



A report to the Department of Trade and Industry

Peer Review of the UK Competition Policy Regime

Final Report

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PRICEWATERHOUSECOOPERS 

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1 Executive Summary

This peer review considers how the UK measures up to its Public Service Agreement target of having “the most effective competition regime in the OECD”.

The measure of success, the Competition Regime Performance Index (CRPI), was calculated from the responses to a survey of over 100 experts (lawyers, economists, officials -except those from the UK- and representatives of company and consumer organisations). **The CRPI places the UK competition regime in the top half of its peer group.** However, the two well-established competition regimes of Germany and the USA rank ahead of the UK. These regimes are seen by the respondents from these two countries as being markedly more effective than the EU competition regime. The UK regime is also seen to be more effective than the EU but not by a wide margin.

Effectiveness of competition regimes relative to EU

Regime	Assessment relative to the EU
Germany, USA	Markedly more effective
UK	Slightly more effective
Other OECD peer group countries	Similarly or less effective

The peer group was sampled from OECD countries including the UK, USA, Germany, Australia, France, Italy, Ireland, Netherlands, Spain, Sweden and Switzerland. Members of the peer group are all experts in the field of competition policy.

Peers were asked to assess a variety of factors in respect of their “own” regime, the EU regime and, where possible, the UK regime to achieve comparability between countries. The EU regime was used as a common benchmark. This was achieved by applying a common score across respondents to the EU and then adjusting the score given for their “own” regime, and where relevant the UK, by the same amount as the difference between their EU score and the “benchmark” score. In this way comparability between countries is achieved.

The overall ranking places the UK behind the US and German regimes but ahead of several other regimes within the OECD and the EU regime. Behind this overall ranking lie a range of detailed factors contributing to effectiveness. The most important of these factors include:

- the quality and technical competence of economic analysis;
- political independence;
- technical competence of legal analysis;
- quality of head(s) of authorities; and
- clarity of procedures.

The UK position in respect of these factors, and between mergers and other parts of its competition policy regime, is variable.

Positive factors

The UK regime receives a positive assessment relative to the EU regime in respect of competition activities other than mergers. Given that the old UK cartel regime was practically non-existent and arguably not very effective, the positive assessment reflects the way the UK regime tackles monopolies, in particular complex monopolies. The UK non-merger regime relative to that of the EU scores highly on:

- the technical competence of economic analysis;
- the speed of decision making;
- political independence; and
- the clarity of procedures.

The system of non-merger enquiries is well established and the timetables are generally adhered to. The system is considered to be less politically independent for merger enquiries. In addition, respondents provided favourable feedback on:

- confidentiality protection: the institutions appear to be trusted to act responsibly;
- investigative tools: the institutions are perceived to have the legal powers to enforce the competition legislation; and
- sensitivity to consumer input and interest.

Negative factors

The UK regime is viewed less favourably on merger policy. In particular:

- UK competition policy institutions were considered to be significantly less politically independent than the EU regime;
- the quality of legal analysis in the UK on mergers cases was considered to be poorer than that of the EU regime; and
- the UK authorities were considered to be slower in decision-making than their EU counterparts.

The review highlights a number of factors that are worth noting with respect to general and institutional features of the UK competition regime.

UK respondents regarded the UK competition authorities as significantly less politically independent than respondents of other countries about their own regimes. Whilst political support for competition policy was as high in the UK as other leading OECD countries, significantly less public support was felt to exist in the UK. Only 10% of UK respondents felt competition policy was important to the UK public. Respondents welcomed the Merger Reform proposals from the DTI, which are arguably long overdue. The survey results

suggest that the proposals and statements made in the “Government Response to the Consultation on Merger Reform” (October 2000) document address the issues of concern to the peer group.

Policy recommendations - how can the UK become “best in class”?

The survey directly suggests some actions/initiatives that would considerably enhance the effectiveness of the UK competition regime in the eyes of the peer group.

The implementation of the proposed reform of UK merger control would enhance the status and effectiveness of the overall UK regime. This applies very much to the cornerstone of the planned reform which is designed to ensure political independence; and to replace the public interest test in favour of a competition test.

Consideration should be given to the introduction of criminal sanctions for violations of the cartel provisions of the 1998 Competition Act. The deterrent effect of criminal sanctions is widely supported in the peer group, particularly for respondents from the UK and the USA.

Measures should be taken to enhance the status and role of competition policy in the eyes of the public. There appears to be a significant difference in the perceptions of the peer group of the relevance of competition policy to the general public in the UK when compared to the US and Germany. The survey does not allow for a serious examination of the reasons behind these findings. The high profile of US antitrust policy is more easily explainable in terms of the history of high profile cases fought out in court; however, the reasons for the status of positive assessment of German competition policy in the eyes of the public is less obvious.

Strengthening the role of the OFT through various initiatives seems to be a general conclusion that can be drawn from a number of responses. For example, the reform of the UK merger regime will strengthen the role of the OFT and the Director General of Fair Trading. Suggested measures to increase the visibility and transparency of the UK regime suggest a more pro-active role for the OFT.

In addition to these positive recommendations, the survey suggests that the UK regime can build upon its perceived strengths (as well as weaknesses). The non-merger regime is considered to have the following strengths:

- quality of economic analysis;
- clarity of procedures; and
- speed of decision-making.

Finally, the survey results indicate that the UK regime should keep the monopoly provisions and remedial powers of the Fair Trading Act 1973.

2 Introduction and Context

The Department of Trade and Industry (DTI) has the overall responsibility for competition policy in the UK. The DTI has agreed a Public Service Agreement (PSA) target with Her Majesty's Treasury of having the most effective competition regime in the OECD, as measured by peer review. The DTI has commissioned this peer review to ascertain whether it is meeting this target, and to identify the implications for policy going forward. This will also provide a benchmark, by which the UK competition policy regime can be assessed if it is to move up the pecking order to become "the best in class" across the OECD.

The peer review has involved surveying recognised experts from a number of different regimes and professional groups. The review collectively assesses the roles of the DTI and the competition authorities (the Office of Fair Trading (OFT), the Competition Commission (CC) and Appeals Tribunal), but excludes sector regulators with concurrent competition powers under the 1998 Competition Act. It is worth noting that this is not a review of the impact of UK Competition Policy nor a comparison of the effectiveness of individual competition authorities in different countries. This review has a wider remit of assessing the performance of the overall UK competition policy regime (legal framework and institutions) against a number of other OECD regimes.

The regimes covered by the peer review include the UK, European Union (EU) (the Commission), USA, Germany, France, Italy, Ireland, the Netherlands, Sweden, Switzerland, Spain and Australia. The views of leading experts from a few further OECD countries were also surveyed.

The role of PwC

PricewaterhouseCoopers was commissioned by the DTI - following a competitive tender - to undertake an independent peer review of the UK competition policy regime. The views contained in this report therefore cannot be attributed to the DTI, nor other departments within Her Majesty's Government. The Competition Services Team and the International Survey Unit within PwC has undertaken the entire review, including designing the survey, interviewing the experts and analysing the results in conjunction with a small "focus" group of competition policy experts.

Quality control is at the heart of the approach to ensure that the results are as representative, robust and unbiased as possible within budgetary constraints for comparisons of the UK against the US and other OECD regimes as a group. At the same time, the methodology was designed to ensure that the results could be used to identify practical implications for the design and implementation of UK competition policy.

The wider context – developments in competition policy

A survey of this nature cannot be divorced from developments in the competition (or anti-trust) and business communities in the UK, and rest of the OECD. Whilst an exhaustive review of developments is clearly outside the scope of this assignment, the main developments which provide some relevant context to this peer review are outlined below.

A number of themes emerge from developments in the design and implementation of competition policy at a global level – *modernisation, harmonisation, co-operation and*

deterrence. These themes are developed in the paragraphs below in relation to developments in the UK and EU, and in the global competition community.

The UK

This survey comes at a time when the DTI considers that “*the Government inherited competition laws which were outmoded, ineffective and a “soft touch” by international standards*”¹.

The new Competition Act 1998 (the “Act”) came into force in March 2000, representing the most significant reform of UK competition law in 25 years. The Act has strengthened UK competition policy significantly with respect to horizontal practices and agreements, and has brought UK competition law much closer to EU competition law, building also on the experience of other well-respected competition policy regimes. These changes indicate a clear shift towards greater political independence, clarity of process, a US-style leniency programme for whistle-blowers and the provision for potentially large fines for those who break the prohibitions.

The UK merger regime was unaffected by the Act and is the subject of a separate review which intends to focus on a more competition-based test and to minimise Ministerial involvement in decision-making. The 2001 Budget re-iterated this intention. The present Government has placed increased emphasis on competition policy, as demonstrated by Government departmental reviews into banking (Cruickshank, HM Treasury), water (DETR), the BBC (DCMS), professional services (OFT then DTI), improving the resourcing and training of the OFT, and pushing forward competition in formerly regulated markets. These departmental reviews are separate to competition investigations initiated by the OFT.

Currently, the DTI is considering introducing a board for the OFT consisting of individuals with expertise in matters of competition and consumer protection. Members would be appointed on the basis of merit and business experience but would not represent any particular interest faction.

Other areas that the Government is keeping under review include improvements to the regime for complex and scale monopolies. The Government also stated that it would consider a greater role for consumer bodies in competition policy, give third parties an easier means of redress against anti-competitive behaviour and impose more stringent penalties for anti-competitive behaviour.

This peer review is expected to go some way to contribute to these ongoing debates, and the wider debate on improvements to the UK competition policy regime.

The European Union

The European Union is committed to an objective of ensuring that the legal framework of competition policy at the EU level makes a strong contribution to the Single Market. This involves strict enforcement of the competition Articles of the Treaty of Rome and pushing forward with market liberalisation across a wide range of sectors. The modernisation initiative is an important step in achieving this objective.

¹ The White Paper – Modern Markets: Confident Consumers (CM4410: July 1999).

The EC White Paper published in April 2000 focused on the enforcement of EC competition law throughout the EU. Consistent application of the law and legal certainty for companies are considered as important objectives provided that they do not undermine the principal objective of effective protection of competition. The Commission will retain its role in defining policy and ensuring consistent application across different cases and member states.

The global competition community - International co-operation

The recommendations of the OECD, advocating best practice for co-operation between different national authorities, have played an important role in shaping policy across different countries. The 1995 Van Miert report and the report of the International Competition Policy Advisory committee (ICPAC) have also been influential.

Over the past decade, several bilateral agreements have been signed on co-operation between competition authorities in different countries. The principal issues around co-operation have focused on comity, notification, exchange of information and enforcement co-ordination/assistance. Significant progress on co-operation has been achieved on merger cases but much less for non-merger cases because of problems associated with the exchange of information. The bilateral EU/US Competition Co-operation Agreement of 1991 provides for all these basic instruments of co-operation. The 1998 EU/US Positive Comity Agreement clarifies the mechanics of the comity. Such agreements have led to greater co-operation between competition authorities and a greater understanding of different countries' policy.

3 Methodology

As stated in the introduction, the key objective of the peer review is to assess the effectiveness of the UK competition policy regime against a number of other OECD regimes. This objective requires the review to canvass opinions of peers across a number of professional groups and OECD regimes. In doing so, the design and implementation of the review ensured that the responses were comparable across regimes and that the results could be used to benchmark the effectiveness of the UK regime in future. This has involved using the EU as common numeraire, or benchmark, by which the performance of individual regimes can be benchmarked.

At a more practical level, the peer review was based on telephone interviews of competition policy experts from a number of OECD regimes. Before the interviews started, the questionnaire was developed in conjunction with a small focus group of experts and the DTI.

The methodology has built upon the insights gleaned from two notable studies, that aimed to make an international comparison with regard to competition policy or competition institutions. These studies include the “*Rating the Regulators*” survey by the Global Competition Review² (currently being updated at the time of writing) and “*The Global Competitiveness Report*” by The World Economic Forum 1999³. There is also ongoing OECD reviews of regulatory regimes (the UK is scheduled to be reviewed in 2001).

