COMPETITION AGENCY PRACTICE MANUAL

CHAPTER 2

EFFECTIVE PROJECT DELIVERY

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[1] Final version

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- ***European Community's Directorate General for Competition (DG-COMP)***
- ***Finnish Competition Authority (FCA)***
- ***Germany's Bundeskartellamt***
- ***Competition Commission of India (CCI)***
- ***Irish Competition Authority (TCA)***
- ***Jordan's Competition Directorate of the Ministry of Industry and Trade***
- ***Latvia's Competition Council***
- ***Mauritius' Competition Commission***
- ***Mexico's Federal Competition Commission (CFC)***
- ***Netherlands Competition Authority (NMa)***
- ***Pakistan's Competition Commission (CC)***
- ***Russia's Federal Antimonopoly Service (FAS)***
- ***Spain's Comisión Nacional de la Competencia (CNC)***
- ***Swedish Competition Authority***
- ***Switzerland's Competition Commission (COMCO)***
- ***United Kingdom Office of Fair Trading (OFT)***
- ***United States Federal Trade Commission (FTC)***
- ***United States Department of Justice (DOJ)***

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INTRODUCTION

This draft chapter of the Competition Agency Practice Manual (Agency Manual) focuses on Effective Project Delivery (EPD)[2] and succeeds the Agency Manual's first chapter on Strategic Planning and Prioritization. It is not intended to be binding in its effect and was prepared as a resource for competition (and consumer) authorities. The chapter was conceptualized during the January 2009 Seminar on Competition Agency Effectiveness in Brussels, where heads and senior staff from numerous competition agencies identified a need for resources to enhance the effectiveness of competition authorities that included tools, procedures, and best practices for optimal project management and effective project delivery.

As the number of competition agencies worldwide increases, and existing agencies experience in this area deepens, the subject matter of this chapter will constantly evolve. Accordingly, this chapter will benefit from regular updates and could be enhanced in the future by additional agency examples.

Recognizing that authorities' needs likely differ, this chapter covers a broad range of EPD techniques and provides specific examples of EPD techniques in operation.

This chapter relies on four important sources of information:

1. Other ICN work products, including the Kyoto Agency Effectiveness Project Report,[3] the Brussels Seminar on Competition Agency Effectiveness,[4] Zurich's Report on the Agency Effectiveness Project,[5] and the Draft Market Studies Good Practice Handbook.[6]
2. Contributions or documents from the OECD, UNCTAD, and individual competition agencies;

[2] See infra §§1.2 and 1.3 for a description of Effective Project Delivery. This draft chapter was prepared by: Heidi Sada (Mexican CFC), Rodrigo Rios (Mexican CFC), Ahmed Qadir (Pakistan CC), Siun O'Keeffe (Netherlands NMa), Hugh Hollman (U.S. FTC), Maria Coppola (U.S. FTC) and Brian Telpner (U.S. FTC), with the support of Prof. Allan Fels (ANZSOG) and Prof. Beth Farmer (Pennsylvania State University, Dickinson School of Law).

[3] Operational and organisational characteristics of the competition agencies were examined in the report submitted by the Competition Policy Implementation Working Group (CPIWG) at the Kyoto Annual Conference in April 2008. The report addressed the identification of agencies' objectives and priorities, the allocation of resources within a competition agency, and the link between organisational decisions (such as those concerning prioritisation) and the effectiveness of the agency's decisions. A report of the Kyoto Annual Conference is available at http://www.internationalcompetitionnetwork.org/uploads/library/doc367.pdf.

[4] A Seminar on Competition Agency Effectiveness was hosted by the European Commission in January 2009 with sessions on strategy and prioritisation, effective project delivery, evaluation, accountability, and communication. The Seminar fostered discussions on the merits of different organisational and planning tools and the sharing of experiences by senior staff. A report of the Seminar is available at http://www.internationalcompetitionnetwork.org/uploads/library/doc376.pdf.

[5] The Zurich Annual Conference renamed the CPIWG as the Agency Effectiveness Working Group (AEWG) and refined its mandate to examine factors affecting the ability of competition agencies to achieve their objectives and to add to the repository of knowledge of the ICN. In this context, it was decided that the AEWG would prepare a comprehensive manual for competition agencies, with the first two chapters focusing on Strategic Planning and Prioritisation and Effective Project Delivery. The report is available at http://www.internationalcompetitionnetwork.org/uploads/library/doc375.pdf.

[6] http://www.internationalcompetitionnetwork.org/uploads/library/doc646.pdf.

3. Questionnaires and comments provided by competition agencies that tested the Chapter in a Road Test exercise; and
4. Academic literature on the conceptual framework and different project management techniques.

This document replaces the May 2011 Draft of Chapter 2 on Effective Project Delivery presented at the109th ICN Annual Conference, held in The Hague, Netherlands.

Topics Addressed in this Chapter

Section I: Purpose of the Chapter. This section describes the purpose and scope of the chapter.

Section II: Key definitions and the value of EPD. This section provides definitions of key concepts extensively used throughout the chapter, such as "agency effectiveness," "project," "effective project delivery," and "project stakeholders"; and discusses the relevance of EPD for competition agencies.

Section III: EPD Techniques in Operation. This section identifies and discusses specific project delivery techniques. Drawing on experiences from other agencies, examples of various aspects of EPD are presented.

Section IV. EPD Case Example: The FTC at 100 Project. To illustrate EPD techniques as applied to a complex project, this section details a specific project – the "FTC at 100" initiative conducted by the U.S. Federal Trade Commission. Additional examples may be added in subsequent editions of this chapter.

I Purpose of the Chapter

This chapter was designed to provide practical guidance for competition and consumer agencies on possible tools and procedures to ensure effective project delivery. EPD is a highly contextual concept that describes a process or series of steps to achieve a desired outcome. Given the varying structures and priorities of agencies around the world, this chapter does not attempt to identify a single best model for project delivery for all competition agencies. Instead, this chapter identifies some minimum practical techniques and procedures that agencies could consider in the selection, planning, implementation, monitoring, and evaluation of projects.

Intended as a practical resource and reference, the chapter also presents examples of best practices and experiences from competition and consumer agencies in the application of various project management approaches and techniques. These were identified through questionnaires (included in the Appendix) that were submitted to agencies, as well as comments to the chapter's working draft by participants at the 9th and 10th ICN Annual Conferences during the Agency Effectiveness "breakout sessions." Through this process, the

steps initially identified to deliver a project successfully were: selection, planning, resource allocation, implementation, monitoring, communication, and evaluation. This chapter builds on and develops these EPD elements.

The purpose of this chapter is to provide agencies with a range of skills and knowledge to assist them in effectively delivering projects. While we carefully consider and define the terms "agency effectiveness" and a "project,"[7] this chapter is ultimately intended to provide agencies and their staff with the practical tools, perspective and knowledge that will allow them to:

- Select and use appropriate project delivery tools and techniques to deliver projects through effective planning, management, and control;
- Apply project selection techniques in accordance to an appropriate identification of agency needs and socio-economic factors;
- Be aware of central concepts contained within academic research into project management and how this research can be translated into practice; and
- Develop individual project management skills, including team management, drafting written product, monitoring and evaluating performance, and effective communication.

Every effort was made to accurately describe the experience of competition agencies as expressed in their answers and comments. However, the name of the agency conducting the practice has been omitted where necessary to preserve confidentiality.

II Key Definitions and the Value of EPD

2.1. Definitions

Below are presented what are considered to be the key concepts for effective project delivery within the context of a competition agency.

2.1.1 Agency Effectiveness

As this chapter is intended as a practical resource and reference for a variety of different types of projects by competition and consumer agencies with different structures and priorities, agency effectiveness is broadly defined for the purposes of this chapter as: *the ability of competition agencies to fulfill their mandates effectively*.

This broad definition of agency effectiveness can be viewed in light of numerous factors, especially: (i) political powers and the political environment (ie., the "authorizing environment," described fully below); and (ii) organizational capacity, including planning,

[7] See infra §§ 1.41 and 1.4.2.

selection, resource allocation, implementation, monitoring, communication and evaluation of enforcement and advocacy actions, and achieving results in a timely manner.

This definition is consistent with previous ICN views of what constitutes agency effectiveness, as noted in past ICN reports on agency effectiveness.[8]

2.1.2 Project

For the purposes of this chapter, a "project" is considered a singular piece of work characterised by:

1. a finite and defined lifespan
2. defined purpose, scope, objectives and outputs
3. a corresponding set of activities to achieve the outputs
4. significance great enough for it to be managed and monitored individually
5. a defined amount of resources

From start to finish, projects often follow a pattern of steps and phases as shown in the table below.

Beginning	
1	Gather/review project ideas
2	Select which ideas to take forward
3	Initiate work (this includes scoping, launching)
Throughout	
4	Manage the work (this includes activities that will run and need oversight throughout the project such as risk management, stakeholder engagement, quality assurance and monitoring project progress)
Middle Phase	
5	Collect and analyze information
6	Recommend and decide on outputs and how, if applicable, they will be communicated/publicised
7	Plan for follow up actions if necessary
End Phase	
8	Close
9	Review (lessons learned and know-how)
10	Evaluate impact

[8]For example, the Brussels Seminar on Competition Agency Effectiveness Report noted that "[t]he effectiveness of a competition agency depends on its ability to achieve positive impact in the real world via its various activities. Achieving effectiveness involves a number of pre-requisites, including inter alia: good planning and prioritisation (both strategic and operational); efficiency in use of resources and project management; evaluation of activity, in order to assess its impact, and good communication, as a large part of the impact of a competition agency comes via perceptions and awareness of the value of competition by various economic actors." The report is available at http://www.internationalcompetitionnetwork.org/uploads/library/doc376.pdf. Similarly, the Kyoto Agency Effectiveness Project Report observed that the "effectiveness of competition policies depend not only on the quality of the agency enforcement decisions and knowledge of best practice but also on the enforcers' capability to address growing number of cases and workflow." The Kyoto Annual Conference Report is available at http://www.internationalcompetitionnetwork.org/uploads/library/doc367.pdf.

As used in this chapter, "project" refers to enforcement, advocacy, or other activities of a competition agency that meet these criteria. The term "project" is intended to be consistent with and to encompass the activities identified in the report from the Brussels Seminar on Competition Agency Effectiveness, which stated: "[a] project, in the context of a competition agency, will most often be a case investigation, but can also be a market study or an advocacy or information campaign."[9] This chapter uses this definition to maintain consistency with prior ICN work.

