid to large enterprises under the multi-sectoral framework (MSF), and aid to companies entrusted with SGEI while having commercial activities at the same time. In order to maintain the credibility of the Commission's State aid policy DG COMP will strengthen its ex-post monitoring of the Commission's State aid decisions and its actions to ensure an effective execution of recovery decisions.

This specific objective is related to General Objective 2.1.1 "To focus enforcement actions on the most harmful anti-competitive practices for the European economy" and 2.1.3 "To focus action on key sectors for the internal market and the Lisbon agenda".

Major action(s) contributing to the objective:

- Ø Applying a more integrated approach to the assessment of cases and scrutiny of proposals, including organization of panels, along the lines described above.
- Ø Encouraging the respect of notification obligation by Member States. Ensuring systematic recovery of unlawful and incompatible aid.
- Ø Focus enforcement action on cases that are most likely to distort competition and intra-Community trade.
- Ø Focus enforcement action on key cases for the Lisbon program.
- Ø Give practical guidance on the compatibility criteria set out in the SGEI package of July 2005 by adopting benchmark decisions related to cases in the postal and health sectors.
- Ø Establishing an ex-post monitoring system for BERs and conditional decisions.

Output indicator(s):

- Ø Decisions in priority rescue and restructuring cases (p.m.22 in 2005).
- Ø Decisions on a reasonable percentage of notified Multi-Sectoral Framework cases and monitoring of compliance with decisions (p.m. 1 in 2005).
- Ø Decisions on major cases contributing to Lisbon objectives (R&D and innovation, risk capital, energy and environment) (p.m. 103 in 2005).
- Ø Decisions on stranded costs in energy sector (p.m. 4 in 2005).
- Ø Phasing out of the fiscal cases assessed in the context of the fiscal code of conduct by adopting at least 3 decisions in this matter.
- Ø At least 3 decisions in the field of telecommunication and broadband development.
- Ø At least 3 decisions on cases in the banking sector.
- Ø Postal market: 2 or 3 decisions concerning prohibition of unlimited guarantees and/or including extensive discussion of the admissible criteria on cost.

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- Ø Preliminary or final decisions in 3 cases concerning public service broadcasters.
- Ø At least 2 decisions on cases concerning digital terrestrial television.
- Ø Health markets: initial decisions fixing the borderlines and objectives of the control by the Commission in these markets.
- Ø Execution of 10 recovery decisions.
- Ø Monitoring enlargement (EU-10, Bulgaria and Romania).

4.2.2 Objective “Review the EU and national regulatory framework, including in new Member States, to help reduce overall aid levels and promote better targeted aid in the pursuit of the Lisbon objectives.”

In line with the proposals made in the State Aid Action Plan (SAAP), work will continue towards a simplified and consistent legislative framework based on the principles of less and better targeted State aid, a refined economic approach, more effective procedures, better enforcement, higher predictability and enhanced transparency. The main objective of the reform is to facilitate well-targeted aid measures aimed at increasing cohesion in the EU and at correcting market failures – particularly in the field of innovation, R&D, and access to risk capital for SMEs – while at the same time responding to sound economic principles. An effective contribution of competition policy to shaping the regulatory framework must place particular emphasis on the new Member States, enhanced transparency in State interventions and vigorous competition advocacy.

This objective is related to General Objectives 2.1.2 “To enhance competitiveness within the EU by helping to shape the regulatory framework” and 2.1.3 “To focus action on key sectors for the internal market and the Lisbon agenda.”

Major actions contributing to the objective:

- Ø Undertake a review of the legislative and regulatory framework in a number of areas, including administrative rules and practices to enhance the economic analysis of cases.
- Ø Contribute to environmental policy development in the post-Kyoto process, in particular by screening proposals on emission trading and energy taxation.
- Ø Continued monitoring of compliance with the *acquis* and the enforcement record of candidate countries.
- Ø Contribute to enhancing the transparency of State interventions.
- Ø Improving communication with stakeholders.