Steps were taken in the methodology to ensure that the results are:

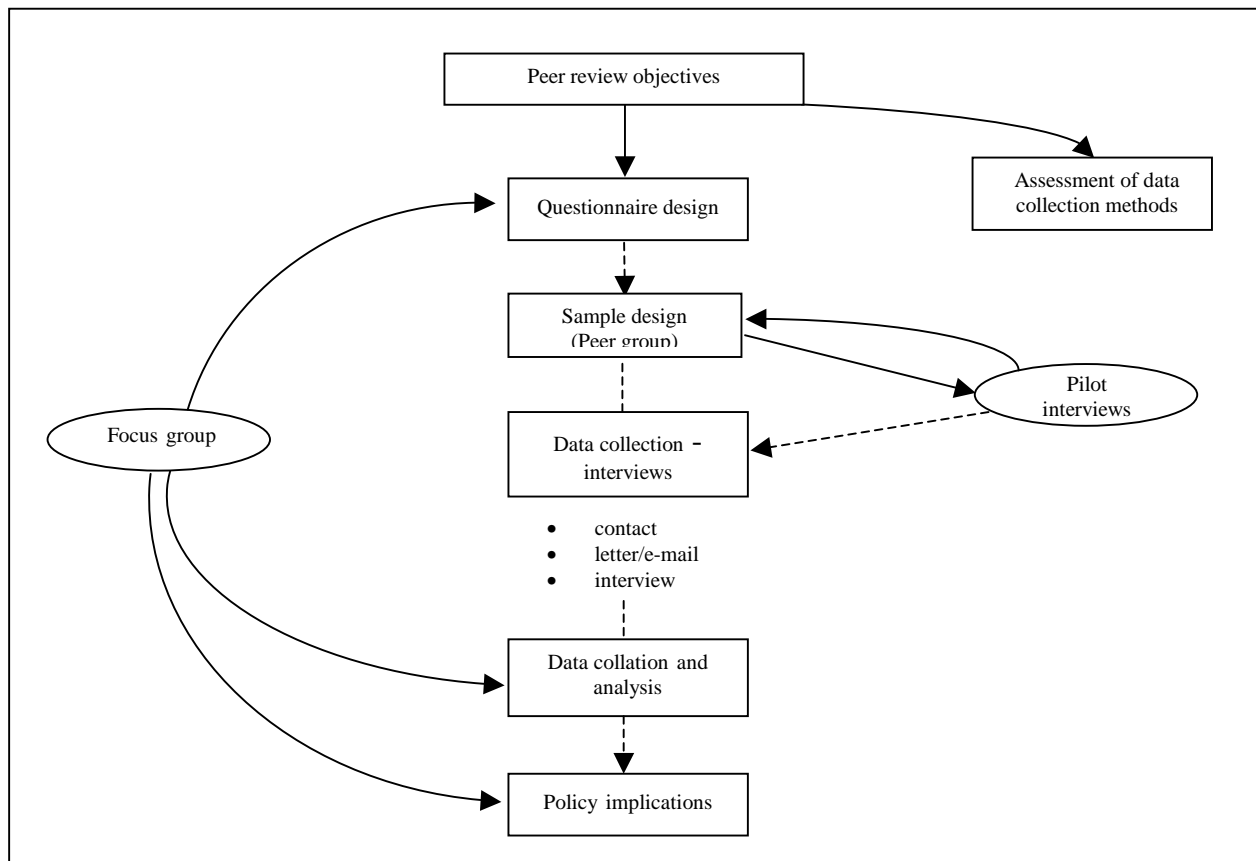
- **comprehensive** across peer groups and varied OECD regimes within the constraints of budget and timescales;
- **high quality** through the use of a focus group of experts to shape the design of the questionnaire, and by using fully-briefed interviewers who have been trained to the standards of the Interviewer Quality Control Scheme (IQCS);
- **unbiased** by selecting a wide group of professional groups across regimes, and exploring the factors which contribute to the effectiveness of a competition regime through the use of a focus group of experts;
- **comparable** across the OECD regimes, through the use of the a common benchmark in the form of the EU regime;
- **forward-looking** to allow benchmarking of the UK regime in future against the results presented here; and
- **practical** which will ensure that the review will produce recommendations on how the UK competition regime can improve its effectiveness.

² “*Global Competition Review, 2000*”; the 2001 survey is due to be published in June 2001.

³ “*The Global Competitiveness Report, 1999*”, K. Schwab, M. E. Porter, J. D. Sachs, A. M. Warner and M. Levinson

The methodology adopted is summarised in figure 1, and is described in the paragraphs below. The following two sections of the report outline the analysis of results, and views of PwC and the focus group on the implications for UK competition policy.

Figure 1 - Overview of peer review methodology



(a) Sample Design – the peer group

To achieve an unbiased view of experts in the competition policy field, individuals from different professional groups and backgrounds were interviewed. Interviews were conducted with senior officials in competition authorities, competition lawyers, competition economists/academics, senior management of multinational firms and consumer/business representatives (see Table 1 for breakdown). **Representative experts were selected from each of these groups who have in-depth knowledge of competition regimes, and where appropriate, a reputation in the competition “community”.**

A key issue in the peer review methodology is to acknowledge that different groups may value various aspects of the effectiveness of competition policy quite differently. For example, academic economists *might* look for the quality of analysis, lawyers for consistency in applying precedents, business for certainty and speed in decision-making. *A wide group of representatives from different professional groups will go a long way to ensure that the results are representative, informative and unbiased.*

PricewaterhouseCoopers in conjunction with the DTI constructed a database consisting of 250 experts in competition policy throughout the OECD with the main emphasis on the

following regimes: Australia, France, Germany, Ireland, Italy, The Netherlands, Spain, Sweden, Switzerland, UK and the USA. This spread of regimes was chosen to reflect a broad range of experience of the competition regime, caseload, size of the economy and institutional depth. It was not designed, nor could it be within budget, to achieve a sample size for each country sufficient to draw conclusions with respect to each country. An attempt was made however to achieve a suitable sample size in the USA, Germany and the UK.

Table 1 – Proposed peer group constituents before interviewing

Peer group	Representatives within the peer group	Proposed Number of Interviews
Senior officials in competition authorities	Economists Lawyers Administrators	20
Competition lawyers	Private practice advising clients	20
Competition economists/academics	Consulting economists Academics Consulting academics	30
Senior management of multinationals	In-house counsel Management	20
Business/consumer representative bodies	Consumer associations Business groups	10
TOTAL		100

Telephone interviews were selected over the alternative postal self-completion approach because they score comparatively higher against key quality criteria in choosing survey techniques. All interviews were conducted within the market research code of conduct and all interviewers have been trained under the Interviewer Quality Control Scheme (IQCS).

(b) Questionnaire design

In designing the questionnaire, consideration was given to the trade-off between length of the interviews and the breadth of the matter to be covered. On the one hand, a long list of issues were considered to be of interest and thus worth covering in the survey; on the other hand, the duration of the interviews, given the availability and interest levels of the respondents, posed a constraint on the number of issues to be covered.

A focus group of experts in competition policy was used to help shape the key issues that needed to be addressed in the questionnaire. The members of the focus group were chosen such that the members not only represent each of the broad backgrounds but have experience across a range of regimes. **All of them have significant experience of undertaking cross-country and national assessments of competition regimes and are recognised by the “competition community” as experts in the field.** Their views were incorporated into the questionnaire design, although not personally attributable to them.

The DTI provided some guidance on the issues it wanted to receive feedback on. No interviewing took place until the questionnaire had been approved by the DTI. The full questionnaire is provided in Appendix 2.

Structure

The questionnaire is structured around five main sections and issues:

- **Objectives** - relating to the objectives of the UK competition policy regime;
- **Institutions** - how the different authorities perform on certain criteria and whether the institutional structure of the regime is conducive to the effectiveness of the overall regime;
- **Communication and liaison with businesses and consumers** - whether the authorities sufficiently take into account the views of businesses and consumers;
- **Effectiveness of the competition policy regime** - compare different regimes with regard to mergers and other actions; and
- **Improvements to the regime** - open-ended questions about what can be done to improve the effectiveness of competition policy regime in the UK.

Throughout most of the questionnaire respondents were asked questions relating to the regime with which they are most familiar and (if they know them) the EU and UK regimes. This choice of regimes was decided upon because it was considered that respondents are likely to have most knowledge of the EU regime after the regime with which they are most familiar⁴. Indeed, almost all respondents were able to respond to most questions for EU regime in addition to their most familiar regime; the majority also responded for the UK regime.

The DTI asked PwC to make a distinction between mergers and other competition actions in the questionnaire⁵. There are very good reasons to support this split. For instance, countries vary considerably with regard to the development of merger control and hence the possible burden on business as a result of the ex ante control regime. Quite clearly, merger control has dramatically increased in importance over the last decade within the OECD. The EU celebrated the tenth anniversary of its merger regulation in 2000. Many smaller countries, such as the Netherlands and Switzerland, have introduced merger control only in the last few years. The UK has of course had a system of merger control for much longer. These reasons alone, justify the analysis of merger regimes separately from other (non-merger) competition actions. The length of the questionnaire prevented us from separating cartels from other non-merger issues.

Format of questionnaire

After careful consideration, the questionnaire consisted of a series of pre-coded questions and a small number of open-ended questions. This format was chosen in preference to open

⁴ The terms “most familiar with” and “own country” are used interchangeably in this report.

⁵ PwC was asked to make no distinction between the roles of the OFT, CC, Appeals Tribunal or the DTI within the UK regime.

or semi-open questions. Pre-coded questions are completely closed in that the respondent can only choose from a pre-set list of responses. The survey required experts to rate various aspects of the UK competition regime using a 7-point scale. For example, respondents rated the effectiveness on deterrence of the regime using a 7-point effectiveness scale from extremely effective (a rating of 7) to extremely ineffective (a rating of 1).

This highly structured questionnaire kept the interview to between thirty to forty minutes and ensured that the questions were easy to answer, even though the subject material is often quite complex. It also gives respondents the opportunity to voice their opinions verbatim.

Key issues in the questionnaire

The main objective of the peer review is to assess the effectiveness of the UK competition policy regime⁶ relative to other OECD regimes. At a practical level, this involves *comparing results between regimes* and measuring *effectiveness*. This represents the key characteristic of the questionnaire. The section below describes how these points were incorporated into the methodology.

Comparing the UK regimes to other competition regimes

Comparing the effectiveness of the UK regime to other national competition regimes is the most demanding stage of the process. The most simplistic way of dealing with this is to ask respondents to rate the effectiveness of the OECD regime they are most familiar with, including the UK regime in the sample. Respondents therefore make assessments of one regime each and then a comparison is made between the results for each regime. The limitation of this approach is that there is not a direct comparison between regimes. Whilst the questions can be phrased to ensure that the respondents have a common standard, this cannot be guaranteed.

The methodology adopted in this review overcomes this limitation. However, making a direct comparison requires a great deal of expertise and experience on the part of the respondent of the UK regime and another national regime with the OECD. In reality, there are relatively few members of the competition community who meet this requirement. It was considered that peers would be most familiar with the EU competition policy regime after the countries they specialise in. In this respect, the EU competition policy regime was used as a common benchmark (in other words, a “numeraire”) between respondents.

As a result, respondents were asked to rate the performance of the competition policy regimes they are most familiar with in comparison with the EU and UK competition policy regimes. The results derived with respect to their “own country” and the “UK” can thus be scaled in comparison to the EU competition policy regime to ensure cross-country comparability.

⁶ At the opening section of the questionnaire, respondents were told that they will be asked to rate the performance of the UK regime in their experience rather than just related to the experience following the introduction of the Competition Act in March 2000. It is clear that in answering questions about institutional structure and the law, respondents related to the position post-March 2000. However, “performance” related questions equally draw upon experience prior to this.

An arbitrary score of 6.0 was attributed to the EU regime (the number assigned does not affect the end-result). The unadjusted scores for each individual were re-scaled on the basis of being relative to a score for the EU regime of 6.0. In this way the re-scaled index for mergers and also for other competition issues were calculated.

An example shown in Box 1 below illustrates the re-scaling used.

Box 1 - Re-scaled responses

Responses to questions comparing regimes in the survey can be interpreted in two different ways. For example, the responses below of two hypothetical respondents comparing their “own” regime to the EU regime have two possible interpretations. A short example illustrates the point based on scoring on a 7-point scale:

Respondent A

	Germany	EU
Score	4	3

Respondent B

	Ireland	EU
Score	5	7

The first interpretation of these responses is that the Irish regime is better than the German regime, as Ireland is given a score of 5 and Germany is given a score of 4. This interpretation is based on ‘unscaled’ responses. Or alternatively, the numbers can be re-scaled so that the EU regime is used as a “numeraire”, where all responses are adjusted so that EU regime is always scored equally (i.e. at 6) in which case the German regime would be considered to be better:

Respondent A

	Germany	EU
Adj. Score	7 (= 4 + 3)	6 (= 3 + 3)

Respondent B

	Ireland	EU
Adj. Score	4 (= 5 – 1)	6 (= 7 – 1)

Based on this re-scaling*, the German regime is considered to be better than the Irish regime. All the comparative results of the peer review have been interpreted in this manner. The main reason for doing this re-scaling adjustment is to avoid any biases that might arise as a result systematic under or over-rating by respondents of their own and other regimes. Analysing re-scaled scores filters out this effect.

* The re-scaling methodology discussed above is based on an absolute adjustment to a respondents score by adding or subtracting numbers so that the EU regime is always scored as 6. An alternative method to do this adjustment is to adjust the scores proportionally so that the EU regime is always scored the same. The CRPI (see below) was calculated using both methodologies. They produced very similar rankings (the Spearman rank correlation coefficient was significant at the 0.1% significance level).

Effectiveness of the regime – the Competition Regime Performance Index (CRPI)

The combined team of the focus group, the DTI and PwC concluded that the following key factors contribute to the effectiveness of a national competition policy regime:

- technical competence in terms of economic analysis;

- technical competence in terms of legal analysis;
- technical competence in terms of administrative staff;
- clarity of procedures;
- speed of taking decisions;
- burden upon business;
- political independence;
- quality of heads of authorities;
- role of external reviewers of different backgrounds for quality control; and
- ability of investigating/case officers to make independent, impartial recommendations to superiors.

Respondents in the questionnaire were also given the option of expressing their opinion on which factors contributed to effectiveness in addition to the list above. These opinions are discussed in the next section.

A Competition Regime Performance Index (CRPI) was calculated for each competition regime. Intuitively, a competition regime is given a high CRPI if it is rated highly in the areas that are considered most important to its effectiveness.

Each respondent was asked to rate the importance of each factor, on a scale of 1 to 7, in contributing to effectiveness (question 7a)⁷. The next questions (7b and 7c) then asked for a rating of the regimes (own country, EU and UK) for mergers and non-mergers against each factor in turn. The combination of the weighting and score was taken for each factor in turn and then the CRPI estimate was calculated for each respondent. A simple average of the CRPI estimates of respondents who have replied for that country's regime was used to calculate the index for a particular country. Box 2 illustrates this methodology with a worked example.