While a broad definition of a "project" is used in this chapter, it is nonetheless important to recognize that there are significant differences between the two types of projects commonly undertaken by competition agencies: enforcement and advocacy-related projects.

Enforcement involves the application of the competition laws to the behavior of firms. Its main mechanism is the legal process for applying competition law to the activities of a firm that could restrict or distort competition. This could include the analysis of mergers that could harm market efficiency, agreements among competitors, and potential abuse of dominance. Thus, enforcement projects conducted by competition authorities will be related to the investigation of such actions. The main stakeholders involved in these types of projects will be the firms subject to the law, the decision makers inside the competition authority, and the courts that can ultimately confirm or revoke the authorities' decisions.

By contrast, advocacy "refers to those activities conducted by the competition authority related to the promotion of a competitive environment for economic activities by means of non-enforcement mechanisms, mainly through its relationships with other governmental entities and by increasing public awareness of the benefits of competition."[10] Thus, advocacy projects could have different types of strategies available and stakeholders involved. For example, advocacy projects may involve a combination of complementary activities such as issuing written guidance and reports to inform businesses and the wider public, training of government officials, recommendations to government, media presentations, etc. Advocacy activities may also involve a broad range of stakeholders including other government ministries, legislators, regulatory bodies, consumers and consumer associations, and trade associations.

[9] See note 8.
[10] ICN Advocacy and Competition Policy Report (2002), available at http://www.internationalcompetitionnetwork.org/uploads/library/doc358.pdf.

Competition Agency Projects in Action – Mexico/OECD Cooperation

In 2008, Mexico and the OECD launched a project to improve the competitiveness of the Mexican economy by reforming and modifying the regulatory and institutional framework. This multiyear project is fostering higher levels of investment, employment, and growth. The Mexico-OECD Co-operation to Strengthen Competitiveness in Mexico is constructed around two pillars, competition and regulatory improvement. The competition pillar focuses on increasing competition in markets by using the framework of the OECD Competition Assessment Toolkit to identify regulations and policies that unnecessarily restrict competition and develop alternatives to make regulation more pro-competitive. The competition work is done in cooperation with the Mexican Federal Competition Commission (CFC) and the Ministry of Economy of Mexico.

The project has already yielded a significant number of proposals for pro-competitive reforms to the regulatory framework, aimed at removing distortions to the efficient functioning of key markets. This work has led to a series of detailed analyses of competition by academics coordinated by the Directorate-General for Economic Studies of the CFC, and the review and validation of conclusions, followed by the formulation of concrete proposals for pro-competitive reform by the CFC and the OECD. To facilitate the implementation of the reforms, this work was coordinated by the Ministry of Economy, relying on the technical support of the CFC and the OECD, with other areas of the federal Government and Congress.

The markets assessed during this project to-date are: foreign trade, telecommunications, state regulation, competition and distribution of income, pharmaceuticals, electricity, airlines, bus passenger transport and banking. One of the most important achievements of this project has been the approval by the Congress of pro-competitive banking reforms as proposed by the CFC, based on Toolkit studies of credit cards and deposit accounts. This legislation was more pro-competitive than earlier proposals and included measures such as: ensuring customer mobility by establishing standards for the customer switching process; guaranteeing competitive access to essential banking network infrastructure; promoting competitive interchange fees by clarifying the Bank of Mexico's role in setting the interchange fee; and eliminating excessive requirements for branch banking.

2.1.3. Successful Projects

It would be difficult to find a universal definition of successful projects. Everybody has a different interpretation of success. Drawing from management studies, however, it could be argued that successful projects are generally those that:

- **Delivered as promised** -- project produced all the stated deliverables;
- **Completed on-time** -- project completed within the approved schedule;
- **Completed within budget** -- project completed under the approved budget;
- **Delivered quality** -- project deliverables met all functional, performance, and quality specifications;
- **Achieved original purpose** -- the project achieved its original goals, objectives, and purpose;
- **Met all stakeholder expectations**, including all stakeholder acceptance criteria, and each key stakeholder accepts the project results without reservation; and
- **Maintain "win-win" relationships** -- the needs of the project are met with a "people focus" and do not require sacrificing the needs of individual team members. Participants on successful projects should be enthusiastic when the project is complete and eager to repeat a similar experience.

For many projects, acceptance and success criteria are never established or agreed to by all key stakeholders. In many cases, an organisation may define a project as successful even when some of the criteria for project success (schedule, cost, and stakeholder expectations) are not completely met. This is often the case if the project achieved some (if not all) strategic business or organisational objectives. In other cases, a "cancelled" project may be a "successful" project even if it was dropped as a result of a "go/no-go" analysis.

2.1.4. Project Stakeholders

In this chapter, "stakeholder" means any individual, group of individuals (whether internal or external to the authority), organization, or group of organizations that has an interest in the project and/or the issues that are the focus of the project, and/or any of the project's outcomes.

Effective engagement with stakeholders is a key element of project delivery. At certain stages of the project (which are discussed where applicable in the forthcoming sections), stakeholder input and reactions can have a large impact on the project itself. For example, in the case of a cartel investigation (an enforcement project), when a firm files for leniency, its involvement in the investigation is crucial to the outcome, which ultimately could be the confirmation by the court of the sanction imposed by the competition authority. For advocacy projects, such as market studies, stakeholders can provide important input at various stages of the process and can affect its desired outcome, particularly when it might be up to a key stakeholder (such as a regulator) to implement the recommendations derived from

the study. It is important to note that effective stakeholder engagement typically requires regular consultation with stakeholders.

2.2. The relevance of EPD for a competition agency

In any competition agency´s project, three basic factors must be continually taken into account for it to be considered successful.[11]

First, the project must be of value to the public ("public value"), that is, it makes a contribution to the welfare of the community. This contribution may take the form of good economic and social results brought about by the project such as a more competitive economy with lower prices and improved services, a better-informed community, or a change in the law that is likely to lead to beneficial outcomes. In short, attention must be paid at all times to the results being sought.

Second, irrespective of the agency's view of the public value of its activities, a fundamental question is always from where the project derives its ultimate authority, legitimacy and support. Ultimately this must come from the "authorising environment."[12] An agency may consider a project to be of public value but its legitimacy rests on its publicly defined mandate, its legislation, mission and budget. If a project cannot be linked to the mandate of an agency or is outside the agency's mandate then ultimately it lacks legitimacy and authority.

Third, a project needs to be considered in the light of the operating capability of the agency. Before embarking on a project, an agency needs to consider whether it has, or can obtain, the resources, skills, organisational commitments, and necessary legal and/or investigatory powers to implement it fully and properly. In some cases, it may be within its capabilities and in other cases it may not be. In yet other cases it may be necessary and possible to harness the inputs of "co-producers" or "partners," that is, other parties which can directly or indirectly help the agency achieve the results that it seeks.

In short, a project must add value to the community, must be a legitimate and authorised activity of the competition agency in legal and possibly political terms, and must be within its operating capability. These questions must be part of the initial assessment and constantly reassessed throughout the project.

Effective project delivery in the context of competition authorities refers to the application of the techniques related to project management into the authorizing environment to achieve expected results of each project given the individual limitation and constraints of each

[11] This section draws from *On Creating Public Value* by Mark Moore and Sanjeev Khagram, John F. Kennedy School of Government, Harvard University Working Paper 3, March 2004, available at http://www.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper_3_moore_khagram.pdf.
[12] See note 11.

project. Developing these practices within an organisation requires a high level of responsibility, focus and commitment by the organization's staff.

The value of effective project delivery and the techniques discussed in this chapter exists only to the extent that they allow agencies to enhance their overall effectiveness. The premise of this chapter is that having a well-defined process in place better enables authorities to deliver their projects consistently and successfully. In summary, EPD helps ensure that:

1. work is well focused, planned and managed (thereby ensuring resources are utilized effectively);
2. the authority and its staff benefit from learning and, as appropriate, apply a consistent approach to their project work;
3. accountability for delivery of the work is clear and understood by authority staff; and
4. the reputation of the authority is enhanced as a result of carrying out its work professionally.[13]

III EPD Techniques in Operation

3.1 Developing a Project Selection Strategy

The first step in implementing a strategy is the selection of projects. As explained above, in the context of a competition agency a project is usually a case investigation, market study, advocacy initiative, or perhaps an internal capacity-building initiative. The selection process is crucial. Poor choices could jeopardize the success of a project leading to a waste of agency's time and resources and damage the credibility of any project output, ultimately to the detriment of an agency's overall mission.

Selection of the best issues for a market study or priorities for case selection and advocacy also enhance the potential for constructive engagement with stakeholders (the importance of which is described in section 1.4.3) and help ensure appropriate outcomes. Sound selection and prioritization may also increase an agency's legitimacy and effectiveness in subsequently confronting potentially anticompetitive behavior. For certain matters, however, some authorities may not have the discretion to develop selection principles, as they may be mandated or required by legislation to conduct specific market studies or to only bring cases in certain economic sectors.

[13] See the ICN Draft Market Studies Good Practice Handbook, available at http://www.internationalcompetitionnetwork.org/uploads/library/doc646.pdf

Some agencies are required to bring cases against all infringements of their competition legislation, while others use a sector-based organizational structure to prioritize cases. This sector-based structure aims to increase the knowledge of various markets in the economy and helps to prioritize cases.

Although practices vary, some agencies enjoy a degree of discretion in deciding how to choose cases to enforce and projects to undertake. A major advantage of authorities defining their own project selection and prioritization criteria is that it allows the agencies greater freedom to determine how to meet the agency's overall mission by identifying potential concerns in markets or sectors and ensuring that cases, market studies, or advocacy projects focus on the most critical concerns or issues. There are also often a number of projects required by statute that competition agencies pursue, for example, merger reviews in a mandatory filing jurisdiction. Even in such instances, the competition agency often has some discretion to decide the continuing best use of resources, such as whether to challenge a merger.

Other parties, including government agencies, legislatures, or consumer groups (generally defined as "stakeholders" in section 1.3.4), may have a broader perspective on issues considered to have vital social and economic significance. Consultation with these authorities and groups may also assist authorities in identifying suitable projects.