Output Indicator(s):

- Ø Finalizing and implementation of the Regional Aid Guidelines.
- Ø Revised horizontal guidelines on risk capital.
- Ø Revised horizontal guidelines on research and development and innovation aid.
- Ø Revised horizontal guidelines on environmental aid.
- Ø Best practices guidelines
- Ø A notice on cooperation with national courts
- Ø Revised regulation on *de minimis* aid
- Ø Establishing the State aid Network with Member States.
- Ø Further development of benchmarking of the effectiveness of aid in co-operation with Member States and other services, including the State-aid scoreboard.

4.3 Activity "International Cooperation."

This Activity aims to contribute to and promote international convergence of competition policy by creating effective tools for bilateral and multilateral co-operation with the Community's main trading partners and with third-country competition agencies. The increasing integration of the world economy, as reflected by the rise in multi-jurisdictional mergers and anti-competitive conduct across borders, has made it imperative that the EU develops policy instruments to ensure effective enforcement of the Community's competition rules at an international level. In the specific context of enlargement, the main policy objective, in addition to fostering a competition culture, is to assist the acceding and candidate countries to build up a proper legislative framework, well-functioning competition authorities and an efficient enforcement practice in order for them to meet the conditions for EU accession in the competition policy.

Expected impact of ABB activity (impact indicator/s):

- Ø More effective enforcement of merger control and anti-cartel rules through international cooperation.
- Ø Easier international transactions and cooperation to the benefit of European business.
- Ø Building up of a competition legislative framework, well-functioning competition authorities and an efficient enforcement practice compatible with EU rules in the candidate countries.

4.3.1 Objective "Strengthening international cooperation in enforcement activities."

International cooperation in the fight against cartels is essential, since in a global market, cartels and other anticompetitive practices often have an international dimension and affect consumers in different countries. This specific objective is related to General Objective 2.1.1 "To focus enforcement actions on the most harmful anti-competitive practices for the European economy".

Major action(s) contributing to the objective:

- Ø Strengthening co-operation with major third-country jurisdictions.
- Ø Participating in international fora such as the International Competition Network (ICN) and the Organization for Economic Cooperation and Development (OECD).

Output Indicator(s):

Bilateral Cooperation:

- Ø Structure for Second Generation Agreement to allow exchanging confidential information.
- Ø Annual Bilateral Meetings with major jurisdictions (USA, Japan, Canada, China, Korea).

Work in the framework of ICN:

- Ø Preliminary report on "international co-operation in cartel investigations" in the framework of ICN working group on cartels.
- Ø Successful cartel session at the ICN annual conference and 2006 ICN cartel workshop.
- Ø Establishment of a new ICN Working group on Unilateral Conduct)

4.3.2 Objective "Promote convergence of competition policy instruments across different jurisdictions."

European firms active outside the EU need to be able to benefit from effective competition in foreign markets. Promoting greater convergence of competition policy instruments across different jurisdictions is therefore important and contributes to ensuring a level playing field for European companies in the international arena. This specific objective is related to General Objective 2.1.2 "To enhance competitiveness within the EU by helping to shape the regulatory framework" and 2.1.3 "To focus action on key sectors for the internal market and the Lisbon agenda".

Major action(s) contributing to the objective:

- Ø Leading role in relevant international fora.
- Ø Participate in the European Neighbourhood Policy.

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- Ø Contribute to trade negotiations between the EU and other jurisdictions (Gulf Co-operation Council, Mercosur, Economic Partnership Agreements, others).
- Ø Bilateral work with major jurisdictions with a view to achieving as much convergence as possible (in particular the USA, Canada, Japan, Korea, China and Russia).

Output Indicator(s):

- Ø Provide input to discussions at various OECD and ICN Working Groups.
- Ø Inclusion and monitoring of competition/state aid provisions in action plans with Neighbourhood Policy countries.
- Ø Comment on draft Chinese competition law, and organise workshop on relationship between competition policy and sector regulation
- Ø Inclusion of appropriate competition provisions in agreements between the EU and third countries or groups of countries.