⁷ At no time in the interview is the respondent given a definition of effectiveness. The exact wording of the questions is shown in Appendix 2; the numbering follows that in the appendix.

Box 2 – Calculation of the CRPI

The example below illustrates the methodology used to calculate the CRPI:

For each respondent the answers given to questions 7b and 7c are weighted by the answers given to question 7a. For example consider the responses of a particular respondent below, where 7b below is for Germany, say:

	Q7a	Q7b	(Q7a * Q7b)/(sum of Q7a)
Technical competence in eco...	7	7	(7 * 7) / 35
" " " " legal...	2	2	(2 * 2) / 35
" " " " admin...	4	6	(4 * 6) / 35
Clarity of procedures	6	3	(6 * 3) / 35
...	1	6	(1 * 3) / 35
...	7	5	(7 * 5) / 35
...	5	3	(5 * 3) / 35
Ability of.....	3	4	(3 * 4) / 35
TOTAL	35		4.57 = RESULT FOR MERGERS

Following this, the same calculation is performed for this respondent for Q7c to get the result for non-mergers (i.e. responses to Q7c are weighted by answers to Q7a). Then to calculate the CRPI rating of this individual for the overall regime he is responding for, a simple average of his/her CRPI estimate for mergers and non-mergers is taken.

To estimate the overall CRPI rating for an individual country's regime, the individual CRPI ratings of individuals who have responded for the regime in question are averaged. All respondents are treated equally. For example, if 8 respondents have responded for the German regime, then a simple average of the CRPI ratings of these 8 respondents is calculated to arrive at the CRPI estimate for Germany. To produce re-scaled CRPI estimates (as quoted in the "results" section) re-scaled responses to question 7b were included in the calculation above.

The CRPI enables the immediate understanding of the comparative performance of different competition regimes and sets a baseline position for which future improvements can be measured. It allows for a follow-up survey towards the end of the PSA period to assess any improvements that might have been made.

(c) Data collection

This section provides an overview of the activities undertaken by PwC to ensure that the results from the peer review were of high quality.

All experts were sent a letter from PwC outlining the nature and scope of the peer review and requesting their participation prior to the commencement of any telephone interviewing. A letter of validation from the DTI accompanied this letter. The PwC letter provided respondents with a number of assurances. All responses were to be treated the strictest confidence by PwC, and that the DTI will receive the individual responses by background and country but not by name; there would be no attribution in the survey to specific individuals. In addition, respondents were told they would receive summary results of the survey (this report) and that a list of participants would be published with the survey results..

As preparation, all interviewers in the PwC International Survey Unit attended a one-day briefing from the PwC competition team. The briefing consisted of:

- an overview of competition policy and the new Act in the UK;
- an explanation of the purpose and contents of the survey;
- some background on the type of experts they would be interviewing; and
- a question-by-question guide to the questionnaire and explanation of the glossary of competition terms.

In addition, a pilot survey was conducted amongst three competition experts in the UK to test the subject matter and the length of the questionnaire. The pilot resulted in only minor amendments to the questionnaire and a report of this pilot was made to the DTI. Prior to the survey commencing one more pilot interview was conducted on a European expert using the amended questionnaire. No amendments were made to this final version of the questionnaire and the results from this latter interview were subsequently admitted into the overall survey results.

Interviewing took place between 6th February and 28th February 2001. All interviewing was conducted by Computer Assisted Telephone Interviewing (CATI). The questionnaire was scripted and placed on the interviewing system and therefore responses were entered directed into the computer as they were obtained. CATI has several advantages over other methods of data collection, not least that, it significantly reduces the data entry error.

104 interviews were conducted amongst *experts* in competition policy in 17 different regimes. The response rate for this peer review was 66%, much higher than expected compared to other surveys conducted by the International Survey Unit. This is particularly gratifying, given the seniority (and hence availability) of the experts, the complex nature of the review itself and the knowledge required. Finding respondents who can answer questions about their national regime, the EU and the UK is quite a task.

The final distribution of the sample is shown in Table 2 below, along with the summary sample sizes for each main category of competition regime considered. Also, Table 3 below shows the number of respondents that responded for each of the regimes that are of most interest to the results of the peer review. Table 3 shows that 96 respondents provided replies for the EU, justifying the use of the EU regime as a benchmark, or numeraire.

Table 2 - The peer group sample by OECD regime and professional group

Most familiar regime	Lawyer	Economist	Company	Official	Representative	Total
Australia	2	1		2	1	6
France	2	2	1	1		6
Germany	2	1	1	2	2	8
Ireland	1	1	2			4
Italy	1	1		2	1	5
The Netherlands	4		1	2		7
Spain	3	3				6
Sweden	2			1		3
Switzerland	1	5		1		7
UK	6	12	9	1*	2	30
USA	4	5		3		12
Other	2	1	1	6		10
Total	30	32	15	21	6	104

* One official said that he/she was most familiar with the UK regime; note that this is not a UK official.

Table 3 - Sample size

Responses in respect of:	Number of respondents
UK	60
European Union	96
US	12
Germany	8

The difference in the planned distribution across disciplines and the actual distribution was due to under-sampling and over-sampling in a number of disciplines. Under-sampling occurred for a number of reasons: difficulty in contacting some of the experts, refusal to participate and experts being unable to participate during the agreed fieldwork period. There were a limited number of consumer or business bodies with relevant experience of the UK or EU regimes, and company representatives were sometimes difficult to get hold of. In order to ensure the target number of representatives from each of the professional groups, interviews were arranged with more respondents than necessary given the tight timescales; this is accepted standard practice in survey work. This resulted in some over-sampling. Professional lawyers were very willing to participate, and some interviews with a number of expert lawyers had to be cancelled.

Nature of responses

Some important considerations arise about the nature of the responses from the results. Most questions asked respondents to rate their responses to a statement on a 7-point scale, with 1 usually being “very strongly disagree” to 7 being “very strongly agree” and 4 being “neither agree or disagree”. Each point on the 7-point scale was given a verbal interpretation. Nevertheless it is clear that different groups interpret the scale differently. For example, competition officials have scored significantly⁸ higher than all other professional groups for almost all questions. Lawyers and economists tended to score lower than others, with economists scoring slightly lower than lawyers. Respondents from the US scored both their own regime highly but have also scored the EU and the UK regime more highly. Also, respondents from Europe in general score more highly. All these differences were statistically significant at a 5% significance level. These points need to be considered when interpreting the results.

These considerations confirm the need to make an adjustment to the individual scores if any comparative ranking is to be produced. Given the above, responses have been “re-scaled” to ensure cross-country comparability of the results.

Caveats

The deadline for completion of the report was three months after starting the assignment. This tight timetable, and the associated budget, limited the numbers of peers that could be interviewed. This has an impact on the representativeness and statistical significance of the sample in some cases.

⁸ In this report the use of “significant” implies that a statistical test has been carried out, usually a “t” test for the difference in means. Throughout, significance tested at the 5% level.

4 Results

The survey generates a lot of valuable information. This information has been condensed into a more readable summary of the views of the 104 survey respondents. In this section, as in the rest of the report, views of the respondents are being summarised, supplemented from those of the focus group. Throughout this section the results are presented for professional groups and larger geographical areas; the results are not presented on a regime-by-regime basis given the small sample sizes involved. Most of the results in this section are presented on a re-scaled basis as cross-country comparisons are involved. Non-re-scaled results are only presented in the detailed results section when commenting on regimes in isolation.

The remainder of this section provides a summary of results with regard to:

- the Competition Regime Performance Index;
- the factors contributing to the effectiveness of a competition policy regime;
- key results from the entire peer review; and
- an overall summary of the review on a question-by-basis.

(1) Competition Regime Performance Index (CRPI)

The CRPI estimates reported in this section have been based on re-scaled responses. This is to avoid any biases that might result from the different interpretation the 7-point scale of respondents from particular backgrounds and countries.

Peers rate the UK regime as slightly more effective than the EU regime, and significantly more effective than the OECD regimes, other than Germany and the US, covered by the review. The rankings are shown in Table 4 below. At a national level, Germany and the US rank above the UK in overall effectiveness. Caution should be exercised, however, in making such a comparison given the small sample sizes in the assessment of the German regime. Full country results are presented in Appendix 3.

Table 4 - Overall CRPI results by overall regime, mergers and non-mergers

Re-scaled CRPI			
Rank	Overall regime	Mergers	Non-mergers
1	Germany	USA	Germany
2	USA	Germany	USA
3	UK*	UK*	UK*
4	European Union	European Union	European Union
5	Average of All OECD	Average of All OECD	Average of All OECD
6	Average of All OECD (excl. US, UK and Germany)	Average of All OECD (excl. US, UK and Germany)	Average of All OECD (excl. US, UK and Germany)

* As rated by all respondents who have commented on the UK regime (i.e. UK respondents and overseas respondents that have commented on the UK regime).

The review provides a breakdown of the CRPI by mergers and other competition actions. **The interesting point to note is that the respondents give the UK merger regime a lower CRPI score than the non-merger regime.** On merger policy the US regime ranks first amongst its peers, slightly ahead of the German regime. The UK regime ranks third,

slightly above the EU regime on merger policy. The total sample average covering all the regimes ranked below the four top regimes.

On cartels and monopolies (i.e. **non-mergers**) the respondents thought that the German regime was best amongst its peer slightly ahead of the USA, followed by the UK and the EU regimes. As in merger policy, the total sample average ranked below each of the individual regimes.

(2) Key factors contributing to effectiveness

The review allowed respondents to provide their own weighting of the factors that contributed to the effectiveness of a competition policy regime. The top 5 factors across regimes and professional groups were:

1. *Technical competence in economic analysis* - this view was shared by all professional groups and across different countries;
2. *Political independence*;
3. *Technical competence of legal analysis* - respondents from the USA and lawyers considered technical competence in terms of legal analysis to be more important than political independence;
4. *Quality of head (s) of authorities* - companies and consumer/business representatives considered the quality of heads of authorities as the second most important factor; and
5. *Clarity of procedures*.

The result of economic analysis being the most important criterion is confirmed by almost all categories of respondents (officials rank economic analysis and political independence equally).

The remaining factors were considered less important than the former 5 as shown in Table 5.

6. *Ability of investigating/case officers to make independent, impartial recommendations to superiors*;
7. *Technical competence in terms of administrative staff*;
8. *Speed of taking decisions*;
9. *Minimal burden upon business*; and
10. *Role of external reviewers of different backgrounds for quality control*.

Table 5 outlines the views of respondents based on the extent to which they think each factor contributes to effectiveness. The table compares the views of respondents from the UK with those of the total sample.

Table 5 - Key factors contributing to effectiveness

Factor	Average score on a scale of 1 – 7	
	Total sample	UK sample*
Technical competence of economic analysis	6.55	6.60
Political independence	6.27	6.23
Technical competence of legal analysis	6.17	5.90
Quality of head(s) of authorities	6.06	6.13
Clarity of procedures	6.05	5.93
Ability of investigating/case officers to make independent, impartial recommendations to superiors	5.86	5.97
Technical competence in terms of administrative staff	5.59	5.80
Speed of taking decisions	5.51	5.03
Minimal burden upon business	4.83	4.53
Role of external reviewers of different backgrounds for quality control	4.82	4.24

* All respondents who commented on the UK regime

Respondents identified the following other factors, in response to being asked if any other factors contributed to effectiveness (figures in brackets indicate the number of responses):

- Independence of judicial reviews/legal certainty (3)
- Specialists in industry/knowledge of different industries (2)
- Consistency (2)
- Separation/co-operation between investigation/decision maker (2)
- Budgetary independence (2)
- Co-operation/support amongst businesses/society (2)
- More involvement of academics and the media (1)
- Open exchange of views and more co-operation (4)
- Deregulation (1)
- Consistent with EU/other competition authorities (1)
- Co-operation between law and economics (1)

(3) Performance of the UK regime - factors that contribute to effectiveness

- *Competition issues other than mergers*

Across the whole sample the UK regime was rated higher than the EU regime for almost all of the criteria (except technical competence of legal analysis). Overall, the UK was considered to be significantly better than the EU regime in the technical competence in economic analysis, clarity of procedures and speed of decision making. UK respondents considered the UK regime to be better than the EU regime in the speed of decision making, political independence and ability of case officers to make independent/impartial recommendations. Companies and consumer/business representatives thought that the UK

regime is significantly better than the EU regime in terms of the clarity of procedures and speed of decision making.

- *Mergers*

The UK regime was rated less favourably on mergers compared with other actions (but overall it is considered to be better than the EU regime –see CRPI section). The UK regime was rated better than the EU regime in technical competence in terms of economic analysis, technical competence of administrative staff, minimal burden upon business, role of external reviewers for quality control and the ability of case officers to make independent/ impartial recommendations. The UK regime was rated significantly worse than the EU regime on political independence. Lawyers considered the UK regime to be significantly worse than the EU regime on the technical competence of legal analysis. Respondents from the US and officials thought that the UK regime was worse than the EU regime in terms of the speed of decision making.

(4) Key results for the UK from the entire review

Table 6 below outlines the criteria where the UK was scored significantly better or worse than the EU regime; ticks denote areas where the UK score is significantly better and crosses worse than the EU regime.

Table 6 – Significant under/over performance of the UK regime compared to EU

Factors	All resp'ts	UK	US	Lawyer	Economist	Official	Company Consumer
Mergers							
Technical competence of legal analysis				✗			
Clarity of procedures							✓
Speed of decision making			✗			✗	
Political independence	✗					✗	
Non-mergers							
Technical competence of economic analysis	✓				✓		
Clarity of procedures	✓						✓
Speed of decision making	✓	✓					✓
Minimal burden upon business			✓				
Political independence		✓					
Ability of case officers to make independent / impartial recommendations		✓					

Whilst the basic index was derived from the answers relating directly to the working of the competition institutions (questions 7a, b and c) the survey also addressed a range of other issues having a bearing upon effectiveness.