The U.S. FTC often will collect information from town hall meetings or workshops to which other government officials, academics, consumer groups, and practitioners are invited. Recent examples include workshops jointly held by the U.S. FTC and Department of Justice's Antitrust Division to explore the possibility of updating the Horizontal Merger Guidelines used to evaluate the horizontal effects of mergers. In addition, the U.S. FTC held joint workshops with the Berkeley Center for Law and Technology and the Berkley Center for Competition Policy to explore how markets for patents and technology operate in different industries, whether those markets operate efficiently, and how patent policy could be adjusted to better promote innovation and competition.

Discussing potential economic sectors, types of cases, or potential markets for study informally with other government agencies or the legislature can be useful to ensure that appropriate markets or issues are identified. Communication can also ensure that government and legislators recognize the risks and opportunities that mandating certain sectors for investigation or market studies could entail, and provide agencies the opportunities to discuss possible uses for completed studies. Not least of all, communication can facilitate the completion of projects within available budgets and time frames.

In addition to actively soliciting information or engaging in discussion with other parties, competition agencies may opt to keep track of business trends and press coverage as potential sources for issues that may require enforcement or require study.

Agencies may also utilize their own internal knowledge to collect information on issues for a market study or further investigation, including:

- Their own enforcement experience, including unsuccessful enforcement efforts.
- Market studies in markets with similar characteristics or similar restrictions on competition.
- Their own research and market monitoring, including:
    - Recent regulatory changes
    - Advances in technology that could affect competition
    - Changes in business behavior in specific markets or in the economy generally
- Their concerns about business compliance.
- Consumer feedback
- Consultation with other regulatory departments.
- Dialogue with fellow competition authorities or regulators.
- Contacts with academics.

Agencies could consider creating a dedicated team to assist in identifying enforcement areas or to collect issues for an advocacy project or market study. A competition policy office or economist team may be well suited to these roles. Developing dedicated teams will depend on agencies' resources and other priorities.

Focusing on the most appropriate issues for study or sectors for enforcement may be enhanced by developing a set of factors to take into account. For example, agencies may choose to consider the following factors:

- Size and type of detriment to consumer welfare
- Impact on all market players (not just consumers)
- Amount or type of consumer/business complaints or concerns
- Political interest or attention and priorities
- Market size
- Market value

- Entry barriers
- Unusual market events
- Market structure (including degree of vertical integration, concentration of markets)
- Public regulation of the market

Practical considerations impacting the utility of agency action could play a role in selecting appropriate projects. Such practical considerations could include:

- Likelihood that advocacy, study or case will have clear benefits
- The ability to gauge or measure the impact
- Whether the competition authority is best placed to bring the action and not, perhaps, private action or another authority
- The work of other national authorities or (in the case of the European Union) the EU Commission
- Resource implications for the authority

Agencies may also consider developing a set of flexible prioritization principles that they could apply to the range of possible issues. Such principles could be formulated to apply to all discretionary work carried out by the authority.

Prioritization principles could be made public, but if authorities decide to do so, they might want to ensure that the principles are sufficiently flexible so that they:

- Do not lead to a presumption by consumers or business that certain cases or issues will automatically qualify or disqualified from study
- Can be adapted to new situations
- Do not generate legal challenges to the agencies' decisions to prioritize certain cases, markets for study, or advocacy projects.

Prioritization in Action: OFT's Approach

The UK OFT has a set of prioritization principles that it applies when considering which cases and projects it will prioritize for action. The OFT generally prioritizes its work according to the following principles:

Impact

- What would be the likely direct effect on consumer welfare in the market or sector where the intervention takes place?
- What would be the likely indirect effect on consumer welfare?
- What would be the expected additional economic impact on efficiency/productivity?

Strategic Significance

- Does the work fit with the OFT's strategy as set out in the current annual plan and/or with other OFT objectives? Every quarter the OFT's Executive Committee provides guidance on current priorities to help decision makers assess strategic significances when applying the prioritization principles.
- Is the OFT best placed to act?
- What would be the impact of the new work on the balance of the OFT's current range of work?

Risks

- What is the likelihood of a successful outcome?

Resources

- What are the resource implications for doing the work?

Where appropriate, the OFT may also take account of other relevant factors.

Prioritizing cases for enforcement purposes may require additional considerations. An authority may wish to evaluate potential cases on a cost-benefit basis. For example, one relevant factor may be the likelihood and magnitude of the harm to competition and consumers that may result from the alleged violation—that is, whether the conduct to be examined may result in higher prices or lower output.

Case Prioritization at the U.S. FTC

To assist in prioritization, investigating staff from the U.S. Federal Trade Commission's Bureau of Competition will often consult with members of the FTC's Bureau of Economics and, on occasion, outside economists. Case selection criteria may balance the benefits against the costs (in terms of agency resources, personnel, and time) of pursuing an investigation, the likelihood of a favorable case outcome (such as whether the working legal theory falls within existing case law or prior agency actions, or requires a favorable extension of the law), and the benefits to consumers and competition of any relief that might be obtained.

3.2 Building and Managing the Project Team

3.2.1 Key Roles Essential to a Project's Success

Although terminology describing these roles may differ by agency, each team requires a member or members and a project team leader. The project team leader could report to a project director, who has overall responsibility for the project and liaises with stakeholders. In significant projects, the project director may be an agency director or the agency head.

Due to the hierarchical nature of many agencies, the project team leader may first report to a project manager, who is responsible for providing the team with the resources necessary to complete the project. The project manager could in turn report to the project director, who in a smaller agency, may be the agency head.

In addition, more important projects may require a steering committee. The steering committee may involve internal stakeholders from other departments within the authority, ministerial representatives or external stakeholders. It is crucial to identify the relevant roles of the key people in the project organization to avoid territorial disputes at a later stage.

Within the project team, it is helpful to the success of the project to delegate specific tasks to particular team members. Depending on the size of the agency, and the size and type of the project, teams may need to be constituted differently. Also, in larger cases or second phase merger investigations, it may be necessary to reassess the key people at an intermediate stage in the project.

Many agencies use teams composed of employees of mixed discipline (lawyers/economists) and different levels of experience. Often agencies find results improve where either the project manager or project director is not an expert on the project-content, and can devote themselves purely to management tasks.

3.2.2 Building the Project Team

Many agencies will request the project director and team leader (or their functional equivalents) to take responsibility for finalizing details regarding how many people are required in the team, and the skills necessary for completion of the project.

Before staff is allocated to a project, they should be asked to disclose conflicts of interest. A conflict of interest arises when staff has a private interest that might influence the work, or be perceived to do so (such conflicts may also be defined specifically by internal agency regulations or by local law). A team member's judgment may be influenced by financial or non-financial interests. Such interests can include those of family members and friends. If after allocation to a project, a conflict subsequently arises, this should be drawn to the attention of the team manager by the team member concerned.

It is important not to allocate staff to too many projects. As a general rule, it is difficult for a team member to work on more than two or three projects effectively at any one time, although practices may differ depending on the nature of the projects and the team member's responsibilities. Depending on the size of the projects, a project director should, as a general rule, be directing no more than six or seven projects at any one time. Projects will benefit greatly from having designated teams and designated team members, working only on that project, at least for crucial time periods within the project.

A team room and a designated team secretary can enhance the working of a team and assist with the development of team spirit. Provision could be made for additional internal staff resources to assist the team temporarily. Such staff resources may be made available from another department or loaned from another project. Provision may also need to be made to retain an outside expert on economics or law, depending on the nature of the project, or to subject a study to peer review and comment.

To avoid budgetary deficit, the team should be allocated a clearly-defined budget, where appropriate, with a tracking system of approving expenses.

3.2.3 Defining Staff Roles and Responsibilities

A key first step for teams is to establish clear team member roles and responsibilities, including the allocation of staff time. As each project is different the exact nature of responsibilities will need to be tailored to suit individual circumstances.

Most competition authorities seem to use a flexible system of staff allocation for projects, depending on the nature of the project.

Agency Experience with Team Building

Singapore varies the organization of project teams, depending on the type of project. South Africa uses a specific unit for cartel issues, but staffs general projects more flexibly. At the NMa, it is customary to ensure that teams are composed of both lawyers and economists. Many authorities like to use combinations of junior and senior staff on a team. This allows an agency to retain knowledge and also facilitates the education of junior team members for future projects. Nevertheless, there may be situations where a team solely composed of senior staff is justified. Most authorities will use a mix of staff, where possible, ensuring that the team possesses the variety of skills needed to complete the project. For example, according to the FTC project teams are built primarily according to experience and current workload. If a project requires attorneys, economists, paralegals or other support staff, an effort is made to find the most qualified and experienced team members possible. Current workload is also a decisive factor.

Mauritus' Competition Commission organizes the project team according to the required skills. The project team is managed by one of two Deputy Executive Directors. Events are organized as part of advocacy efforts. The composition of the team at enforcement level almost always includes both lawyers and economists to ensure a good balance of skill set. For advocacy, the team is normally composed of one staff member from enforcement activity and the main work of organizing the event is carried out by the Corporate Services team.

Other Competition Agencies' Team Building Examples

The Irish Competition Authority consists of six divisions, each responsible for specific projects. They are advocacy, cartels, corporate services, mergers, monopolies and strategy. Within each division multi-disciplinary teams, made up of lawyers, economists and experienced/forensic investigators, work on projects, managed by the relevant divisional manager.

From time to time the Competition Authority has cross-divisional projects, where individual members of the project team are selected specifically on the basis of an individual's personal knowledge and experience, e.g, in a particular sector or discipline. We have taken this approach for example when examining issues in the banking industry where we have expert knowledge across two divisions.

Other Competition Agencies' Team Building Examples

The Competition Commission of India (CCI) consists of different Divisions viz., Anti-Trust, Combinations, Legal, Economic, Advocacy, Capacity Building etc., with different functions. Project teams/ committees are constituted, as may be required, from time to time. Further, the Office of the Director General (DG), which is the independent investigating arm of CCI, investigates cases where CCI finds a prima facie contravention of the provisions of the Competition Act, 2002.

The Anti-Trust and the Combinations Divisions constitute various teams which work on the assigned cases such as preliminary case analysis of matters pertaining to anti-competitive agreements & abuse of dominance and combinations filings respectively. After receipt of investigation report of the DG, the case teams in Anti-Trust division also analyze the report and brief the Commission accordingly. Besides, Economic and Legal divisions also make presentations/ briefs on the cases/ report of the DG regarding inter alia economic and legal analysis respectively.