4.3.3 Objective “Contribute to the enlargement process as regards competition policy.”

DG COMP plays a major role in the competition policy aspects of accession negotiations with candidate countries, also helping them to achieve the necessary conditions in the field of competition to prepare for further integration and ultimately full accession to the EU. In 2006, this work will focus on the accession and candidate countries, as well as the negotiations with the applicant country former Yugoslav Republic of Macedonia and the countries with which we are negotiating in the context of Stabilization and Association Agreements. This specific objective is related to all three General Objectives.

Major action(s) contributing to the objective:

- Ø Monitoring all relevant competition-related aspects of accession of Bulgaria and Romania.
- Ø Conducting negotiations with DG ELARG in relation to competition issues with Croatia and Turkey.
- Ø Conducting negotiations with Macedonia, Albania, Serbia and Montenegro as well as Bosnia and Herzegovina in the context of the SAA.
- Ø Assistance in the strengthening of the competition regimes in the candidate and applicant countries.

Output Indicator(s):

- Ø Input to the spring and autumn monitoring reports for Bulgaria and Romania.
- Ø Input to the screening reports on the competition chapter for Croatia and Turkey.
- Ø Input to the Progress and Regular Reports with Croatia, Turkey, Macedonia, Albania, Serbia and Montenegro and Bosnia and Herzegovina.
- Ø Organization of TAIEX seminars on competition policy.
- Ø Preparation of technical meetings on Competition and State aid issues.
- Ø Participation in Sub-Committee meetings on Internal Market with the relevant countries involved.

4.4 Activity "Policy, Strategy and Coordination"

This activity relates to giving the necessary impulse to policy definition, preparation and implementation in order to achieve the overall mission of DG COMP as well as to contribute to the coherence of the different activities within DG COMP, while promoting a good management culture in line with the systems adopted as a consequence of the reform of the Commission.

This ABB activity involves:

- Ø General policy issues and institutional relations
- Ø Annual and ongoing reporting, reporting systems and public information.
- Ø Overall management of the DG, strategy, planning and monitoring (including evaluation).
- Ø Economic analysis and economic policy (Chief Economist functional area).
- Ø Relations with interest and consumer groups and the work of the Consumer Liaison Officer.
- Ø Inter-departmental relations and consultations on general issues.
- Ø Library and staff information services and internal communication.

Expected impact of ABB activity (impact indicator/s):

- Ø More effective enforcement of competition rules for the benefit of consumers.
- Ø An efficient division of work within the DG and between DG COMP and other DGs and Services.
- Ø Consistent application of EU competition rules by DG COMP and within the ECN.
- Ø Clear guidance to businesses about application of competition law.

4.4.1 Objective "Policy development and communication"

It is essential to continuously shape and revise policy so that it corresponds to market realities and contemporary economic and legal thinking. The present objective relates in particular to actions concerning the development of legal instruments and the relationship with important interlocutors for DG COMP. The objective also includes actions concerning the communication of the Commission's competition policy to the other European institutions and to the broader public in order to increase transparency. This specific objective is related to all three General Objectives.

Major actions contributing to the objective:

- Ø Reviewing and updating policies and technical guidelines**
- Ø Setting up networks with other DGs to improve cooperation on policies**.
- Ø Contributing to the development of general policy instruments and guidance on legal and economic issues in the application of EU competition rules**.
- Ø Communicating competition policy to the broader public.

Output Indicator(s) for the anti-trust, mergers, liberalization and cartels field:

- Ø Follow-up to Green paper on damages actions for breach of EC antitrust rules.
- Ø Draft guidelines on the application of Article 82.
- Ø Ex-post evaluation and Notice on anti-trust remedies.
- Ø New Notice on fines.
- Ø Revision of the Notice on complaints.
- Ø New Notice on remedies in merger cases.
- Ø Guidelines for vertical and conglomerate mergers.
- Ø Consolidated Notice on merger control jurisdiction.
- Ø Annual competition report.