The peer review yielded some interesting results for different competition policy regimes. A great majority of the respondents agreed with the objective of competition policy in the UK but thought that competition policy was considered to be unimportant by the general public. Respondents, on average, thought that competition policy received an equal level of political support in different countries. The UK regime was not considered to be politically independent. Respondents from the UK noted that UK authorities were lacking in

business/competition expertise. The UK regime was considered to consult the views of consumers/businesses more so than other regimes.

Whilst regarded as the least important factor in terms of effectiveness, many respondents agreed that it was useful to have a routine process to assess the impact upon competition of completed cases and that this is currently not done. The majority of respondents felt that criminal penalties for cartels would be effective in preventing anti-competitive behaviour (UK respondents felt more strongly about this); there was much less enthusiasm towards third party damages.

The UK regime is regarded as having less power to obtain information and to prevent anti-competitive mergers than the EU and, separately, the UK's findings provided less guidance about precedent than those of the EU. Respondents thought that guidance was lacking in the UK on mergers. Close to half of the respondents said they would expect a different outcome for rulings under the UK regime compared to the EU regime; different objectives and quality of economic analysis were identified as the main factors driving this inconsistency.

On non-mergers the UK law and guidance were viewed positively by respondents. It was considered to be lacking in precedent. Respondents said they would expect a different outcome for merger rulings and assessments of collective dominance between the UK and EU regimes due to the differing objectives and approach to economic analysis.

(5) Overview of results on a question-by-question basis

This section discusses the more detailed results of the peer review. Results have been grouped into sections which are helpful in drawing policy implications; this differs somewhat from the order of the questionnaire. For convenience, the particular question-number in the questionnaire to which the results refer to has been indicated throughout this section, along with the key results highlighted in bold.

(a) Policy and institutions

Objectives of policy (Question 1a)

Over 80% of respondents positively agreed with the objectives of UK policy. UK respondents favour the objectives of UK policy more strongly than others but the difference is not significant.

Importance of competition policy to the general public (Question 15b)

40% of all respondents felt overall that competition policy was important to the general public in their country. **Only 10% of UK respondents felt competition policy was important to the UK public.** Significant differences emerge between countries. For other European countries 45% thought competition policy was important to the general public whilst for the US this rose further to 83%. Unsurprisingly, competition officials also thought it was more important than other groups.

Political support for competition policy (Question 15c)

Overall, respondents agreed that competition policy received political support. No significant differences emerged between country groups. **UK respondents felt that competition policy in the UK received as much political support as other respondents felt about their own country.**

Impact of other institutions/regulations (Question 15c)

57% of all respondents felt that competition policy was supported to some degree by other institutions and regulations in their countries.

Structure of Competition Institutions (Question 2)

Respondents from the USA felt significantly more strongly than others that the structure of the institutions in their regime was beneficial to its effectiveness. Equally, officials from competition authorities shared a significantly more positive view than others about the structure in their country (and in the EU and the UK).

Views on the structure of the EU regime differed. UK respondents had a significantly less positive view about this than those from other European countries. Competition officials (all from outside the UK) had a very positive view about the structure in the EU. These officials also had a significantly more positive view about the EU structure than lawyers and economists. These significant differences do suggest that perceptions about the EU regime differ between country and professional group. This suggests that some form of re-scaling is appropriate given our desire to use the EU as a benchmark.

On a re-scaled basis respondents as a whole rate the structure of the institutions in the UK as being equally beneficial as those in the EU. This average conceals some interesting differences. UK respondents and economists have a more positive view about the UK regime relative to the EU regime than others. In contrast, **results from the OECD excluding the US and UK rate the EU institutional structure significantly higher than that of the UK.**

Political Independence (Question 3)

UK respondents regard the UK competition authorities as significantly less politically independent than respondents of other regimes regard their own regimes. 40% of all respondents regard the competition authority in their country as very or completely politically independent. In contrast only 13% of UK respondents held this view. However UK respondents regard the EU as having the same level of independence as the UK. US respondents regard the EU as politically dependent and score its independence significantly lower than all others. Also lawyers as a group score the EU lower than others and economists score the EU higher.

On a re-scaled basis respondents as a whole believe that the level of political independence in the UK is equal to that in the EU regime.

Business and Competition expertise within the legal system (Question 4)

Respondents as a whole are not enthusiastic about the level of business and competition expertise within the legal systems in their own countries. Overall only 56% agreed that such

expertise was available to reach good judgements in their country. **Only 43% of UK respondents felt that the level of business and competition expertise within the legal systems was available to reach good judgements.** Competition policy officials also agreed (81%) to a large extent in contrast to lawyers (43%), economists (52%) and company and consumer representatives (57%) who were less convinced that such expertise was available.

Europeans, apart from the UK respondents, rate the expertise of the EU significantly higher than others. UK respondents rank the EU's expertise in this area significantly lower than others. Predictably, lawyers score the EU's business and competition expertise significantly higher than economists. In respect of the UK system the more physically distant the respondent the higher regard is held for the business and competition expertise within the legal system. Non-Europeans and US (significantly) respondents score (on a re-scaled basis) the business and competition expertise of the UK legal system more highly than others and more highly than the EU legal system.

Importance of a routine process for assessing the impact of completed cases (Questions 7d and 7e)

86% of respondents agreed to some extent that it was important to have a routine process to assess the impact upon competition of completed cases. UK respondents scored significantly less than other countries in agreeing to this statement whilst respondents from OECD countries (excluding UK and US) scored significantly more. Only 20% of all respondents overall felt that the competition authorities in their countries did do such assessments.

Such a routine process of auditing the effect of completed cases is clearly regarded as important but equally clearly not done by competition authorities, including those within the UK.

Do competition authorities sufficiently take on board and consult the views of consumer groups in reaching decisions (Question 8)

Respondents tended to agree (58%), that the views of consumer were taken into account in decisions in their country. **UK respondents (86% agreed) felt this significantly more strongly than others that the views of consumers were taken into account in decisions.** A similar view was held by all respondents about the EU.

All respondents felt that the UK took into account the views of consumers more so than their own country and on a re-scaled basis more so than the EU. The differences were significant. Company and consumer representatives⁹ felt that the UK took on board such views more strongly (not significantly) than others.

Do competition authorities sufficiently take on board and consult the views of business in reaching decisions (Question 9)

68% of all respondents agreed that decisions took on board the views of business in reaching decisions in their own country. Company and consumer representatives scored significantly lower than others, only 45% thought this. 60% of UK respondents agreed that the views of

⁹ The grouping "company and consumer representatives" is mostly made up of company representatives who by their nature will mostly consist of lawyers. See Table 2 above.

business were sufficiently taken on board. In respect of their own country 91% of competition officials agreed that the views of business were taken on board.

Respondents had a very similar view about the EU regime.

After re-scaling **the UK regime was felt to take on board business views significantly more so than that of the EU**. This view was felt particularly strongly by economists and by other OECD countries including the USA.

(b) Legal powers and remedies

Civil penalties (Question 6)

Overall 57% of respondents agreed that civil penalties would be effective to some degree in their countries.

In respect of the EU, all groups felt that civil penalties would be more effective (not significantly so) here than in their own countries.

Criminal penalties for cartels (Question 6)

Overall 77% of respondents felt that criminal penalties for cartels would be effective to some degree in their countries. **UK respondents felt more strongly (83%, not significantly different) than others that criminal penalties for cartels would be effective in the UK, as did non-European and US respondents** (100% significantly so). Surprisingly only 64% of respondents from other European countries thought such penalties would be effective in their countries. Officials were (90%) of the view that such penalties would be effective whilst company and consumer respondents (60%) were less enthusiastic.

Respondents across most groups felt that criminal penalties in the EU would be less effective than in their own countries, although the differences are not significant.

Third party damages (Question 6)

Overall 63% of respondents agreed to some degree that third party damages provided a deterrent to anti-competitive behaviour. **Only 52% of UK respondents felt that third party damages provided a deterrent to anti-competitive behaviour**. 100% of US respondents agreed with the statement whilst lawyers (73%) and officials (75%) were more enthusiastic than others.

In respect of the EU even less enthusiasm was found. This was particularly felt amongst economists and US respondents.

Enthusiasm waned still further amongst respondents on the effectiveness of such damages in the UK. **Only 50% of all respondents overall thought that third party damages provided a deterrent to anti-competitive behaviour**. Officials (73%) had a more positive view but lawyers (40%) a less positive one.

Powers to obtain information (Question 5a and 5b)

All groups felt that power existed in their regime to obtain information in merger cases (81%) and non-merger cases (85%) in their countries.

In merger cases all groups agreed (89% overall) that sufficient power to obtain information existed in the EU. US respondents regarded the EU's power significantly lower than other groups and lower than in the US.

On a re-scaled basis **all respondents felt that the UK had less power than the EU to obtain information on mergers.** This view was particularly strong among UK respondents, other European countries, lawyers, economists and competition authority officials.

93% of respondents felt that sufficient power was available to obtain information in non-merger cases in the UK .

(c) Mergers

Resources available to deal with mergers (Question 7b)

Overall 51% respondents felt that sufficient resources were available for the merger caseload in their country. The UK respondents replied similarly (50%) whilst other European countries were less able to agree (38%) that sufficient resources were available. Only 36% of economists felt sufficient resources were available in contrast to 71% of officials.

Protection of business confidentiality (Question 5a)

Respondents (78%) agreed that business confidentiality was protected in their country in merger investigations. Non-Europeans, particularly US respondents (100%) and competition authority officials (95%), felt this significantly more strongly.

Views on the protection of business confidentiality within the EU regime were similar to those in respect of “own country’s” in agreeing that such confidentiality was protected. Competition officials held a significantly stronger view than others on this.

86% of all respondents regard the UK as protecting business confidentiality and significantly more so than the EU on a re-scaled basis. This latter view was felt particularly strongly by lawyers and respondents from other European countries.

Power to prevent anti-competitive mergers (Question 5a)

Overall, 86% of respondents agreed that the powers to prevent anti-competitive mergers existed in their countries. US respondents (100%) felt this significantly more so than others.

In respect of the EU the overall view of all respondents was similar to that of their own country’s regime.

On a re-scaled basis **the UK regime is regarded by the overall sample, as having less power (not significantly so) to prevent anti-competitive mergers than that of the EU;** UK respondents feel the UK has more power than the EU.

Published findings inform about objectives and precedent with regard to mergers (Questions 10a and 11a)

Only 58% of respondents agreed that published findings provide guidance to what the objectives of policy are with respect to mergers in their own country; a similar proportion of UK respondents agreed. Unsurprisingly, a larger proportion of Competition officials (71%) agreed that findings informed about objectives. They also had a significantly stronger view about the precedent contained than all others. Less than half (48%) of respondents agreed that the published findings informed about precedent in mergers in their own country. **Only 32% of UK respondents felt that published findings informed about precedent.**

The EU regime was generally regarded as informing more about objectives (69% of respondents agreed) and precedent (68%) than that of the respondents’ country.

On a re-scaled basis **respondents agreed that the published findings in the UK inform equally about objectives as those in the EU. However respondents felt that the UK’s**

findings provided less guidance about precedent than those of the EU. For UK respondents this difference between the EU and UK was significant.

Published guidelines on allowable mergers (Question 11a)

48% of respondents overall felt that the published guidelines on mergers in their countries provide effective guidance as to what mergers are allowable. US respondents take a significantly different view, 92% believe the guidance is sufficient. Somewhat predictably a higher proportion (62%) of competition officials (typically the authors of such guidance) also regard the guidance as sufficient. Lawyers, economists and company and consumer representatives do not regard the guidelines as sufficient.

The position of all respondents in respect the EU is similar. **The UK respondents score the EU significantly lower than others but then UK respondents also score the UK lower than others on whether the published guidelines on mergers provide effective guidance.**

On a rescaled basis respondents see no significant difference between the EU and the UK regimes in respect of guidance on mergers. **Only 53% of all, compared to 38% of UK respondents, felt the UK guidance on mergers was sufficient.**

Do mergers ruling differ between regimes (Question 12)

Respondents were asked the extent to which they would expect merger rulings to differ between the UK and the EU and between the UK regime and the respondents' regime. They were also asked the reasons why if the answer was affirmative. **Respondents expected more difference between the UK and EU regimes than between their own and the UK. 78% expected similar rulings to their own regime whilst only 45% expected similar rulings to the EU regime. Only 25% of UK respondents expected UK and EU rulings to be similar.** Perhaps most telling is that **only 55% of competition officials felt that the EU and UK would reach similar rulings on mergers.** The reasons for the differences expected were mainly given as different objectives although others mentioned a different approach to and quality of economic analysis. The sample size, however, should caution against any firm conclusions being drawn from these reasons.

(d) Competition issues other than mergers

Are adequate resources available to deal with cartels, anti-competitive practices and abuse of dominance

Overall 56% of respondents agreed that adequate resources were available in their country. Non-European respondents felt this significantly more strongly than others as did officials in competition authorities. **63% of UK respondents felt that adequate resources were available to deal with cartels, anti-competitive practices and abuse of dominance.**

The EU was felt, particularly by the UK respondents, to have less resources available for this work. In contrast, non-European respondents thought the EU had more resources than others as did competition officials.

On a re-scaled basis all respondents thought that the UK had significantly more resources available for this work than the EU. This view was shared by all groups.