Depending upon the exigency and nature of the project, for specific matters, teams/ committees are also constituted drawing personnel from different divisions. In particular, for drafting regulations and suggesting amendments to the Competition Act, 2002 committees were/ are constituted consisting of Officers from different divisions. This brings different perspectives including economic, legal and financial to the project conceptualization and execution.

Examples of the roles staff may take within the team management are as follows.
The project director may:

- sponsor the project and be accountable for overall delivery
- decide the team's terms of reference (including its goal, deadline and resources)
- advise and guide the project manager/team leader on the direction of the project and the team
- participate in the most important senior external relationships/meetings
- make the key project decisions or recommendations together with the project manager/team leader
- liaise with stakeholders

The project manager may (or, where there is no project manager, these tasks may be shared between the team leader and the project director):

- direct the project
- decide on budgetary/staffing matters
- be accountable for the delivery of high quality outputs

- shape the substance of the project, assisted by the team
- plan, monitor and control resources
- ensure all issues to be addressed are identified
- ensure the right evidence/information/research is commissioned
- ensure all issues to be addressed are identified and collated
- ensure the analysis is appropriate, complete and correct
- ensure impact estimation is built into the project
- oversee the risk strategy
- set the applicable quality assurance processes
- make the key project decisions or recommendations in conjunction with the project director
- lead and assist in managing key external relationships
- set Steering Committee agendas

The team leader will:

- lead the project team
- allocate tasks with appropriate deadlines
- plan the work
- ensure the work is registered in the agency's filing system
- ensure progress is reported and issues escalated as required
- ensure the project plan is updated and deadlines are met

The steering committee, where necessary, will:

- debate the teams proposals and give feedback
- highlight strengths/issues/ risks
- provide quality assurance of the analysis
- make suggestions concerning strategy (including risk assessment and stakeholder engagement

A significant project may benefit from the creation of a small steering committee of senior executives who can provide valuable high-level advice and direction. They do not need to have a decision-making role. The project director may choose to direct the project together with the steering committee for certain types of evaluation projects.

3.3 Drafting the Project Plan

The project plan is an important practical tool in the effective management and execution of any competition agency project. Simply put, a project plan outlines the project's objectives and the actions needed to meet those goals. A well-drafted plan helps the project team prioritize tasks, allocate resources, and guide decision-making as the project moves towards completion.

A well-drafted project plan serves multiple purposes. For project team members, the plan sets the agenda for tasks that require completion while illustrating how each task contributes to the ultimate project goal. For supervisors, managers, or other agency stakeholders not directly involved in the day-to-day work of the project, the plan enhances their familiarity with the project and can be used to solicit their feedback and as a basis to obtain any required managerial approvals. In some circumstances, elements of the project plan may be incorporated in other documents to be created by the project team; for example, an introductory summary of the project could serve as a starting point for preparing other memoranda or documents that may be required as the project develops. Perhaps most importantly, the process of writing the plan often helps the team think through and anticipate the most crucial actions and strategic decisions that the project will likely encounter. Focusing on these issues early in the project lifecycle often proves invaluable in the timely and efficient execution of a given project.

Written project plans arise in a variety of contexts and can be used effectively in all types of competition agency projects. Competition agencies may refer to project plans as "investigative plans" (for enforcement matters), "work plans," or "action plans." Moreover, because a well-drafted project plan must be tailored to meet the objectives of the project itself, there is no one right way to draft a project plan. However, competition agency experience suggests that effective project plans share many of the characteristics discussed below.[14]

Although practices may differ by agency and by project, project plans are usually created with input and guidance from the project team leader and from other team members responsible for conducting the investigation or drafting the work product. Effective plans are often collaborative efforts, and team members assigned to a project should offer their input in the drafting of a project plan. Supervisors and other agency decision-makers may provide their input and approval of the project plan as well.

Project plans work effectively when treated as living documents designed to evolve over the duration of a project. Of course, the project plan should be sufficiently well-defined to provide an operating framework for executing the project. However, as the matter proceeds, tasks needed to advance the project may change based on new information or unanticipated events.

The project plan should be sufficiently flexible to enable the project team to adapt to changing events and to incorporate new learning and information into the plan. As the

[14] In the context of merger review, further detail on these points can be found in the ICN Investigative Techniques Handbook for Merger Review.

project moves forward, plans should be revisited frequently and revised as necessary in light of changing events.

Project plans often begin by setting forth a short summary definition of the project and its objectives. The summary could explain why the project is being undertaken and provide a clear picture of the desired results and deliverables of the project.

> In a project plan for conducting a market study, the summary may describe competitive problems identified within an industry and briefly state the analytical questions the study seeks to address. In an enforcement context, the investigational plan may begin with a brief synopsis of the legal complaint, and the underlying facts and the working legal theory or theories of the case.

The heart of the project plan consists of identifying the key issues to be addressed and the steps necessary to resolve those questions. Each plan will vary in this regard. In an enforcement investigation, for example, the plan should set forth each element required to prove a violation of law (or, if appropriate, to establish a defense likely to be asserted by the target(s) of the investigation). The investigative plan should explain what information (data, testimony, or documents) will be required to prove each element, and how the investigative team proposes to obtain that information.

On this point, identifying necessary information and its likely sources are often crucial aspects of the project plan. Competition agency projects invariably require information, such as company documents from a target of a law enforcement investigation, or industry data necessary to conduct a market study. At the planning stage, the project team should consider what information will be necessary to accomplish each part of the plan, where that information may be found, and what methods should be used to obtain the information.

An effective project plan should account for the sequence of the tasks to be completed. For example, the order in which evidence is collected can affect the timing of completion of the project, if (for example) evidence that is difficult to obtain or difficult to analyze is not sought until a late stage in the project. More importantly, the plan should identify for early resolution any threshold questions which, when resolved, might change the future direction of the project. In many instances, resolving threshold questions first can prevent the need for

further steps in the project. In this way, task prioritization is critical part of the effective and efficient use of resources dedicated to the project.

The project plan should also identify key decision points for monitoring and assessing the progress of the project, as well as any deliverables that the project team must prepare. In some agencies, for example, supervisory approvals may be required after a project has been underway for a certain time. Along these lines, the plan should also identify any "go/no go" points at which the project team or relevant stakeholders may wish to reconsider the direction or continuation of the project. These decision points are critical opportunities for the agency to assess the value of continued investment in project resources and to ask whether agency resources could be more effectively used elsewhere. Further discussion of the "go/no go" decision can be found below.

Project plans also incorporate estimates of the timing of key events during the project lifecycle. Deadlines for each action item and required deliverable should be estimated and refined as necessary as the project moves forward. Firm deadlines (such as statutory requirements that an agency render a decision within a defined time) should be clearly stated and can be used as a benchmark to estimate due dates for other tasks required in the course of the project. Setting and holding deadlines can be complicated by a number of factors, many of which may not be in the project team's control. Nevertheless, imposing deadlines on specific tasks (even as estimates) is often necessary to ensure that the project moves toward resolution.

In the context of enforcement matters, written investigative plans often follow a common structure which illustrates the points discussed above. First, once a working legal theory of the investigation has been created, the plan should discuss the elements of proof that must be established to find a violation of law (as well as any anticipated defenses). The next step considers the facts needed to establish or reject each element of proof. This will often require the consideration of the following issues:

- what information has already been gathered?
- what information is still required?
- based on the known facts, what may have happened and what might one find?
- are there any key facts or threshold issues that might lead to a quick determination that a legal theory can be ruled out or that the investigation should be closed? For example, in a price-fixing investigation, the team may determine quickly that no agreement existed among competitors. Other dispositive issues should be made a priority to resolve at the outset of the investigation.

Finally, the investigative plan should describe the expected sources of information, the types of information to be sought from those sources, the methods to be used to obtain the

information, and the planned sequence for obtaining the information. An estimate of timing and resource needs to complete the investigation should also be included.

A practical device that may be used in project planning is a project "kardex" or fact sheet. This is a base document in which progress, change management issues and success can be measured. A project kardex or fact sheet often includes information on:[1]

- what the project is aiming to achieve
- what remedies could help achieve it?
- why it is important to achieve it?
- what will be done to achieve it?
- what will be delivered and when?
- who is responsible for achieving it?
- what resources need to be allocated?
- what are the risks, their likelihood, impact and mitigating factors?
- who are the key stakeholders and how will they be engaged?
- how will impact estimation be measured?
- project description
- project activities
- deliverables (including delivery of significant internal documents e.g. board papers)
- deadlines
- key milestones
- staff responsible/involved in delivery
- activities involving staff outside of the team who will need to provide input/advice and/or be consulted
- external dependencies (if any)
- allocated budget/spent to date

Competition Agencies' Project Planning Examples

The Irish Competition Authority Divisions have their own processes and procedures. A project plan in cartels for instance, where it is referred to as an investigative plan, differs somewhat from a project plan in the strategy division, which uses more traditional project management principles when planning a project. The Irish Competition Authority has embarked on a process of implementing an effective project delivery system that will be applied across all divisions within the Authority.

The Competition Commission of India (CCI) project plans are generally prepared at the divisional level. The draft proposal seeks to clearly outline and state the objectives and necessary action needed. To make the process of implementation of the project more participatory, necessary inputs are also taken from different divisions at appropriate stages.

Consequent upon approval of the Competent Authority/ the Commission, the project is taken up for execution by concerned division(s). Depending upon the exigency, tasks are prioritized and resources are allocated accordingly.

At the United States FTC project plans are drafted with the principle goal of establishing a timeline. As the project team reaches each milestone, the project plan can be edited to more accurately reflect the state of the project.

3.4 Monitoring and Assessing Progress

Regular monitoring of progress is essential to the timely and successful completion of a project. Effective monitoring helps ensure the optimal use of resources dedicated to the project. Managers, supervisors, and other stakeholders can monitor the project to evaluate its progress and make any appropriate mid-course corrections. Project monitoring also provides guidance to team members, creates accountability for the performance of assigned tasks, and presents opportunities for the team to influence the direction of the project.

Each project plan should take into account mechanisms for monitoring and assessing the project. Because competition authorities and their projects differ greatly, agencies can employ a range of monitoring techniques, a few of which are outlined below.

One form of monitoring occurs through regular briefings with supervisors, management, or other agency stakeholders. These briefings keep key agency decision-makers and

stakeholders up-to-date on the project and provide an opportunity for the team to raise issues that may require supervisory input, such as anticipated difficulties in meeting deadlines or the need for additional resources. The content, frequency, and degree of formality of these meetings will vary based on the nature of the project. In any event, regular meetings of this sort help establish decision-making transparency within the agency and reinforce accountability in the execution of agency projects.