*** Other actions and output indicators for the cartel area have been listed under 4.1.1 above. Also, major actions and output indicators for the field of State aid are listed under 4.2 above.*

4.4.2 Objective “Policy coordination”

This objective involves the coordination of enforcement activities in anti-trust including cartels, mergers, liberalization and State aid, in order to ensure a consistent approach to cases across legal instruments and sectors. Priority setting in the field of anti-trust is an issue of growing importance, as the abolition of the notification system has increased the Commission’s scope for setting priorities when dealing with individual cases. In the field of State aid, DG COMP must ensure the coherence with policy objectives of investigations carried out by other DGs. This activity also involves providing input to cases pending before the Community Courts. The policy coordination activity is supported by the Chief Economist function, the scrutiny panels in particularly difficult cases, and by the Consumer Liaison Officer.

The objective is related to all three General Objectives.

Major action(s) contributing to the objective:

- Ø Priority setting and input into Annual Planning Tools.
- Ø Coordination and scrutiny of enforcement actions, including organization of Peer Review Panels.
- Ø Support and coordination of court litigations.

Output Indicator(s):

- Ø Involvement in court litigations.
- Ø Number of replies to internal and inter-service consultations and upstream support.

4.4.3 Objective “Ensure the good functioning of the enforcement system provided by the new regulation, in particular of and through the European Competition Network (ECN).”

Under the new Anti-trust Regulation 1/2003 both Member States and the Commission are competent to apply EU competition law. Functional since 01 May 2004, the ECN has been established to ensure the consistent application of EU competition law, an appropriate work sharing between Member States and the Commission, and an enhanced cooperation between authorities in the Network for fact-finding purposes (information exchange and assistance). Beyond this backbone of legal network mechanisms, the ECN pursues the objective of promoting a common competition culture in the EU, ensuring coherence and promoting convergence.

The reform of the antitrust enforcement regime introduced by Regulation 1/2003 leads also to an increased application of the Community competition rules by national courts. Under the cooperation mechanisms foreseen in the Regulation, the Commission provides assistance to national judges and, by subsidizing appropriate projects, it encourages judicial cooperation between judges and their training with a view to ensure both an effective and coherent application of Articles 81 and 82 throughout the EU.

This objective concerns the coordination of the ECN. It is related to General Objective 2.1.1 “To focus enforcement actions on the most harmful anti-competitive practices for the European economy”.

Major action(s) contributing to the objective

- Ø Contribute to the effective allocation of cases within the ECN.
- Ø Contributing to the maintenance of a coherent application of EU competition law by the 25 NCA and by national courts.
- Ø Organization of the ECN plenary meetings and related working groups and meetings with the Directors General of the 25 Member States.

Output indicator(s):

- Ø Number of consultations examined pursuant to Article 11(4) and 11(5) of Regulation 1/2003 with a view to ensure consistent application of competition rules within the ECN (p.m. approx. 130 in 2005).

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- Ø Number of cases from NCAs provided to the Network pursuant to Article 11(3) of Regulation 1/2003 on the application of EU competition law (p.m. approx. 175 in 2005).
- Ø One-stop-shop leniency within ECN.
- Ø Number of projects aimed at training national judges (p.m. 12 in 2005).

4.4.4 Objective “Helping to shape the regulatory framework”

This objective relates to the need to ensure that regulation does not contain unnecessary competition restrictions. A key action within the re-launched Lisbon strategy is to improve the regulatory environment both at EU and national level in order to enhance competitiveness (Guideline No 14). This initiative takes aim at measures pending before the Community legislator, existing rules (simplification) and new legislative and policy proposals. New proposals are subject to the revised Impact Assessment Guidelines adopted by the Commission in June 2005⁹. All legislative and policy initiatives included in the Commission’s annual work programme are subject to impact assessment. Such assessments explore alternative options to solve a defined problem and evaluate their economic, environmental and social impacts.

The basic “competition test” applied in the context of competition policy screening involves asking two fundamental questions at the outset. First: what restrictions of competition may directly or indirectly result from the proposal (does it place restrictions on market entry, does it affect business conduct etc.)? Second: are less restrictive means available to achieve the policy objective in question? Competition screening may result in the choice of less restrictive regulatory or in market-based methods to achieve certain policy objectives, thereby avoiding unnecessary or disproportionate restrictions of competition. This is in the interests of both consumers and industry. The objective is related to General Objective 2.1.2 “To enhance competitiveness within the EU by helping to shape the regulatory framework”.