Protection of business confidentiality (Question 5b)

80% of respondents agreed that business confidentiality was protected in their country. The EU is also found to provide protection for business confidentiality (81% agree).

Overall, 86% of respondents agreed that sufficient protection was given to business confidentiality in the UK. On a re-scaled basis **respondents felt that the UK regime offered more protection on business confidentiality than the EU.** Lawyers and company and consumer representatives held this view most strongly

Power to prevent anti-competitive practices and abuse of dominance (Question 5b)

Respondents as a whole agreed (82%) that power existed to prevent anti-competitive behaviour and abuse of dominance in their countries. A significantly above average score was recorded for respondents from non-European countries (91%), particularly the USA (92%), and competition officials (95%).

Overall, respondents score the EU similarly to their own countries.

80% of respondents agrees that enough power was available to prevent anti-competitive practices and abuse of dominance in the UK. No significant differences emerged between groups.

The law provides an effective deterrent to prevent anti-competitive behaviour and abuse of dominance (Question 5b)

This attracted a lower level of agreement. Overall only 55% of respondents agreed the law provided an effective deterrent. UK respondents did not differ from this proportion. Non – European, and in particular US, respondents scored their law significantly higher. European respondents excluding the UK scored their law significantly lower.

Views on the UK law were very similar with 53% agreeing the law provided a deterrent.

Published findings inform about objectives and precedent with regard to non-mergers (Question 10b)

Overall respondents viewed the published findings on non-merger cases as providing little in the way of information on objectives or precedent in their own country, with agreement being 56% and 54% respectively. Non-European respondents, particularly those from the USA scored these factors significantly higher than others for their country.

The EU produced a higher proportion of agreement across all respondents (58% on objectives and 66% on precedent) but the differences were not significant. Competition officials felt significantly more strongly than others that information about precedent was given by EU findings. 80% agreed and 42% strongly agreed that such precedent was contained in the findings.

On a re-scaled basis **the UK was viewed as providing less precedent in its findings (non-merger cases) than those of the EU.** This opinion was felt significantly by UK respondents and economists.

Published guidelines provide sufficient guidance on what is unacceptable anti-competitive behaviour (Question 11b)

Only 53% respondents agreed that the guidelines in their country provide sufficient information on what is unacceptable anti-competitive behaviour. **UK respondents (72%) felt significantly more strongly than others that their guidelines were useful as did non-European respondents.** European respondents (excluding UK) felt that their guidelines were significantly less helpful than others. Only 36 % agreed they were sufficient. 63% agreed that the EU guidance was sufficient.

The UK's guidance is regarded as significantly more helpful (72% agreed it was sufficient) than that of the EU by all respondents. On a re-scaled basis the UK was rated significantly higher than the EU.

Do rulings in respect of vertical restraints, collective dominance, dominant firms, cartels and other horizontal agreements differ between regime (Question 12)

Respondents were asked if they would expect such rulings would differ between the UK and the EU and between the UK regime and the respondents' regime. If respondents said they would be expected to differ they were also asked about the reasons. **In contrast to mergers respondents expected a greater difference between the UK and their own regime than between the UK and the EU on rulings relating to cartels, anti-competitive practices and abuse of dominance.**

Vertical restraints (Question 12)

Only 52% of respondents felt that the UK and EU would reach quite or very similar rulings on vertical restraints. 43% of respondents thought EU and UK rulings would be different. Around 60% of those who thought such a difference would arise attributed it to different objectives and or different economic analysis. Just under 50% thought the quality of economic analysis would be different and or that a difference in legal precedent existed. (multiple reasons were allowed)

Collective dominance (Question 12)

Only 40% of respondents felt that the UK and EU would reach quite or very similar rulings on collective dominance. 48% of respondents expected rulings to be different between the UK and EU. This was mainly attributed to differences in economic analysis and precedent.

Dominant firms (Question 12)

65% of respondents expected the EU and UK to reach similar rulings on dominant firms. Only 25% of respondents expected rulings to differ. Around 50% attributed this to different objectives and or precedent.

Cartels (Question 12)

Respondents expected cartel rulings for the EU and UK to be very similar (89%), only 4% expected them to differ to any degree.

Other horizontal agreements (Question 12)

67% of respondents expected rulings on other horizontal agreements to be similar between the EU and UK.

Resources available to deal with cartels, anti-competitive practices and abuse of dominance (Question 7c)

Overall 56% of respondents agreed that adequate resources were available in their country. Non-European respondents felt this significantly more strongly than others as did officials in competition authorities. **63% of UK respondents felt that adequate resources were available to deal with cartels, anti-competitive practices and abuse of dominance.**

The EU was felt, particularly by the UK respondents, to have less resources available for this work. In contrast, non-European respondents thought the EU had more resources than others as did competition officials.

On a re-scaled basis, **the respondents overall thought that the UK had significantly more resources available for this work than the EU. This view was shared by all groups analysed.**

Open-ended questions

The last section of the questionnaire provided respondents with an opportunity to comment on the actions required to improve the effectiveness of the UK competition policy regime. As with other questions, the respondents offered a rich and varied number of views.

There was strong, if not unanimous, support for more political independence of the competition authorities – many respondents believed that there was too much political influence on the competition authorities from the Secretary of State for Trade and Industry. This result held across the professional groups. Respondents recognised, however, that the Merger Reform process was a step in the right direction, if overdue.

Many respondents said that new Competition Act is a move in the right direction, but that it is too early to make an assessment of the effectiveness of the new Act. The respondents, in particular economists, urged the authorities to be more proactive in implementing the new Competition Act.

Table 7 below provides a summary of the open-ended responses by professional group.

Table 7 - Summary of open-ended responses

Economists	Lawyers
<ul style="list-style-type: none"> • Political independence • Clear objectives • Greater role of economic analysis • Eliminate public interest test 	<ul style="list-style-type: none"> • Political independence • Greater resources • Clarity of procedures • Shorter time-scales • Strengthen investigative powers • Eliminate public interest test
Officials	Companies/representatives
<ul style="list-style-type: none"> • Political independence • Clarity of procedures • Shorter time-scales • Better communication with consumers 	<ul style="list-style-type: none"> • Political independence • Clarity of procedures • Clear guidelines • More business expertise • More international co-operation to achieve similar procedures/approach across different jurisdictions

5 Policy implications

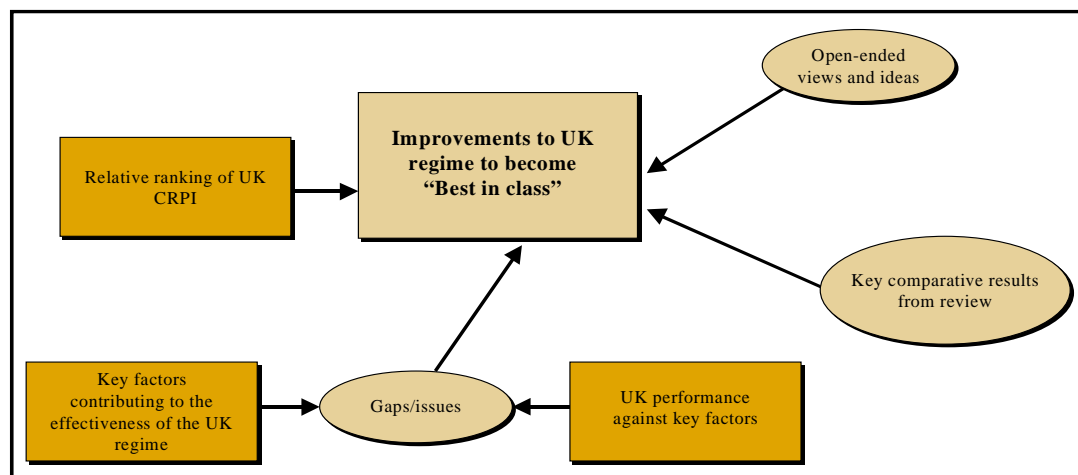
The previous section shows that the UK regime is regarded as the third most effective regime in a sample of varied OECD regimes. The UK ranks behind the USA and Germany and possibly behind the Canadian and Australian regimes. Small sample sizes prevent a firm view being formed on the latter two regimes. Given the DTI's PSA target, the next question is then how the UK regime can move up the pecking order to become the *'best in class'* in the OECD sample. The views of the respondents go a long way to answering this question by indicating how the UK regime rates against the key factors contributing to the effectiveness of a competition regime.

This section provides the DTI and the competition authorities with a summary of the suggested actions required to become "best in class".

The approach

The CRPI results indicate that there is scope for improvement in the effectiveness of UK regime. By identifying the key factors that constitute an effective regime together with the UK's performance in respect of these factors, the gaps and areas in which improvements could be made have been identified. Results from other parts of the questionnaire and the open-ended views and ideas of the peer group have been added to this. The focus group also provided views on the policy implications. Taken all together this provided the approach to identifying the policy options. Figure 2 provides a diagrammatic overview of this approach.

Figure 2 Inferring policy implications from peer review results



Along the way, the UK regime should learn from the successes and relative failures of other regimes in recent years.

It should be recognised that any group of experts in competition policy will have a view on what policy changes are appropriate and in this respect the authors of this report are no different. However, as far as possible, the policy implications are tied and limited to those which derive from the results of the survey; in addition the focus group has added its views on policy implications.

In summary, the DTI and relevant competition authorities should consider the following actions, grouped into three sets of initiatives as shown in Table 7:

- pursue new initiatives (column 1);
- take more proactive steps in the decision making process (column 2); and
- make improvements to existing activities (column 3).

The following paragraphs outline these actions in more detail.

Table 7 - Summary of actions on the UK competition regime implied by the peer review

New initiatives...	More proactive steps..	Improvements...
<ul style="list-style-type: none"> • Push forward with Merger Reform 	<ul style="list-style-type: none"> • Communicate more to consumers 	<ul style="list-style-type: none"> • Ensure clarity and consistency of objectives across competition authorities
<ul style="list-style-type: none"> • Consider use of criminal sanctions 	<ul style="list-style-type: none"> • Use powers under Competition Act 	<ul style="list-style-type: none"> • Build on the perceived strengths of the UK regime - complex monopoly, confidentiality, sensitivity to consumer interest
<ul style="list-style-type: none"> • Incorporate more business expertise into competition regime 	<ul style="list-style-type: none"> • Ensure political independence in decision-making 	
<ul style="list-style-type: none"> • Undertake audits of completed cases 		

Moving towards “best in class”

(1) New Initiatives

Push forward with Merger Reform

Respondents clearly welcome the Merger Reform proposals from the DTI. In particular, respondents support the main statements made in the “Government Response to the Consultation on Merger Reform” document¹⁰: the introduction of a competition-based test to replace the public-interest test, the minimisation of Ministerial involvement and the introduction of a turnover threshold. It is worth noting that views in the peer review were somewhat mixed about the relative merits of the public interest test in contrast to the views expressed in the Merger Reform consultation.

Overall, there is room for improvement of the UK merger regime, which in a number of important respects falls short of the EU or other OECD regimes. Respondents felt that the UK had less power than the EU to stop potentially anti-competitive mergers. This is particularly acute in the unpredictability of merger decisions and political independence where the UK scores relatively badly.

Improvements to the merger regime suggested by the survey results include:

- publishing more informative guidelines;

¹⁰ October 2000

- gaining more powers to obtain information (unlike for other competition cases);
- acknowledging precedent; and
- exploring the scope for improvements in legal analysis.

There is no great appetite for adopting an EU style system of merger control. This might be because in the European regime:

- the Commission takes the final decision on mergers and is a highly political body;
- informative merger guidelines do not exist to the same extent as in the US;
- the concept of collective dominance (co-ordinated effects) with respect of mergers is still in a formative stage.

Consider use of criminal sanctions

There is a clear majority view that criminal sanctions for cartels could have a strong deterrent effect. 100% of US respondents thought so compared to 70% of UK respondents (83% if the rating “quite effective” is included), although there are substantial differences between the US and UK systems in the history and culture of litigation. Criminal penalties are considered to be more effective than private actions (except by US respondents) or civil penalties. Of course, the EU regime is limited to imposing fines, rather than criminal penalties.

Incorporate more business expertise into the competition regime

The results suggest that competition authorities would benefit from a greater flow of staff into and out of the business community. The UK ranks below what is a low score for the OECD sample as a whole, suggesting that this is an issue for other competition regimes too. The creation of the OFT Board could be used to input the business and practical (not solely academic) competition expertise, which is perceived to be lacking in the UK regime. Similarly, the Appeals Tribunal should incorporate a broad range of experience and expertise, given that companies are able to appeal on more than legal grounds.

Undertake audits of completed cases

The survey results indicate strong support for “audits” or assessments of the effects of completed cases or decisions. The OFT could undertake this role, perhaps with some independent input. More importantly the OFT and CC should be more open to scrutiny. This must be an independent audit by both academics and competition practitioners.

(2) Proactive steps

Communicate more to consumers

Survey results point to a clear failure in communicating the importance of competition policy to the general public. Competition policy must be communicated to the public and must be associated with the relevant competition authorities not a “political agenda”. This form of communication is a serious exercise that requires due planning and professional advice.

Use the powers vested in the competition authorities under the 1998 Competition Act

Respondents provided favourable feedback on the new Act, but were waiting for it to “bite”. There is a strong feeling (at the time of writing) that the OFT needs to adopt a more proactive approach in implementing the new Act. . Whilst the OFT have, not unreasonably, been cautious, a whole year of perceived inactivity has served to lose any momentum created by the new Act. At the time of writing, the OFT has only made one decision since March 2000.