If the work of a project has been assigned to a project team, it is common for the team to hold regularly scheduled status meetings. Members may use these meetings to report on the progress of their assigned tasks and may bring to the table issues of substance or process that require the team's knowledge or input. Status meetings disseminate project knowledge to team members and keep the team apprised of developments regarding the project. However, for some projects, formal status meetings may be somewhat counterproductive, if (for example) team members are not given sufficient time between meetings to complete assigned tasks, or if preparation for status meetings begins to draw significant resources away from accomplishing the project's tasks. Alternatives to formal status meetings, such as e-mail summaries shared with the team, can often be used to accomplish the same objectives.

For certain types of projects, peer review may present another technique of monitoring a project. For example, at or before critical junctures in the project, the team may share preliminary findings with experienced agency personnel (such as economists or lawyers) who are not working directly on the project. This review is useful to test the strength of the project's theories or likely conclusions and to ensure consistency with prior agency practice.

Another effective monitoring technique is imposing certain "go/no go" decision points during the project. These decision points enable the agency to evaluate mid-course the likely outcome of the project and to determine whether the likely outcome justifies the continued dedication of resources (relative to other demands on agency resources). "Go/no go" decisions can be effective particularly in enforcement matters, where the development of evidence on threshold issues (such as entry barriers in a merger investigation) often significantly affects the likelihood of a successful case outcome.

"Go/No Go" Decisions at the NMa.

The Netherlands Competition Authority has introduced explicit "go/no go" decision moments into its investigative procedures, in which personnel not directly involved in the investigation participate as peer reviewers of the case. The decision points help the agency identify investigations that face little likelihood of ultimate success, so that the agency can prioritize its resources into more viable investigations.

Competition Agencies' Monitoring Examples

At the United States FTC project monitoring and evaluation occurs most often in the form of weekly team meetings to report on the status of ongoing assignments and project developments. Also, the FTC has separate teams on the law and economic side and they often meet to debate the merits of a case.

3.5 Quality Control

Quality control refers to a process or procedure that ensures that the completed project and its component tasks meet the agency's appropriate standards. Agencies can adopt a quality control process to make certain that project outputs are of sufficient quality to reach desired outcomes, withstand possible scrutiny and/or challenge, and further enhance the reputation or legitimacy of the competition agency.[15]

The extent to which quality control is required depends on the purposes of the project. Quality control procedures may vary based on the underlying risks that the project poses to the agency's competition mission and reputation. For example, a market study designed to understand a market sector may require a different degree of quality control than a precedent-setting merger challenge to be litigated before a tribunal or court of law.

Quality control could include the following types of reviews:

- **Evidential** – ensuring that the project, whether an enforcement matter or planned research, will gather the necessary evidence to support the case or to test the hypothesis, as well as ensuring that the evidence has a verifiable chain of custody and is sufficient to support the proposed project outcome.
- **Logical** – ensuring that any argument, whether legal or economic, is supported by the evidence, any conclusions drawn are logically consistent, and any overall conclusions will withstand scrutiny and achieve desired outcomes.
- **Integrated** – checking that arguments support overall conclusions, that they withstand scrutiny and likely achieve desired outcomes.

[15] These points are further discussed in the ICN Draft Market Studies Good Practice Handbook.

- **Output** – checking the overall project output is in the correct format and style to meet the agency's standards and the needs of the intended audience.

Competition Agencies' Quality Control Examples

The Irish Competition Authority Projects are in general completed under the direct supervision of the particular divisional manager, who in turn presents the project to the Member responsible (Director of the Division) for assessment.

Once the Member is satisfied, the matter is presented at an Authority meeting where the final decision depends on a majority vote by the Members. Although there are some instances in which a delegation of powers exists and the Member responsible can take the final decision, for instance to close a matter under certain circumstances, it is only done upon written notice to the other Members and after expiry of a notice period.

There are also two legal advisors within the Competition Authority, tasked to give advice on projects on an ongoing basis.

At the Competition Commission of India (CCI) expert legal vetting is done by the Legal Division of the Commission of almost all projects of the CCI so as to identify and address the possible challenges to the project.

Besides, in-house teams of professionals of the Legal Division also interact and coordinate with advocates who are engaged by the Commission to defend the proceedings that arise from a project.

3.6 Stakeholder Engagement

Stakeholder engagement may be crucial, as successful stakeholder engagement can help to ensure the success of a project, mitigate the risks that result from ineffective engagement, and maximise the likelihood of consensus or cooperation from stakeholders in any project outcome. Once internal and external stakeholders have been identified early in the process, stakeholder engagement strategies during project implementation may include:

- regularly updating stakeholders, as appropriate, in a way that suits their needs, for example, they may prefer regular phone calls or e-mails rather than meetings.
- communicating clearly and listening to stakeholders' views throughout the project lifecycle, to understand their point of view.
- actively engaging with stakeholders, as appropriate, throughout the process and not just at the beginning and/or end

- preparing for agreement and disagreement, and understanding and planning for the consequences (e.g. prepare stakeholder briefings, anticipate arguments or responses, gauge other stakeholders' support, etc.).
- monitoring engagement during the project. If necessary re-evaluating/ re-mapping stakeholders and/or activities to maximise engagement and minimise risk.

Teams should periodically review their stakeholder engagement strategy to ensure that the list of stakeholders, their positions, and engagement strategies are updated as necessary. For example, during the course of the project:

- new stakeholders may emerge
- the priority attached to different stakeholder groups may vary (requiring a shift in effort devoted to different groups)
- proposed actions to communicate with stakeholders may prove more or less effective (requiring a change of tactics)

Direct consultation with stakeholders may need to take place. This can be carried out informally and/or formally. The process and timelines for informal consultations will need to be tailored by the team to suit the project needs.

Irish Competition Authority Stakeholder Engagement

Stakeholder engagement is an ongoing process and whether it is on a project such as preparing a 3-year Strategy Statement, where a full stakeholder survey comes into play, or a pre-notification meeting on a merger, the importance thereof is never underestimated. The Competition Authority has therefore embarked on a Stakeholder Management Programme, which will involve assigning stakeholders across divisions as appropriate and aims to ensure quarterly contact with target stakeholders.

In the course of their day to day activities Divisions will interact with stakeholders as appropriate to the requirements of the project. For example:

- Advocacy Division engages with key stakeholders in selecting topics for study
- Mergers division will engage with third parties to "road-test" proposed merger remedies
- The enforcement divisions engage with parties who can provide them with information to progress their investigations.

3.7 Risk Management

Risk is commonly interpreted as any threat or barrier to achieving objectives. However, risks are not just negative, good risk management is as much about exploiting opportunities as it is about preventing problems. A risk may be described as "an uncertainty of outcome, action or event, whether positive or negative." Thinking about the identification, consideration, mitigation or identification of risks, as well as opportunities for risk taking, improves the chance of successful project delivery.

Risk can be categorised under three broad headings:

- **Outcome risks**, defined as uncertainties which relate to quality and consistency of work
- **Operational risks**, defined as uncertainties relating to finances, resources, people, or infrastructure
- **Reputational risks**, defined as uncertainties that relate to reputation or relationship with stakeholders.

At the start of the project it can be helpful to identify and log risks, unless the project is too small and/or the risks are negligible. A useful risk log would:

- identify the risks to the project
- measure their impact, probability and degree of control the agency has over them
- categorise whether impact is operational, reputational or relates to outcome
- assign risks to team members to monitor and manage
- identify and plan the necessary actions to eliminate or mitigate risks
- be reviewed and updated (for example, if new risks arise, if existing risks are heightened or decreased, etc.).

Competition Authorities' Risk Management Examples

In July 2011, the Irish Competition Authority accepted and published Project Selection and Prioritisation Principles, one of which focuses on risks, resources and costs. The likely effect of the issue or conduct in question, as well as the influence that the Competition Authority's action might have, is weighed up against the risks involved in the particular project, as well as the potential resource requirements and costs involved. In doing this, the Authority considers the nature and scale of its action and whether there is scope for criminal or civil enforcement and the possibility of private action.

At the Competition Commission of India (CCI) potential risks are identified by teams/ committees working on the project. Besides, risks are also identified during the interactions with the stakeholders.

To mitigate the risks involved, inputs from the concerned divisions are sought. Further, the in-house legal expertise at CCI vets/ reviews the draft/ proposed project reports.

3.8 Information Gathering

All projects have some need for information gathering. The extent, variety and techniques in getting information will vary greatly across projects; for example, market studies may entail voluntary consumer or business surveys, while formal cartel investigations utilize tightly prescribed information gathering procedures. Information gathering also varies by jurisdiction and agency, particularly insofar as each agency may differ in its legal authority to obtain information from outside sources.

Time must be invested upfront in thinking about precisely what information is needed. It is important to be clear and disciplined when seeking information. Responses should be recorded or catalogued systematically. If the authority has formal powers to render a decision, the information collection should be particularly robust, as such decisions likely may be subject to legal challenge.

When thinking about gathering information, the team will need to consider the following questions before the information is sought:

- what information is needed?
- where can it be obtained from? This includes internal and external sources.

- how can it be obtained?
- how should a request be framed so as to ensure the provision of the desired information in the desired format?
- how will the information be analyzed?
- what contingencies are there if the identified sources will not or cannot supply requested information?
- what use will be made of the information?
- does information need to be kept and if so, how will it be stored and accessed?
- what security measures are needed when dealing with the information?

It is possible that some of the information needed is already in the hands of the authority.

Requesting excessive amounts of information and/or framing information requests too loosely creates unnecessary burdens on the agencies and stakeholders by:

- making the scope of the work harder to control
- weakening project focus
- putting unnecessary pressures on resources (i.e. needlessly increasing workloads)
- over-complicating some processes (e.g. access to the case file)
- harming the agency's credibility in requesting information, making it more difficult to obtain legitimately necessary information in current and future projects
- potentially damaging the legitimacy of any project outcome.

As mentioned in the ICN Draft Market Studies Good Practice Handbook, the sequence for analysing data is broadly as follows:

- gather evidence/assess implications (e.g. does it support theories on the issues/problems)
- modify the theories and/or seek further evidence
- compare different work stream results
- develop options to resolve the issues and in doing so consider:
    - how the issue(s) could be resolved and the best ways for doing so
    - is there sufficient information to justify the option(s)
    - what are the costs involved (do benefits outweigh burdens?)
    - the likelihood of the option(s) being acted upon, if action by non-team members is required
    - how this could fit with other regulation (or not)
- select most appropriate options - conduct additional analysis to test viability
- develop formal arguments for the recommended actions (e.g. what is the most compelling storyline which justifies this choice?)