Major action(s) contributing to the objective

- Ø Increased cooperation with other DGs to achieve a more integrated policy approach
- Ø Competition screening of legislative proposals.

Output indicator(s):

- Ø Number of regulatory initiatives at EU level screened from a competition point of view.
- Ø Preparation of documents following the consultations on the SAAP.

** Sector specific projects are dealt with under 4.1.5 above.

⁹

http://europa.eu.int/comm/secretariat_general/impact/docs/SEC2005_791_IA%20guidelines-main.pdf

4.5 Activity "Administrative Support"

This activity relates to the internal management of the DG and includes the following actions:

- Ø Human Resources policy and Personnel administration at DG level
- Ø Finance, procurement and contracts
- Ø Administration of the central registry and mail distribution
- Ø Security and local management of buildings and office supplies
- Ø Development and maintenance of local IT applications and management of IT infrastructure
- Ø Internal audit
- Ø Quarterly resource reporting

Expected impact of ABB activity (impact indicator/s): Smooth functioning of the DG; increased efficiency in resources use; increased cost/effectiveness of the DG's operations.

4.5.1 : Objective "Optimizing the allocation and use of available resources to the DG's activities"

In order to ensure the most efficient and effective allocation of resources, it is necessary to constantly review priorities and make the best use of the management tools at the DG's disposal, while ensuring the legality and transparency of financial transactions. Human resources management plays a key role in this process, as these represent DG COMP's main asset, but optimizing the management of other resources is also essential to achieving the DG's objectives. These include financial resources, infrastructure, IT equipment and tools, among others.

Major actions contributing to the objective:

- Ø Obtaining the right level of resources to meet the DG's needs and linking resources to priorities and activities within the DG.
- Ø Implementing the Commission's Staff Policy to the benefit of all staff and of the DG.
- Ø Ensuring an optimal cost/effectiveness in financial management.
- Ø Developing IT tools that effectively support the DG's activities.

Output Indicator(s):

- Ø An impact assessment of a possible merging of the three registries with a view to obtaining synergies and optimizing document management.
- Ø Improved allocation of resources among operational units as measured by number of vacant posts filled, number of transfers within the DG and ability of units to achieve their objectives throughout 2006.
- Ø Implementation of the DG's Equal Opportunities Action Plan (Annexed).
- Ø 20-day limit for the payment of outstanding bills.
- Ø 10 training days per person in DG COMP in 2006.
- Ø Migration of PC and servers to the new reference configuration
- Ø Roll out of first release of the State aid Notification Interactive IT system.
- Ø Roll out of ISIS, the supporting tool for State aid case management.
- Ø Launching the implementation of the Common Development Methodology for IT according to Internal Control Standards.
- Ø Further development in area of IT-forensics.

4.5.2: Objective "Development and improvement of the DG's internal management tools."

In order to ensure effective and efficient management, it is necessary to constantly review and develop the tools available to management, all this in the framework of the ABM and SPP systems adopted by

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the Commission. The implementation and monitoring of an internal-control framework suited to the DG's tasks and working environment plays a key role in this process.

Major actions contributing to the objective:

- Ø Monitoring the effective implementation of internal control.
- Ø Enhanced document management and active implementation of the e-Domec project.
- Ø Developing tools for effective communication of competition policy to the general public.

Output indicator(s):

- Ø 3 internal audit reports in 2006.
- Ø In depth review of the implementation of at least 6 Internal Control Standards, based on the DG's risk assessment and its own self-evaluation.
- Ø Secure e-mail (SECEM) and/or encryption systems (PKI).
- Ø At least 1 in-house seminar on internal control for middle managers in DG COMP in 2006.
- Ø Development and implementation of a comprehensive security policy for the DG.
- Ø Semi-automated access to file.
- Ø Complete electronic filing.
- Ø Implementation of the archives action plan.
- Ø Revamped DG COMP website.

Annex 1 : DG COMP's Evaluation Plan.

Annex 2 : DG COMP's risk assessment.

Annex 3: DG COMP's Action Plan for Equal Opportunities.