Ensure political independence in the decision-making process, particularly with regard to mergers

The respondents recognise the clear political role of the Minister in mergers clearance, and, to a lesser extent, in implementing other FTA findings. This is being addressed by the Merger Reform which will minimise Ministerial involvement in merger assessments. Other competition initiatives such as the Cruickshank review of banks could be seen to serve to undermine the position and independence of the competition authorities. The Government is considering assigning the OFT the responsibility of assessing the competition effects of regulations; this should be politically independent and transparent as per the Swedish model in which the minister has no role in such an assessment and in which a report can be made public.

(3) Improvements for existing activities

Ensure clarity and consistency of objectives across competition authorities

It is not possible to infer the remit of the OFT and CC as the new Competition Act does not explicitly state the objectives of the regime. The apparent objective of the OFT and CC is to maximise consumer welfare. If this is the objective, the OFT and the CC should make it clear to the business and legal communities and consumers.

Build on perceived strengths of the UK regime

In pushing forward with these suggested actions, the UK competition regime should not lose sight of its perceived strengths.

It is striking how positive the assessment of the UK regime is relative to the EU regime for non-mergers cases. Given that the old UK cartel regime was practically non-existent and hardly effective, the positive assessment must come from the way the UK regime tackles monopolies, in particular complex monopolies. The UK regime relative to that of the EU scores highly on the:

- technical competence of economic analysis;
- speed of decision making;
- political independence; and
- clarity of procedures.

The system of CC investigations is well established and the timetables are adhered to. The CC is seen as more politically independent when conducting monopoly enquiries than when

conducting a merger reference. The policy implications regarding monopolies would be to keep the monopoly provisions and remedial powers of the FTA 1973. The EU regime has nothing to offer in terms of treatment of collective dominance (i.e. complex monopolies), it is lengthy and lacks transparency.

In addition, respondents provided favourable feedback on :

- confidentiality protection: the institutions appear to be trusted to act responsibly;
- investigative tools: the institutions are perceived to have the legal powers they need to do their enforcement job; and
- sensitivity to consumer input and interest to a greater extent than other regimes.

There is strong support, however, for more stringent penalties, such as criminal sanctions in cartel cases. Overall, there is little support from respondents on some of the areas mentioned by the Government in the March 2001 Budget, those being third party damages and a greater role for consumer bodies in competition policy.

Appendix 1 – List of respondents

Name	Institution
Allen, Gwill	- <i>Canadian Competition Bureau</i>
Armstrong, Mark	- <i>University of Oxford</i>
Baker, Donald	- <i>Baker & Miller PLLC</i>
Baxt, Robert	- <i>Arthur Robinson & Hedderwicks</i>
Baxter, Simon	- <i>Clifford Chance Rogers & Wells LLP</i>
Beeston, Sarah	- <i>Landwell</i>
Berg, Morten	- <i>The Norwegian Competition Authority</i>
Borner, Prof. Silvio	- <i>University of Basle</i>
Bovet, Christian	- <i>University of Geneva</i>
Brandenburger, Rachel	- <i>Freshfields Bruckhaus Deringer</i>
Briones, Juan	- <i>National Economic Research Associates (NERA)</i>
Brouwer, Onno	- <i>Freshfields Bruckhaus Deringer</i>
Bruzzo, Ginevra	- <i>Assonime (Association for listed Italian corporations)</i>
Bucknall, Simon	- <i>ScottishPower</i>
Bulow, Jeremy	- <i>Federal Trade Commission</i>
Cantos, Francisco	- <i>Freshfields Bruckhaus Deringer</i>
Cave, Martin	- <i>Brunel University</i>
Charbit, Nicholas	- <i>Consumer Federation of America</i>
von Weizsaecker, Prof. Christian	- <i>University of Cologne</i>
Coyet, Johan	- <i>Mannheimer Swartling</i>
Crampton, Paul	- <i>Davies Ward & Beck LLP</i>
Cremer, Jacques	- <i>University of Toulouse</i>
Creus, Antonio	- <i>Cuatrecasas Abogados</i>
Da Cunha, Maria	- <i>British Airways</i>
Di Brozolo, Luca G. Radicati	- <i>Chiomenti Studio Legale</i>
Drauz, Goetz	- <i>Merger Task Force (European Commission)</i>
Drolshammer, Jens	- <i>Homburger Rechtsanwälte</i>
Ducrey, Patrik	- <i>Swiss Competition Commission</i>
Dykes, Jonathan	- <i>Confederation of British Industry</i>
Evans, Phil	- <i>Consumers Association</i>
Fels, Allan	- <i>Australian Competition and Consumer Commission</i>
Fingleton, John	- <i>The Irish Competition Authority</i>
Franks, John	- <i>Microsoft (Europe)</i>
Garcia Iñigo, Herguera	- <i>Universidad Complutense de Madrid</i>
Glazener, Paul	- <i>Allen & Overy</i>
Godwin, Sarah	- <i>Vodafone UK</i>
Grandval, Hubert	- <i>The French Competition Authority</i>
Gual, Jordi	- <i>University of Navarra, IESE Business School</i>
Hawk, Barry	- <i>Skadden Arps</i>
Heimler, Alberto	- <i>The Italian Competition Authority</i>
Hordijk, Eric H.	- <i>Pijnacker De Brauw Blackstone Westbroek</i>
Howe, Martin	- <i>Europe Economics</i>
Huser, Henry	- <i>Skadden Arps</i>
Hughes, Alan	- <i>EFRC Centre for Business Research</i>
Janow, Merit	- <i>Columbia University</i>
Jobling, Natalie	- <i>Ford Motor Company (UK)</i>

Kay, John	- <i>Independent economist</i>
Klasen, Dirk	- <i>Arbeitsgemeinschaft der Verbraucherbände</i>
Klemperer, Paul	- <i>Oxford University</i>
Lawrence, Jon	- <i>Freshfields Bruckhaus Deringer</i>
Lazarus, Claude	- <i>Herbert Smith</i>
Levinsen, Kirsten	- <i>The Danish Competition Authority</i>
Lindemann, Hans Jurgen Meyer	- <i>Shearman & Sterling</i>
Litan, Robert	- <i>Brookings Institution</i>
Lyons, Bruce	- <i>University of East Anglia</i>
Matthews, Nigel	- <i>Sainsburys</i>
McDowell, Moore	- <i>University College Dublin</i>
McNutt, Patrick	- <i>Indecon</i>
Miller, Russell	- <i>Minter Ellison Lawyers</i>
Moosecker, Karlheinz	- <i>Freshfields Bruckhaus Deringer</i>
Neven, Damien	- <i>University of Lausanne</i>
Neville-Rolfe, Lucy	- <i>Tesco Ltd.</i>
Nourry, Alex	- <i>Clifford Chance Rogers & Wells LLP</i>
Nykvist, Ann-Christin	- <i>The Swedish Competition Authority</i>
Officer, Prof Robert	- <i>Melbourne Business School</i>
Parr, Nigel	- <i>Ashurst Morris Crisp</i>
Peretz, George	- <i>Monckton Chambers</i>
Plompen, Peter	- <i>Philips International B.V.</i>
Polo, Michele	- <i>Università Bocconi</i>
Potter, Alex	- <i>Freshfields Bruckhaus Deringer</i>
Power, Vincent	- <i>A & L Goodbody</i>
Rechtsanwalt, Ralph Sammeck	- <i>RTL Television Gmbh</i>
Ridyard, Derek	- <i>National Economic Research Associates (NERA)</i>
Riley, Anne	- <i>Shell</i>
Rill, James F.	- <i>Howrey Simon & White</i>
Roniger, Rainer	- <i>Haarman Hemmelrath Hugel</i>
Rose, Cindy	- <i>The Walt Disney Company (Benelux) S.A</i>
Saba, Paolo	- <i>Italian Competition Authority</i>
Schips, Prof. Bernd	- <i>University of St Gallen</i>
Schwartz, Marius	- <i>The Brattle Group</i>
Shenfield, John H	- <i>Morgan Lewis and Bockius LLP</i>
Spier, Hank	- <i>Spier Consulting</i>
Stark, Charles	- <i>US Department of Justice</i>
Sylvan, Louise	- <i>Consumers International</i>
Tierno Centella, Maris	- <i>Dutch Competition Authority (NMa)</i>
Töllner, Wilko	- <i>Bundeskartellamt</i>
Tzouganatos, Dimitrios	- <i>Greek Competition Authority</i>
Utton, Mike	- <i>University of Reading</i>
Vives, Xavier	- <i>Institut d'Analisi Economica, Barcelona</i>
von der Fehr, Dr Nils-Henrik	- <i>University of Oslo</i>
Von-Finklestein, Konrad	- <i>Canadian Competition Bureau</i>
Walker, Mike	- <i>Charles River Associates (CRA)</i>
Waterson, Mike	- <i>University of Warwick</i>
Wetter, Carl	- <i>Advokatfirman Vinge KB</i>
Willnar, Dr Heinz	- <i>Stiftung Warentest</i>
Wilson, James	- <i>Bass plc</i>

Winter, Richard - *Bass plc*
Zurkinden, Dr Phillipp - *Prager Dreifuss*

Note: A number of other officials working for competition authorities in various other OECD countries have also been surveyed.

Focus Group members

Clark, John - *OECD*
Davies, Prof. Stephen - *University of East Anglia, UK*
Kiriazis, Georgios - *European Commission*
Kovacic, Prof. William - *George Washington University, USA*
Whish, Prof. Richard - *King's College, London, UK*
Wise, Michael - *US legal expert*

Appendix 2 - The questionnaire used by the PwC International Survey Unit

Policy Peer Review Questionnaire

Interviewer Number

--	--	--

Respondent's Name:

Respondent's Address:

	Post Code/Zip Code:	

Respondent's
Telephone Number:

--

Country

--

Respondent's
Company /organisation
/Academic institution

I confirm that this interview has been conducted in accordance with the Market Research Society's Code of Conduct.

Signature

--

Print Name

--

Date:

--

Policy Peer Review Questionnaire

Good morning/afternoon/evening. My name is.....from PricewaterhouseCoopers. We are conducting a Peer Review of UK competition policy on behalf of the UK Department of Trade and Industry. We recently sent you a letter from Tom Hoehn and David Elliott inviting you to participate, did you receive this letter?

IF YES ASK:

I would like to note that your responses –like all individual responses- will be treated in the strictest confidence by PwC. The DTI will receive the responses by background and country but not by name. There will be no attribution in the survey to specific individuals.

As a competition expert are you willing to participate in this review?

[**IF NO:** Record respondents answers verbatim. Send names and answers to PwC London team for further action, if appropriate.]

IF YES ASK:

Do you have time to complete the survey now, it will take approximately 30 minutes but depending on your answer it could take up to 45 minutes?

IF NO TIME NOW BUT PREPARED TO PARTICIPATE: Make an appointment

IF RESPONDENT DID NOT RECEIVE A LETTER:

[Confirm that you are speaking to the correct person and advise them that you will send them out a letter and call them back. **PLEASE NOTE ALL THOSE WHO DO NOT RECEIVE A LETTER AND INFORM YOUR SUPERVISOR.**]

READ OUT**INTRODUCTION**

As we outlined in the letter, this Peer Review is not a review of specific UK competition policy institutions against other specific national competition authorities. The aim is to assess **the performance** of the overall competition policy regime in the UK against that of other selected countries.

We would like you to compare the regime with which you are most familiar with the EU regime (Brussels) and with the UK regime if you have knowledge of that.

[**INTERVIEWER INSTRUCTION: NOTE THAT SOME RESPONDENTS MIGHT ONLY HAVE EXPERIENCE OF THE UK AND EU REGIMES**]

Can I first ask you which national competition regime you are **MOST** familiar with (apart from the EU regime)?

[Interviewer instruction: circle one only]

Australia	1	Spain	7
France	2	Sweden	8
Germany	3	Switzerland	9
Ireland	4	UK	10
Italy	5	USA	11
The Netherlands	6	Other please specify (_____)	12

In answering this survey please note that the term “competition policy regime” refers to **all aspects** in a country relating to competition policy such as the law, institutions and officials.

When answering questions could you do so with reference to:

- a. to your national regime you are most familiar with.
- b. to EU law and policy (“Brussels”).
- c. the UK regime if you are familiar with it.

We are also asking you to rate the performance of the UK regime in your experience rather than just related to the experience following the introduction of the Competition Act in March 2000.

For the majority of the questions in the survey we will be asking you to rate aspects of competition policy on a seven-point scale. For example the most frequently used scales are very strongly agree to very strongly disagree and not at all effective to extremely effective. Hence, 1 would be very strongly disagree and 7 would be very strongly agree. Any scores below 4 are negative and above 4 are positive and 4 is neutral.

Please note that there is an opportunity for you to add any comments you wish at the end of the questionnaire.

SECTION 1 OBJECTIVES OF THE UK COMPETITION POLICY REGIME

This section of the questionnaire relates to the objective of the UK competition policy regime.

The objective of UK competition policy broadly is:

“The objective of the UK Competition Act which deals with anti-competitive practices and abuse of dominance, is to encourage and enhance the competitive process. Mergers are assessed under a broad public interest test in which primarily the effect of a merger on competition is considered, however a range of other factors can be considered. Within this framework, competition is regarded as providing the best guarantee to consumers of choice and value. Competition also provides a spur for businesses to be dynamic and innovative.”

Q.1a On a scale of 1 to 7, with 1 being very strongly disagree and 7 being very strongly agree, to what extent do you agree or disagree with this as **the** objective of Competition Policy?