In formal enforcement investigations, in which access to a file may be required, and even in other less formal processes, the handling and accessibility of information is important. The techniques required to access files must be tightly prescribed. Appropriate security measures must be taken for storing and sending restricted and/or commercially sensitive information.

Teams are encouraged to be disciplined in the titling of documents. Documents that are for review should carry a header setting out the following details:

- details on security classification
- work stream / project name and code
- title of document
- version of the document (to which review it is intended for) and date
- the due date for completion of the review

Competition Agencies' Information Gathering Examples

At the FTC, for some projects, team members will conduct informational interviews. At the conclusion of these interviews, detailed notes are typed up to record the information gathered during the interview. If information is gathered through other research methods, memos are often prepared to document the information and inform project team members.

At the Competition Commission of India (CCI) information gathering is done through various means and at various stages. At the stage of inquiry/ investigation, CCI or its investigating arm i.e. the Office of the Director General are sufficiently empowered to requisition any information, book or document from any person. Powers to search and seize are also available with the Director General.

Parties are also encouraged to file information voluntarily with an assurance of confidentiality treatment to the confidential documents submitted in accordance with the provisions of the law and the regulations framed thereunder.

At the Irish Competition Authority under the Competition Act 2002, the Competition Authority has the power to both compel (summons) the provision of documents and testimony and to conduct search and seizure operations. Copies of documents for each case are stored electronically on the specific case folder on the divisional drive.

3.9 Drafting the Written Output

Projects will often produce documentary outputs such as reports, consultation documents, statements of objection, decisions and submissions to courts, and so on. The format for written outputs should reflect:

- their purpose (is it to inform, consult, obtain support, seek decisions?)
- the needs of the target audience (how informed are they, and what is their interest(s) in the subject matter?)
- authorities' style and any appropriate templates.

Tracking work is crucial for audit/accountability purposes, and all versions of final papers and reports need to be carefully logged, dated and filed.

The decisions at the end of the project are:

- what information is appropriate to be released into the public domain?
- what are the best ways to communicate this information so as to maximise the desired impact?
- what further actions (such as advocacy or public communication) might be required to bring about the desired outcomes?
- what further actions may be required to assess whether the desired benefits have materialised (e.g. on-going monitoring of market)?

Teams should liaise and/or seek the advice of their communication departments when a need for a major or market sensitive announcement, press release, web-site publication and/or events to publicise decisions is in order.

Some decisions may be subject to consultation with third parties.

3.10 Evaluation

3.10.1 Final Evaluation of the Project

The final evaluation of a project should reflect and build on the ongoing evaluation that takes place throughout the project lifetime.[16] Reviewing project progress is an ongoing activity through the life of the project and is useful, for example, in identifying whether strategy and/or tactics need to be altered to ensure better outputs or outcomes. Regular project monitoring and progress reporting is an important tool in ensuring projects remain on track.

[16] See also Draft Market Studies Good Practice Handbook, p. 111, available at http://www.internationalcompetitionnetwork.org/uploads/library/doc646.pdf.

Monitoring and reporting also puts in place a formal governance mechanism enabling transparency and accountability.

It is beneficial for a senior member of agency staff, or the head of a smaller agency, to review the project portfolio regularly (e.g., every two weeks, in larger agencies) to ensure the "early warning" of possible problems. Ongoing review will also inform major decisions on project continuation/discontinuation that could occur on a regular basis (e.g., quarterly). Such review, may take the form of a discussion at meetings of agency directors with the agency head, or a written report by a senior member of agency staff. These regular reviews can provide useful input for the final review.

Some agencies may make use of a "lessons learned" template, in which the project team captures their experiences as they go along. This template is used to facilitate the final project review. The template may ask for views on what went well (and not so well), and for suggestions on how things might be improved.

Other useful methods for final evaluation are internal and/or external peer reviews. For example, non-agency advisors who were not previously involved in the project could conduct an external review. They could assess the project findings and give their opinion on the success of the project. General evaluations of larger projects, such as the adoption of amended competition legislation, may be carried out by national parliaments, audit offices, or nongovernmental organizations like the OECD or UNCTAD.

Internal reviews could be as simple as a case team conducting a detailed assessment of what went wrong in a lost case, or a separate small team charged with evaluating consumer harm.[17] The team itself may have completed evaluations at various key stages of the project that could be of use at the final evaluation stage. For example, some authorities conduct an evaluation of their "dawn raid" activities.

[17] Inotai, A.G., Ryan, S. "Improving the effectiveness of competition agencies around the world – a summary of recent developments in the context of the International Competition Network," Competition Policy Newsletter 2009-2.

Evaluation of Dawn Raids in Europe

Many European competition agencies evaluate their "dawn raid" activities. Such evaluation typically involves a written report by the case team on how the raid was conducted, within one or two weeks of the raid's completion. The report may contain a record of all the details of the on-site investigation, for example, the number and location of sites investigated, the duration of the investigation, the conduct of interviews, the method of digital investigation used and the type of material investigated. The evaluation report can be used by subsequent teams on other cases to learn from the experiences of their colleagues.

Internal peer reviews by non-team members may have taken place at certain defined stages of the project. Alternatively, such internal peer review may have occurred informally, at the discretion of the team.

Peer Review: NMa & Bundeskartellamt

At the NMa, peer review is conducted in more complex competition cases by a member of the Competition Expertise Centre, within the NMa's Competition Department. At the Bundeskartellamt, there is no formal procedure of peer review or 'devil's advocate.' However, general policy units on merger control, antitrust or economics usually provide in-depth consultation in complex cases.

Depending on the size of the authority and the scale of the projects undertaken, establishing monitoring procedures or even a separate unit with powers to monitor compliance might be useful. Considering the availability of resources, and also the complexity of the project, it may be more appropriate for smaller authorities to use a simple standardized project procedure, for most projects, that requires less monitoring and evaluation. A smaller agency may use a simple model, involving a transparent reporting system that gives insight to other staff members on what happened in the project and offers preset performance indicators. When dealing with a larger complex project, a smaller authority may adapt their simple model to include, for example, an extra evaluation phase.

Upon completion of the evaluation, the results should be sent to all team members, and be shared with the rest of the agency using the applicable knowledge management system. This may simply involve recording the results of the evaluation, or a presentation by the team on issues that may be of value in helping other staff with their ongoing or future project work.

The ongoing (and final) evaluation could cover matters such as:

- goals aspired to and achieved
- compliance with deadlines
- budgetary targets
- monitoring compliance with agency decisions
- stakeholder engagement success
- risk evaluation
- quality assurance processes (evidential, logical, coherence, output)
- internal processes in terms of project planning and execution
- managerial methods
- key choices made
- how work has been tracked for audit/accountability purposes
- contribution to agency know-how (lessons learnt)

The purpose of evaluating the project is to learn for the future, share best practices, and help others avoid or minimize any pitfalls that might lie in wait. When evaluating a sensitive project, or an unsuccessful project, agencies may find it useful to wait for a couple of months before commencing an evaluation. It may be that the lapse of time will allow the team to see events more clearly and from a more neutral standpoint, than if evaluation is commenced immediately following the termination of the project. On the other hand, too long a delay will result in an ineffective evaluation, or no evaluation at all, as memories fade and people move on to other projects. In addition, evaluations during and after a project can be a useful source of material for agency press releases, annual reports and the agency's continuing advocacy efforts.

3.10.2 Overall Evaluation: How Did the Project Advance the Agency's Mission?

The agency should have a system to evaluate the overall impact of each major project, in terms of the agency's regulatory strategy model. This involves evaluating the project's impact on public value, in the light of the authorizing environment.[18] Such evaluations are useful to show the effectiveness of the agency in implementing its mission, as well as providing opportunities for improvement in future projects. Projects that are mandatory may be subjected to a less rigorous form of evaluation than those that are initiated at the discretion of the agency. Project evaluations may be useful to an agency in its advocacy efforts, and used to support funding requests or calls for legislative reform.

[18] A. Fels, "A Model of Antitrust Regulatory Strategy", (2010) 3 *Loyola University Chicago Law Journal* 489.

The impact of the individual project in terms of public value is to be assessed in large part by the results it achieves. Such results may be measured by the immediate output of the project (such as, successful case in which fine is imposed) in the light of the input (such as resources employed). Indicators that can be used include, for example,

- numbers of cases within a given timeframe
- average duration of cases
- informal internal evaluations

In addition, it may be helpful to assess the project's contribution to economic or social outcomes. For example, a successful compliance project would be seen as contributing to the outcome of a competitive, more efficient sector, with lower prices and increased choice for consumers. This may involve, for example,

- evaluation of the impact of cases on the directly affected markets (looking at compliance, price levels, strength of competition a certain time after the decision)
- evaluation of the impact of cases on markets other than the directly affected market (e.g. deterrence effect)
- evaluation which goes beyond cases and takes into account other activities of the agency, such as advocacy and communication.

Quantifying Outcomes

One method of assessing projects, used for example by the OFT, FTC and NMa, is to assess economic outcome. Such an assessment involves the estimation of the micro-economic outcome of the effects of intervention of the agency in terms of consumer surplus. Measuring the outcome, with an emphasis on the differences to consumer welfare before and after intervention, ensures that consumer welfare becomes more visible throughout the investigation. This maximises the frequency and extent to which consumer welfare is taken into consideration.

Measuring outcome in terms of the impact of agency intervention on consumer welfare can be helpful to the competition agency in setting its priorities. Referring to outcome measurements can also be very useful when explaining the benefits of intervention by the competition authority to the general public. It facilitates a tangible illustration of financial gain in what can otherwise be an abstract explanation of law and economics to non-experts in the field.

Quantifying Project Benefits – FAS-Russia

The FAS-Russia has had opportunities to assess the social and economic outcomes of certain projects in quantitative terms. The most characteristic FAS project in this context is the introduction of an internet-based public procurement system.

The overall project goal was to facilitate competition in the public procurement sector by reducing bid-rigging and corruption risks and by increasing the efficiency of public procurement in terms of value received per rouble of public spending. Pursuant to this goal, the project implemented a transparent and easily accessible electronic bidding system in the form of a web-site where most of the government orders were listed, specifying the quality of products and/or services requested and the starting price for the bidders.