[INTERVIEWER INSTRUCTION: SINGLE CODE ONLY]

Very Strongly Disagree	1	Continue
Strongly Disagree	2	
Disagree	3	
Neither	4	Go to Q2
Agree	5	
Strongly Agree	6	
Very Strongly Agree	7	
Don't Know	98	

ASK ONLY THOSE WHO CODED 1,2 OR 3 IN Q1A

Q.1b Why do you disagree? **[INTERVIEWER INSTRUCTION: RECORD RESPONDENTS ANSWER VERBATIM]**

Q.1c Do you have any suggestions as to what the objectives should be? **[INTERVIEWER INSTRUCTION: RECORD RESPONDENTS ANSWER VERBATIM]**

No suggestions	1

SECTION 2 COMPETITION POLICY INSTITUTIONS

[Interviewer instruction please read out]

This section of the questionnaire deals with the effectiveness of the competition policy regime in your country, the EU and the UK. The typical process in a competition-policy related case involves the following stages:

- 1) Investigation – as a result of a complaint or on the competition authority’s own initiative;
- 2) Findings and decision;
- 3) Remedies; and
- 4) Appeals.

Q.2 On a scale of 1 to 7, with 1 being not at all beneficial and 7 being extremely beneficial, how beneficial to the effectiveness of the regime is the current structure of the competition authorities in your country/the EU/the UK? **[INTERVIEWER INSTRUCTION: SINGLE CODE ONLY FOR EACH COLUMN]**

	Your Country	EU	UK
Not at all beneficial	1	1	1
Not beneficial	2	2	2
Not very beneficial	3	3	3
Neither	4	4	4
Quite beneficial	5	5	5
Very beneficial	6	6	6
Extremely beneficial	7	7	7
Don't Know	98	98	98

Q.3 On a scale of 1 to 7, with 1 being completely dependent and 7 being completely independent, how independent or dependent are the competition authorities from political **influence**, as opposed to political support (which might be beneficial), in your country/the EU/the UK? **[INTERVIEWER INSTRUCTION: SINGLE CODE ONLY FOR EACH COLUMN]**

	Your Country	EU	UK
Completely Dependent	1	1	1
Very Dependent	2	2	2
Quite Dependent	3	3	3
Neither	4	4	4
Quite Independent	5	5	5
Very Independent	6	6	6
Completely Independent	7	7	7
Don't Know	98	98	98

Q.4 On a scale of 1 to 7, with 1 being very strongly disagree and 7 being very strongly agree how strongly do you agree or disagree that the **legal system** in your country/the EU/the UK has the **competence and/or business expertise** to reach good judgements?
[INTERVIEWER INSTRUCTION: SINGLE CODE ONLY FOR EACH COLUMN]

	Your Country	The EU	The UK
Very Strongly Disagree	1	1	1
Strongly Disagree	2	2	2
Disagree	3	3	3
Neither	4	4	4
Agree	5	5	5
Strongly Agree	6	6	6
Very Strongly Agree	7	7	7
Don't Know	98	98	98

The next few questions deal with mergers and other actions excluding mergers separately. First I will ask you about mergers and then the same question about other actions excluding mergers.

Q.5a On a scale of 1 to 7, with regards to **mergers only**, how strongly do you agree or disagree that **the law** in your country/the EU/the UK.....

[Interviewer instruction: Insert a score from 1-7. 1=very strongly disagree, 7=very strongly agree]

MERGERS [Interviewer instruction :Read out each element in turn]	Your Country	The EU	The UK
Provides enough power for the competition authorities to obtain information?			
Provides protection to businesses with regard to confidentiality?			
Provides enough power to prevent anti-competitive mergers?			

Q.5b With regards to **other actions excluding mergers**, how strongly do you agree or disagree that **the law** in your country/the EU/the UK.....

[Interviewer instruction: Insert a score from 1-7. 1=very strongly disagree, 7=very strongly agree]

OTHER ACTIONS EXCLUDING MERGERS [Interviewer instruction :Read out each element in turn]	Your Country	The EU	The UK
Provides enough power for the competition authorities to obtain information?			
Provides protection to businesses with regard to confidentiality?			
Provides enough power to prevent anti-competitive behaviour and abuse of dominant position?			
Provides an effective deterrent to such behaviour and abuse of dominant position?			

Q.6 On a scale of 1 to 7, with 1 being not at all effective and 7 being extremely effective, how effective do you think the following measures are (or would be where they do not currently operate) in deterring anti-competitive behaviour:

[Interviewer instruction: Insert a score from 1-7. 1= not at all effective, 7= extremely effective]

	Your Country	The EU	The UK
Civil penalties?			
Criminal penalties (for cartels only)?			
Third party damages?			

Q.7a I am going to read out a list of factors that contribute to the effectiveness of a competition policy regime. On a scale of 1 to 7 with 1 being extremely unimportant and 7 being extremely important, can you please state to what extent **you think** each of the factors are important?

[Interviewer instructions: Read out the list of factors and for each row insert a score from 1-7, single code only allowed]

READ OUT LIST	Rate 1-7	Rank 1-3
Technical competence in terms of economic analysis		
Technical competence in terms of legal analysis		
Technical competence in terms of administrative staff		
Clarity of procedures		
Speed of taking decisions		
Minimal burden upon business		
Political independence		
Quality of heads of authorities		
Role of external reviewers of different backgrounds for quality control		
Ability of investigating/case officers to make independent, impartial recommendations to superiors		
Anything else you think is important to effectiveness? [Interviewer instruction: record responses verbatim]		
1.		
2.		
3.		

You have ranked the following three factors as most important in contributing to the effectiveness of competition policy regime. **READ OUT TOP THREE FROM ABOVE. IF THERE IS A TIE FOR THE TOP THREE PLACES THEN ASK THE RESPONDENT TO RANK THE THREE MOST IMPORTANT**

Q.7b. On a scale of 1 to 7 with 1 being very poor and 7 being excellent how would you rate the performance of **merger policy** in your country/the EU/the UK based on the following criteria?

[Interviewer instruction: For each row insert a score from 1-7, single code only allowed on the rows]

MERGERS [Interviewer instruction: Read out each element in turn]	Your Country	The EU	The UK
Resources available for caseload			
Has technical competence in terms of:			
(i) Economic analysis			
(ii) Legal analysis			
(iii) Administrative staff			
Clarity of procedures/transparency			
Speed of decision making			
Burden upon business			
Political independence			
Quality of heads of authorities			
Role of external reviewers of different backgrounds for quality control			
Ability of investigating/case officers to make independent, impartial recommendations to superiors			
Other 1 from Q7a			
Other 2 from Q7a			
Other 3 from Q7a			

[Interviewer ask about the respondent to rate the other answers they provided in Q7a]

Q.7c Again on the same scale, how would you rate the performance of competition policy with regard to **other actions excluding mergers** in your country/the EU/the UK based on the following criteria?

[Interviewer instruction: For each row insert a score from 1-7, single code only allowed on the rows]

OTHER ACTIONS EXCLUDING MERGERS [Interviewer instruction: Read out each element in turn]	Your Country	The EU	The UK
Resources available for caseload			
Has technical competence in terms of:			
(i) Economic analysis			
(ii) Legal analysis			
(iii) Administrative staff			
Clarity of procedures/transparency			
Speed of decision making			
Burden upon business			
Political independence			
Quality of heads of authorities			
Role of external reviewers of different backgrounds for quality control			
Ability of investigating/case officers to make independent, impartial recommendations to superiors			
Other 1 from Q7a			
Other 2 from Q7a			
Other 3 from Q7a			

[Interviewer ask about the respondent to rate the other answers they provided in Q7a]

Q7d On a scale of 1 to 7 with 1 being extremely unimportant and 7 being extremely important, do you think it is important for competition authorities to have a routine process for assessing the impact on competition of completed cases (i.e. reviewing the impact on competition in a market of past decisions of the authorities)?

[Interviewer instruction: Insert a score from 1-7. 1=extremely unimportant, 7=extremely important]

Extremely unimportant	1
Very unimportant	2
Quite unimportant	3
Neither	4
Quite important	5
Very important	6
Extremely important	7
Don't Know	98

Q7e Again on the 7 point scale, how strongly do you agree or disagree that the competition authorities in your country/the EU/UK rigorously assess the impact on competition of completed cases (i.e. reviewing the impact on competition in a market of past decisions of the authorities)?

[INTERVIEWER INSTRUCTION: SINGLE CODE ONLY FOR EACH COLUMN]

	Your Country	EU	UK
Very Strongly Disagree	1	1	1
Strongly Disagree	2	2	2
Disagree	3	3	3
Neither	4	4	4
Agree	5	5	5
Strongly Agree	6	6	6
Very Strongly Agree	7	7	7
Don't Know	98	98	98

SECTION 3 Communication and Liaison with Business and Consumers**[Interviewer Instruction Read out]**

This section of the questionnaire deals with the communication and liaison with business, industry and consumers.

Q.8 On a scale of 1 to 7, do you agree or disagree that the competition institutions in your country/the EU/the UK sufficiently take on board and consult the views of consumer groups in reaching competition decisions?

[Interviewer instructions: Single code only for each column]

	Your Country	The EU	The UK
Very Strongly Disagree	1	1	1
Strongly Disagree	2	2	2
Disagree	3	3	3
Neither	4	4	4
Agree	5	5	5
Strongly Agree	6	6	6
Very Strongly Agree	7	7	7
Don't Know	98	98	98

Q.9 Again on the same scale, do you agree or disagree that the competition institutions in your country/the EU/the UK sufficiently take on board and consult the views of businesses in reaching competition decisions?

[Interviewer instructions: Single code only for each column]

	Your Country	The EU	The UK
Very Strongly Disagree	1	1	1
Strongly Disagree	2	2	2
Disagree	3	3	3
Neither	4	4	4
Agree	5	5	5
Strongly Agree	6	6	6
Very Strongly Agree	7	7	7
Don't Know	98	98	98

Q.10a On the 7 point scale, how strongly do you agree or disagree that the published findings (i.e. reporting) inform businesses, industries and consumers in your country/the EU/the UK?

[Interviewer instruction single code only for each column]

READ OUT	Your country	The EU	The UK
As to the objectives of the competition policy regime with regard to mergers ?			
By setting effective precedent on which mergers would be allowed or opposed			

Q.10b How strongly do you agree or disagree that the published findings (i.e. reporting) inform businesses, industries and consumers in your country/the EU/the UK as to?

[Interviewer instruction single code only for each column]

READ OUT	Your country	The EU	The UK
the objectives of the competition policy regime with regard to other actions excluding mergers			
the effective precedent on what actions/behaviour would be regarded as anti-competitive.			

Q.11a How strongly do you agree or disagree that the published or informal guidelines (as opposed to case law) in your country/the EU/the UK provide sufficient guidance on what is likely to be an allowable merger?

[Interviewer instructions: Single code only for each column]

	Your Country	The EU	The UK
Very Strongly Disagree	1	1	1
Strongly Disagree	2	2	2
Disagree	3	3	3
Neither	4	4	4
Agree	5	5	5
Strongly Agree	6	6	6
Very Strongly Agree	7	7	7
Don't Know	98	98	98

Q.11b Similarly, how strongly do you agree or disagree that the published or informal guidelines (as opposed to case law) in your country/the EU/the UK provide sufficient guidance on what is unacceptable competitive behaviour (excluding mergers)?

[Interviewer instructions: Single code only for each column]

	Your Country	The EU	The UK
Very Strongly Disagree	1	1	1
Strongly Disagree	2	2	2
Disagree	3	3	3
Neither	4	4	4
Agree	5	5	5
Strongly Agree	6	6	6
Very Strongly Agree	7	7	7
Don't Know	98	98	98

[Interviewer instructions: for question 12a if the participant is from the USA read out USA instead of the UK]

Q.12a On a scale of 1 to 7, with 1 being always different and 7 being always the same would you expect that there would be a different outcome for rulings under the UK/(USA) regime compared to the **EU regime** with respect to each of the following:

	Scale (1 - 7)	Don't Know
(a)Vertical restraints		98
(b)Collective dominance		98
(c)Dominant Firm		98
(d)Cartel (i.e. price or market sharing agreements)		98
(e)Other horizontal agreements)		98
(f)Merger		98

[Interviewer instruction: Ask only if respondent answers 1, 2, 3 to at least one of the above others go to Q13a]

Q.12b Why would you expect a different outcome for rulings with respect to (...read out a, b, c, d, e, f from previous question...), is it because of:

[Interviewer instruction circle all that apply and record other answers exactly]

READ OUT	A	B	C	D	E	F
Different Objectives	1	1	1	1	1	1
Different approach to economic analysis	2	2	2	2	2	2
Different quality of economic analysis	3	3	3	3	3	3
Legal precedent	4	4	4	4	4	4
Other please specify	5	5	5	5	5	5
↳	(_____	(_____	(_____	(_____	(_____	(_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____)	_____)	_____)	_____)	_____)	_____)

[INTERVIEWER INSTRUCTION: IF UK IS OWN REGIME DO NOT ASK QUESTION, GO TO Q13A]

Q.12c On a scale of 1 to 7, with 1 being always different and 7 being always the same would you expect that there would be a different outcome for rulings under the UK regime compared to **your own regime** with respect to each of the following:

	Scale (1 - 7)	Don't Know
(a)Vertical restraints		98
(b)Collective dominance		98
(c)Dominant Firm		98
(d)Cartel (i.e. price or market sharing agreements)		98
(e)Other horizontal agreements)		98
(f)Merger		98

[Interviewer instruction: Ask only if respondent answers 1, 2, 3 to at least one of the above others go to Q13c]

Q.12d Why would you expect a different outcome for rulings with respect to (...read out a, b, c, d, e, f from previous question...), is it because of:

[Interviewer instruction circle all that apply and record other answers exactly]

READ OUT	A	B	C	D	E	F
Different Objectives	1	1	1	1	1	1
Different approach to economic analysis	2	2	2	2	2	2
Different quality of economic analysis	3	3	3	3	3	3
Legal precedent	4	4	4	4	4	4
Other please specify ↳	5 (_____	5 (_____	5 (_____	5 (_____	5 (_____	5 (_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____)	_____)	_____)	_____)	_____)	_____)

SECTION 4 Effectiveness of the competition policy regime

[INTERVIEWER INSTRUCTION: IF UK IS OWN REGIME DO NOT ASK QUESTION, GO TO Q13B]

Q.13a. On a scale of 1 to 7 with 1 being not at all effective and 7 being extremely effective how would you rate the effectiveness of the UK competition policy regime **overall with regard to mergers** compared to **your country's** regime?

MERGERS	Q.13a	Q.13b
Not at all effective	1	1
Not very effective	2	2
Ineffective	3	3
Neither	4	4
Effective	5	5
Very effective	6	6
Extremely effective	7	7
Don't Know	98	98

Q.13b. Again on the same scale how would you rate the effectiveness of the UK competition policy regime **overall with regard mergers** compared to the **EU regime**?

[INTERVIEWER INSTRUCTION: IF UK IS OWN REGIME DO NOT ASK QUESTION, GO TO Q14B]

Q.14a On the 7 point scale, how would you rate the effectiveness of the UK competition policy regime **overall with regard to other actions excluding mergers** compared to your **own country's** regime?

OTHER ACTIONS EXCLUDING MERGERS	Q.14a	Q.14b
Not at all effective	1	1
Not very effective	2	2
Ineffective	3	3
Neither	4	4
Effective	5	5
Very effective	6	6
Extremely effective	7	7
Don't Know	98	98

Q.14b How would you rate the effectiveness of the UK competition policy regime **overall with regard to other actions excluding mergers** compared to the **EU regime**?

Q.15a On a scale of 1 to 7, with 1 being totally undermined and 7 being fully supported to what extent is the implementation of competition policy in your country/the EU/the UK complemented or contradicted by other institutions, such as courts, local government, other government agencies and regulations etc.

	Your Country	The EU	The UK
Totally undermined	1	1	1
Undermined	2	2	2
Somewhat undermined	3	3	3
Neither	4	4	4
Somewhat supported	5	5	5
Supported	6	6	6
Fully Supported	7	7	7
Don't Know	98	98	98

Q.15b On the 7 point scale, in **your opinion** how important or unimportant do you think competition policy is regarded by the general public in your country?

	Your Country
Extremely Unimportant	1
Very Unimportant	2
Quite Unimportant	3
Neither	4
Quite Important	5
Very Important	6
Extremely Important	7
Don't Know	98

Q.15c On a scale of 1 to 7, with 1 being no support at all and 7 being very much supported, how much political support do you think competition policy has in your county?

No Support at all	1
Very little support	2
Little support	3
Neither	4
Some support	5
Well Supported	6
Very much Supported	7
Don't Know	98

SECTION 5 – Improvements to the Regime

[Interview Instruction: Read Out, If respondent does not know anything about the UK write that in DO NOT CODE AS NO IMPROVEMENTS]

This final section of the questionnaire deals with how you think improvements could be made to the UK regime.

Q.16a How do you think the UK government could improve the effectiveness of its competition policy regime with regard to **mergers**? **[Interviewer instruction record responses verbatim]**

No improvements	1

Q.16b How do you think the UK government could improve the effectiveness of its competition policy regime with regard to **other actions excluding mergers**? **[Interviewer instruction record responses verbatim]**

No improvements	1

Q.17a Do you have any further comments regarding the UK competition policy with regard to mergers? **[Interviewer instruction record responses verbatim. If respondent does not know anything about the UK write that in DO NOT CODE AS NO COMMENTS/NOTHING TO ADD]**

No comments/nothing to add	1

Q.17b Do you have any further comments regarding the UK competition policy with regard to **other actions excluding mergers?** **[Interviewer instruction record responses verbatim]**

No comments/nothing to add	1

Close

Read Out

“That is all my questions. I would like to thank you for participating in this Peer Review. I would like to confirm that my name is ... calling from PricewaterhouseCoopers International Survey Unit. This interview has been conducted in accordance with the Market research code of conduct. I would like to repeat that your responses –like all individual responses- will be treated in the strictest confidence by PwC. The DTI will receive the responses by background and country but not by name. There will be no attribution in the survey to specific individuals.

In due course, we will send out the summary results of the survey to you and the other respondents.

If you have any queries about the survey please contact David Elliott, PricewaterhouseCoopers London on +44 207 583 5000 or Julie McClean, PricewaterhouseCoopers, International Survey Unit Belfast on +44 28 90 245454”

Appendix 3 - Country rankings based on re-scaled scores

Rankings based upon CRPI estimates using country's own ranking of itself relative to the EU:

(all respondents' own country and EU)

1. **Germany (8)**
2. **USA (10)**
3. Australia (3)
4. **UK (60)**
5. **EU (96)**
6. Italy (5)
7. Sweden (3)
8. Netherlands (7)
9. Spain (6)
10. France (6)
11. Switzerland (7)
12. Ireland (4)

Note:

1. Sample sizes in brackets.
2. The rankings should be treated with caution due to the low sample sizes associated with some of the countries.
3. UK ranking based upon UK and other respondents.

Appendix 4 – Detailed results

Table 1 - Average weighting of key factors in creating an effective competition regime

Factors	All respondents	UK	OECD excl. UK, US	US	Lawyer	Econ.	Official	Company/ Consumer
Technical competence of economic analysis	6.55	6.60	6.42	6.83	6.38	6.69	6.48	6.64
Technical competence of legal analysis	6.17	5.90	6.29	6.42	6.34	6.03	6.19	6.14
Technical competence of administrative staff	5.59	5.80	5.54	5.55	6.00	5.19	5.35	5.86
Clarity of procedures	6.05	5.93	6.13	6.00	6.28	5.81	6.05	6.09
Speed of decision making	5.51	5.03	5.71	5.42	5.86	4.97	5.62	5.73
Minimal burden upon business	4.83	4.53	4.96	4.83	5.03	4.28	4.76	5.41
Political independence	6.27	6.23	6.40	6.08	6.28	6.25	6.48	6.09
Quality of head(s) of authority	6.06	6.13	6.02	5.92	5.83	6.10	6.19	6.18
Role of external reviewers for quality control	4.82	4.24	5.13	4.58	4.97	4.53	4.90	5.00
Ability of case officers to make independent / impartial recommendations	5.86	5.97	5.62	6.25	5.83	5.61	6.19	5.95

Table 2 – CRPI: overall effectiveness

CRPI			
Rank	Overall regime	Re-scaled score	Non-rescaled score
1	Germany	6.6	5.4
2	USA	6.6	5.4
3	UK*	6.2	4.8
4	European Union	6.0	4.6
5	Average of All OECD (i.e. total sample)	6.0	4.6
6	Average of All OECD (excl. US, UK and Germany)	5.6	4.4

* As rated by all respondents who have commented on the UK regime (i.e. UK respondents and overseas respondents that have commented on the UK regime).

Table 3 – CRPI: mergers

CRPI			
Rank	Overall regime	Re-scaled score	Non-rescaled score
1	Germany	6.4	5.4
2	USA	6.4	5.4
3	UK*	6.0	4.8
4	European Union	6.0	4.7
5	Average of All OECD (i.e. total sample)	5.9	4.6
6	Average of All OECD (excl. US, UK and Germany)	5.5	4.4

* As rated by all respondents who have commented on the UK regime (i.e. UK respondents and overseas respondents that have commented on the UK regime).

Table 4 – CRPI: non-mergers

CRPI			
Rank	Overall regime	Re-scaled score	Non-rescaled score
1	Germany	6.7	5.4
2	USA	6.7	5.4
3	UK*	6.4	4.8
4	European Union	6.0	4.5
5	Average of All OECD (i.e. total sample)	6.0	4.6
6	Average of All OECD (excl. US, UK and Germany)	5.6	4.3

* As rated by all respondents who have commented on the UK regime (i.e. UK respondents and overseas respondents that have commented on the UK regime).

Table 5 – Mergers: UK Performance in respect of the key factors

Factors	All respondents	UK	OECD excl. UK, US	US	Lawyer	Econ.	Official	Company/ Consumer
Resources available for caseload	4.73	4.39	5.13	5.38	5.18	4.50	5.11	4.47
Technical competence of economic analysis	4.71	4.25	5.33	4.75	4.75	4.47	5.18	4.63
Technical competence of legal analysis	5.20	4.85	5.50	5.63	4.93	5.06	5.56	5.35
Technical competence of administrative staff	4.82	4.50	5.18	5.14	4.85	4.61	5.22	4.80
Clarity of procedures	4.53	4.24	4.94	4.78	4.36	4.11	5.00	4.81
Speed of decision making	4.73	4.52	5.25	4.29	4.71	4.68	4.60	4.88
Minimal burden upon business	4.47	4.00	4.79	5.43	4.57	4.67	4.60	4.12
Political independence	4.32	4.07	4.42	4.88	4.58	4.26	4.00	4.41
Quality of head(s) of authority	5.28	4.96	5.35	6.00	5.31	5.58	5.36	4.79
Role of external reviewers for quality control	4.14	3.68	4.94	4.25	4.23	3.67	5.10	3.83
Ability of case officers to make independent / impartial recommendations	4.98	4.50	5.35	5.83	4.92	4.72	5.50	5.00

Table 6 – Cartels, anti-competitive practices and abuse of dominance: UK performance in respect of the key factors

Factors	All respondents	UK	OECD excl. UK, US	US	Lawyer	Econ.	Official	Company/ Consumer
Technical competence of economic analysis	4.78	4.29	5.42	4.88	4.50	4.84	5.25	4.56
Technical competence of legal analysis	5.21	4.89	5.50	5.63	4.92	5.31	5.50	5.18
Technical competence of administrative staff	4.80	4.48	5.24	5.00	4.67	4.67	5.20	4.81
Clarity of procedures	4.58	4.21	5.16	4.88	4.54	4.26	5.27	4.50
Speed of decision making	4.14	3.69	4.68	4.50	4.00	3.89	4.70	4.18
Minimal burden upon business	4.34	3.97	4.65	4.83	4.46	4.44	4.64	3.94
Political independence	5.05	5.00	5.05	5.50	4.92	5.21	5.33	4.76
Quality of head(s) of authority	5.36	5.07	5.53	5.78	5.23	5.53	5.64	5.06
Role of external reviewers for quality control	4.02	3.52	4.88	4.14	4.08	3.67	5.11	3.58
Ability of case officers to make independent / impartial recommendations	5.05	4.64	5.37	5.83	4.67	5.06	5.80	4.88

Table 7 - Mergers: Re-scaled scores for UK

Factors	All resp'ts	UK	OECD excl. UK, US	US	Lawyer	Econ.	Official	Company/ Consumer
Technical competence of economic analysis	6.18	6.14	6.29	6.13	6.2	6.21	6.4	5.91
Technical competence of legal analysis	5.92	6.17	5.47	6.13	5.1	5.87	5.88	6.47
Technical competence of administrative staff	6.16	6.04	6.19	6.57	5.75	6.22	6.13	6.46
Clarity of procedures	5.98	6.10	5.76	6.0	6.0	5.5	5.4	6.88
Speed of decision making	5.86	5.9	6.05	5.29	5.62	5.89	4.89	6.53
Minimal burden upon business	6.35	5.9	6.78	7.29	6.54	6.50	5.67	6.41
Political independence	5.64	5.83	5.28	5.88	6.45	5.63	4.64	5.76
Quality of head(s) of authority	5.93	5.96	5.69	6.11	5.58	6.47	5.80	5.54
Role of external reviewers for quality control	6.14	6.30	6.13	6.13	6.45	6.33	5.92	5.82
Ability of case officers to make independent / impartial recommendations	6.11	6.15	6.0	6.33	5.9	6.11	5.67	6.50

Note:

1. Figures in bold denote significantly different from 6.0 (EU re-scaled score) at 5% level.

Table 8 - Cartels, anti-competitive practices and abuse of dominance: Re-scaled scores for UK

Factors	All resp'ts	UK	OECD excl. UK, US	US	Lawyer	Econ.	Official	Company/ Consumer
Technical competence of economic analysis	6.39	6.36	6.5	6.38	6.09	6.74	6.64	6.0
Technical competence of legal analysis	5.98	5.96	5.82	6.38	5.83	6.06	5.89	6.06
Technical competence of administrative staff	6.21	6.04	6.44	6.43	5.64	6.33	6.22	6.47
Clarity of procedures	6.35	6.41	6.39	6.13	6.33	6.11	6.1	6.81
Speed of decision making	6.46	6.72	6.26	6.17	6.58	6.0	6.11	7.06
Minimal burden upon business	6.2	6.03	6.37	6.6	6.0	6.33	6.11	6.24
Political independence	6.20	6.55	5.74	6.38	6.33	6.37	6.27	5.88
Quality of head(s) of authority	6.16	6.37	5.94	5.89	5.58	6.63	6.18	6.0
Role of external reviewers for quality control	6.24	6.26	6.4	5.86	6.17	6.47	6.56	5.7
Ability of case officers to make independent / impartial recommendations	6.11	6.44	5.6	6.33	5.67	6.24	6.33	6.18

Notes:

1. Figures in bold denote significantly different from 6.0 (EU re-scaled score) at 5% level.