Two years after the site was launched, annual public spending reached USD 1 billion and the costs for goods and services supplied were reduced by 20-30 percent (depending on the item) as compared to the starting price. The total costs of development of the web-site were less than 0.5 percent of the annual budgetary savings, while the maintenance costs in the subsequent years were substantially less than the development costs.

The effects of the project on competition in this sector also could be measured in quantitative terms. The SMEs' share in government orders placed increased from 20 to 40 percent, which provides evidence of enhanced competition, particularly when complemented by the above-mentioned data on decrease of procurement costs.

Even projects that appear unsuccessful by not achieving the initial goals may contribute to public value through process improvements. For example, a case in which the agency loses on the substantive points but clarifies a legal or procedural issue, is also of direct public value. At the same time, context is always crucial when assessing outcomes because reliance on measurement without context can lead to an over-emphasis on outcomes (for example, proceeding with a case in order to win it, regardless of the high costs) or on process (for example, disposing with a backlog of complaints in record time, but dismissing possibly worthy complaints).

Taking the authorizing environment into consideration is an important part of determining context. The authorizing environment is likely to differ from one country to another. In particular, the authorizing environment in a country with a newly established competition policy is likely to differ from that in a country with a well-established competition policy. Likewise, the environment will differ depending upon the stage of economic development. An understanding of the authorizing environment requires an analysis of its drivers, including, but not limited to interest groups, the media, social attitudes, political parties, and the courts.

Agencies can utilize evaluations to inform and influence the authorizing environment. For example, where the result of the project reveals that there are inadequacies in the competition legislation, it may be possible to use it in the agency's advocacy efforts. In this way the project evaluation may assist the agency in its lobbying attempts to improve gaps in the legislative environment.

Ex post evaluations of major projects may take place a few years after major projects are concluded. For example, it may be appropriate to assess the effect on the relevant market of the remedies imposed in a significant merger case, after an appropriate number of years. Significant projects with large budgets may require a formal evaluation, contracted out to independent external consultants. Since such in-depth evaluations are expensive, smaller projects may be evaluated in this way through internal or external peer review.

Where it is too soon for a definitive judgment on final outcomes to be made, then a post-project monitoring plan could be agreed. This will allow project teams to monitor key success indicators on an ongoing basis, and make any necessary changes to their impact estimates. Teams will need to set aside adequate resources for post project monitoring. If teams are subsequently disbanded then this responsibility can be transferred elsewhere.

3.11 Creation and Dissemination of Know-How

As with evaluation, creating and disseminating know-how should not be left to the end of the project. Know-how is most effectively processed at the time it is created. Know-how

obtained during the course of a project should be stored on the agency's knowledge management system, as appropriate, as soon as it is acquired.

As well as storing know-how in the form of documentation on a local database, many authorities actively disseminate know-how acquired in projects in internal and external papers, workshops and presentations.

Know-how and formal and informal ways of optimizing knowledge management systems and practices within a competition agency are the subject of the next chapter of this Manual.

Improving Information Access at the CFC

Although since 2007 the Mexican Competition Commission (CFC) has digitized agency-produced information and made it available on the internet, the search mechanism was far from user-friendly. To address this problem, the agency recently released an improved search engine that makes all public documents issued by the authority readily available. CFC officers can have access and input public and confidential information to this system, and anyone interested in accessing a particular CFC enforcement or advocacy decision can search for it using numerous criteria, including keyword, file number, name of economic agent involved, date, industry, type of procedure (i.e. investigation, merger, opinion, etc.), and type of anticompetitive conduct investigated. Searches can be refined by adding more specific criteria. For example, in the case of mergers, searches can separately identify transactions that were approved, approved subject to conditions, or dismissed. In the case of investigations, the fields include, among others, the type of offence involved, the sanction imposed and, in the case of fines, the amount.

IV EPD Case Example: The FTC at 100 Project

In 2008, the FTC conducted a self-assessment to consider what it must do to continue as a successful agency and to identify steps that will improve its future performance. The project involved numerous workshops and informal consultations with stakeholders and experts throughout the world, culminating in the issuance, in January 2009, of *The Federal Trade Commission at 100: Into Our Second Century: The Continuing Pursuit of Better Practices.*[19] Below we provide some detail on the FTC's planning and execution of this project, which has generally been regarded as a success.

Planning. Commissioner (then Chairman) Kovacic conceived FTC at 100, and upon taking the Chairmanship, he convened a meeting with staff from the Office of Policy Planning (OPP), the Office of International Affairs (OIA), and the Bureaus of Economics, Competition, and Consumer Protection, to discuss the goals of this project.[20] His vision was a report that would serve as an assessment of the FTC's performance, but also provide a blueprint for future planning. He wanted the report to cover issues such as strategic planning, meaningful performance measurements, policy research and development, allocation of agency resources, and the agency structure.

Clear direction from the project's conception about what was expected from the final report allowed staff to prepare a detailed outline of the report early in the process. The outline was followed by an intense round of preliminary research to identify key issues, which would become the focal points of discussion at workshops and informal consultations.

Staffing. Commissioner Kovacic assigned ultimate responsibility for the project to the OPP Director. Given the US election cycle, timing was crucial as it was uncertain whether Commissioner Kovacic would remain Chairman for long after the beginning of 2009. Once the Chairmanship changed control, Commissioner Kovacic no longer would have had the ability to manage staff resources to accomplish the self-evaluation, and it was likely that a new administration would bring new policy priorities.

Assigning OPP as the lead provided several advantages. First, OPP is an organization attached to the Chairman's office, giving the Chairman direct control over its agenda. Further, OPP workload is not driven by external forces, such as merger filings or litigation. Thus, the Chairman could dictate that OPP devote the majority of its resources to the project. Further, OPP had experience within the FTC in preparing reports based on legal and economic research, and had conducted several public workshops to gather information. OPP's portfolio, which included advocacy filings and most FTC reports, also provided it with

[19] Along with the public report, the FTC also assembled an internal strategic planning document.
[20] Commissioner Kovacic also made a public announcement of the project. See William E. Kovacic, *The Federal Trade Commission at 100: Into Our Second Century*, 21st Annual Western Conference of the Rutgers University Center for Research in Regulated Industries (June 18, 2008), http://www.ftc.gov/speeches/kovacic/080618ftcat100.pdf.

experience in coordinating disparate commission expertise to provide a coherent policy. Given the wide sweep of the project, it was clear early on that substantive input from all parts of the FTC – the Bureaus of Competition, Consumer Protection, and Economics in particular – would be crucial.

Execution. The execution of the FTC at 100 project broadly consisted of three phases. First, OPP staff researched agency effectiveness literature and talked with experts to identify key issues and possible panelists. Second, OPP and the FTC's Office of International Affairs (OIA) staff gathered information through a series of public workshops and informal private consultations. The first workshop was in held at the FTC in Washington, D.C., where many former FTC commissioners and senior staff still work. Staff chose the times and locations of the other public workshops to coincide with events that were likely to draw a concentration of relevant expertise. For example, staff held the second workshop in Chicago, where the FTC has a regional office, and enjoys a relationship with Northwestern University.[21] These two factors allowed staff to secure several leading academics, as well as current and former FTC employees to participate on panels. The final domestic workshop was held in Boston, where a former director of the Bureau of Economics is a professor at Boston University and acted as chief liaison.

OIA's logistical abilities and its relationships with foreign competition authorities and academics proved invaluable in setting up formal and informal consultations with foreign observers of the FTC. OIA took the lead in planning several consultations abroad, most notably in London, Paris, and Brussels. Staff chose Brussels and Paris workshops to coincide with the US/EU bilateral meetings and OECD meetings, respectively, to take advantage of the fact that many notable foreign competition and consumer protection policy officials would be available to participate. In addition to the major workshops in Europe, OIA staff held several more informal consultations that piggy-backed on already-existing meetings occurred, including in Canada, Israel, and Japan.

Drafting was the final stage of execution, and began in earnest following the U.S. workshops, with updates and revisions to the draft as transcripts from the foreign consultations became available. Senior members of OPP were primary drafters of most chapters and acted as editors for chapters – or sections of chapters – drafted by staff in the Bureau of Economics, the Bureau of Consumer Protection, and OIA. Senior OPP staff then fed drafted chapters to the OPP Director on a rolling basis. Once she was satisfied with a chapter, she sent it to Commissioner Kovacic and one of his attorney advisors for review. The director of OPP was the only conduit between the drafters and Commissioner Kovacic's office. The single point of contact between OPP and Commissioner Kovacic's office provided clear chain of custody for the working document, which avoided the problem of competing edits that can come from multiple "live" versions of a document. Further, this scheme also provided clear accountability with respect to meeting deadlines. After review in Commissioner Kovacic's office, edits and suggested revisions were sent back to OPP for completion.

[21] The FTC's Bureau of Economics hosts an annual economics conference with Northwestern University.

Post Execution. Upon completion of the report, staff and Commissioner Kovacic implemented a strategy to publicize its findings. First, OPP staff sent an electronic copy of the report to those who had participated in consultations. Second, Commissioner Kovacic sent copies to several academics and competition authority officials throughout the world. Third, Commissioner Kovacic incorporated many of the findings from the report into his public speaking engagements in the U.S. and abroad. Some of the lessons from the project regarding evaluation of programs have been integrated into the Government Performance and Results Act (GPRA) reporting process, which requires the FTC to measure its performance against metrics and goals it has constructed.

APPENDIX A

Effective Project Delivery Questionnaire Sent to Agency Effectiveness Working Group Members, March 2010

***1. Scope of the Chapter**: To initiate an investigation or any project related to your agency's work. How does your agency develop an outline plan or strategic plan to initiate, implement and complete a project? During the course of that project, how is the work organized and divided, and what tools are used to achieve that end (software, agendas, meetings, calls, emails, etc.)? Also, who is involved in the decisions related to the organization, planning and outcome of the project, and how is this process carried out? Finally, at the end of the project, is there a review of the achieved objectives and the overall quality of the outcome?*

***2. The Link Between Project Management and Strategic Planning**: In some jurisdictions there might be constraints when relocating resources. How does your agency manage to assign resources and develop projects that have been prioritized?*

***3. Planning for Externalities**: How does your agency cope with external influences, such as a sudden increase of merger cases or political developments? Some agencies might have taken prior steps to counter this kind of situation, so please specify if there is a contingency plan in place, and if not, how your agency manages positive and negative external influences.*

***4. Sharpening the Focus and Quality Control**: Please explain how your agency ensures that deadlines and objectives are met in each individual project? How do you establish requirements for deliverables and milestones, and how do you adapt the agenda when deadlines are not met? Does your agency have criteria to review project outcomes in order to meet quality standards, and how are these standards chosen, or do they depend upon legal requirements?*

***5. External Advice**: In what way does your agency use experts/non-case handlers to provide external advice on a project? How does your agency weigh the opinions provided by external advisors, particularly in those situations where arguments differ from the internal agency's opinion or decision? Is there any criterion that must be met by the external experts when giving advice?*

***6. Project-Based Structure:** Authorities usually have different projects that need different requirements and specifications. Considering instrument, sector or project based structures, how does your agency select what fits best to meet project requirements? In general terms, explain how your agency organizes and manages instrument, sector or project-based structures?*

Effective Project Delivery Questionnaire Sent to Road Testers, December 2011

Background:

To be effective, competition agencies have to take action where impact will be greater. The Effective Project Delivery Chapter seeks to provide practical guidance on possible tools and procedures to achieve this end. This Chapter does not advocate a single best model for all competition agencies. Instead it provides a variety of tools and techniques that competition authorities can use depending on their needs and environment.

Within this framework, we would very much appreciate if competition agencies share with us their experience and lessons from successful and less successful projects through the completion of this questionnaire. Following its responses, the EPD project team would like to organize focus groups and set conference calls with competition agencies to further delve in their experience.

The questionnaire is structured according to different subjects dealt with throughout the Chapter.
A copy of the chapter is enclosed; feel free to contribute with comments.

Questionnaire:

When responding the questionnaire we suggest keeping in mind the definition of "project" used in the Chapter:

> *A "project" is considered a singular piece of work characterized by: a finite and defined lifespan; defined purpose, scope, objectives and outputs; a corresponding set of activities to achieve the outputs; significance great enough for it to be managed and monitored individually; and a defined amount of resources. A "project" refers to enforcement actions, advocacy, or other activities of a competition agency that meet these characteristics.*

1. *Building and managing the project team*

Successful projects are often carried out by teams where roles and responsibilities are clearly defined, conflicts of interest are avoided, team members do not work in too many projects and available resources (human, financial, infrastructure) for the project have been clearly defined and match responsibilities.
How are project teams built and managed in your agency?

A project plan outlines the project's objectives and actions needed to manage effectively and execute the project. The outline should help the project prioritize task, allocate resources, and guide decision making as the project moves forward. Effective plans are usually created with input and guidance from team members. They are also well defined but treated as living documents (flexible).
How are project plans drafted and implemented in your agency?

Regular monitoring is essential to a timely and successful project completion. Effective monitoring ensures optimal resource use. Managers, supervisors, and stakeholders, monitor and evaluate project progress and make appropriate mid-course corrections.
Does your agency have formal monitoring and evaluation processes?

Quality control refers to a process or procedure that ensures that the completed project and its component tasks meet the agency's appropriate standards.
How does your agency secures that project outputs are of sufficient quality to reach decided outcomes, withstand possible scrutiny and/or challenge, and further enhance the reputation or legitimacy of a competition agency?

Stakeholder engagement can help to ensure the success of a project, mitigate the risks that result from ineffective engagement, and maximise the likelihood of consensus or cooperation from stakeholders in any project outcome.
How to secure the type of stakeholder engagement that maximizes the likelihood of consensus or cooperation from them in any project outcome, and hence the success of a project?

Good risk management is as much about exploiting opportunities as it is about preventing problems. Thinking about the identification, consideration, mitigation or identification of risks, as well as opportunities for risk taking, improves the chance of successful project delivery.
How does your agency identify, consider or mitigate risks (as well as opportunities for risk taking) in order to improve the chance of successful project delivery?

In order for a project to be successful it is important to be clear and disciplined when seeking information. An agency should keep in mind that information should be recorded or catalogued systematically, it must also bear that requesting excessive amounts of information creates unnecessary burdens on the agencies and stakeholders.

What techniques does your agency use to obtain and record information?

8. *Drafting the written output*

Projects will often produce documentary outputs such as reports, consultation documents, statements of objection, decisions and submissions to courts, etc.
In your agency, what is the content and format of the documentary outputs resulting from projects (reports, consultation documents, statements of objection, decisions, submission to courts, etc)?

APPENDIX B

Academic Literature on Project Management and its Importance[22]

1. The Difficulty of Strategic Project Management

Even though project management is becoming more established in organisations, it does not necessarily mean that the right projects are being done. According to Morris and Jamieson, it is not easy to link projects with organisational strategy:

> Projects and project management are often said to be important means of implementing strategy, but the way this happens in practice is rarely the subject of detailed review. We noted at the outset that there is little in the literature on how business strategy is translated into project terms.
>
> Further, project strategy itself is not a well-researched or written-about topic. Surely, there could be a case for better understanding the way the project is to be developed and managed? After all, we should not just plunge into project execution.
>
> If we could understand better how business strategy can be translated into project strategy, project management's overall performance would be improved significantly, and project management would have a higher profile in business management in general.[23]

Strategic project management is, then, nothing more that choosing the right projects that ensure optimal use of resources and returns. Though seemingly simple, research by Michael Stanleigh has shown that many organisations overlook aligning projects with their strategy.[24] Stanleigh highlights the needs for organisations to ensure that only those projects that are aligned with the strategic vision be undertaken and gives four key steps to help organisations ensure a strategic fit:

1. *Ensure that all projects are strategically aligned.*
2. *Create a project management focused culture.*

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[22] Project management generates a wealth of helpful literature, including: DeCarlo, D., "eXtreme Project Management: Using Leadership, Principles, and Tools to Deliver Value in the Face of Volatility," Jossey-Bass, October 2004; Englund, R.L., and Graham, R., "Creating the Project Office: A Manager's Guide to Leading Organizational Change," Jossey-Bass, February 2003; Frame, J.D., "The New Project Management: Tools for an Age of Rapid Change, Complexity, and Other Business Realities," Jossey-Bass, May 2002; Williams, M. "The Principles of Project Management," SitePoint Pty, Ltd., 2008; Office of Government Commerce (UK), "Managing Successful Projects with Prince2," The Stationery Office, 2009; Project Management Institute (PMI), "A Guide to the Project Management Body of Knowledge," 4th Edition, 2008; Roberts, P., "Guide to Project Management: Achieving Lasting Benefit through Effective Change," The Economist Newspaper Ltd., 2007; Portny, S.E., "Project Management for Dummies," 2nd Edition, Wiley, 2007; Turner, J.R., "The Handbook of Project-Based Management: Leading Strategic Change in Organizations," McGraw Hill, 2009; and Verzuh, E., "The Fast-Forward MBA in Project Management," 2nd Edition, Wiley, 2005. Available on-line resources include: A Girl's Guide to Project Management, available at http://www.pm4girls.elizabeth-harrin.com/; PM Hut: Project Management Articles, available at http://www.pmhut.com/; Prince2 Blog, available at http://blog.prince2.com/; Prince2: 2009 Project, available at http://www.prince2author.com/; Project Management for Development Organisations (PM4DEV), available at http://www.pm4dev.org/; Project Management Files, available at http://www.pmfiles.com/; and Project Management Tips: Guidance for Real Life Situations, available at http://pmtips.net/.

[23] Peter Morris & Ashley Jamieson, "Translating Corporate Strategy Into Project Strategy: Realizing Corporate Strategy Through Project Management," Project Management Institute, December 2004, pg. 85, available at http://my.safaribooksonline.com/book/software-engineering-and-development/project-management/1930699379.

[24] See note 13.

3. *Implement strategic project management best practices.*[25]

2. What are Projects?

According to the Project Management Body of Knowledge (PMBOK), "a project is a temporary endeavour undertaken to create a unique product, service, or result. The temporary nature of projects indicates a definite beginning and end. The end is reached when the project's objectives have been achieved or when the project is terminated because its objectives will not or cannot be met. . .Projects can also have social, economic, and environmental impact that far outlast the projects themselves."[26]

Prince2[27] *defines a project as "a management environment that is created for the purpose of delivering one or more business products according to a specified Business Case… By its nature, a project is a temporary structure, created to achieve a specified business objective."*

Table 1: Salient Features of a Project

Key Features of Projects[28]	Points to Note
DEFINED START AND END. All projects have start-up and closure dates.	Some projects may be repeated often but they are not considered as on-going work as they have defined start and end dates.
ORGANISED PLAN. A planned methodical approach is used to meet project objectives.	Good planning ensures a project is completed on time and within budget and having delivered the expected results.
SEPARATE RESOURCES. Projects are allocated time, money, and people on their own merits.	Some projects operate within the normal routine of activities and some may be outside of it – they all require resources. Working within agreed resources is vital for a project to be considered successful.
TEAMWORK. Projects usually require a team of people to get things done.	Project teams take responsibility for and gain satisfaction from their own objectives, while contributing to the success of the organisation as a whole. Projects offer new challenges and opportunities for staff to expand their skills, knowledge, and experience
ESTABLISHED GOALS. Projects bring results in terms of quality and/or performance	A project, while delivering on expected results, may also bring about new ways of doing work.

3. The Project Lifecycle

Most people appreciate that projects should have a clear beginnings and endings. In between are activities that are known as the project's lifecycle.

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[25] Stanleigh's research showed that very few project management offices "didn't consider lessons learned to be of great importance in their overall mandate." He felt that "organizations throw away huge amounts of project knowledge every day. They fail to retain the knowledge from one project to the next. The type of questions that should be answered includes: 'What were the successes from one project that can ensure other projects follow a similar path?' 'What were the challenges, issues, risks, etc. that one project suffered that other projects might be able to anticipate in advance and prevent, or at least prepare for, should these events occur?'" The importance of knowledge management is highlighted here.

[26] Section 1.2, "What is a Project?", Project Management Body of Knowledge, 4th Edition, 2008, pg 5. For more information on PMBOK, please see http://en.wikipedia.org/wiki/A_Guide_to_the_Project_Management_Body_of_Knowledge.

[27] PRINCE2 (PRojects IN Controlled Environments) is a process-based method for effective project management. PRINCE2 is a de facto standard used extensively by the UK Government and is widely recognised and used in the private sector, both in the UK and internationally. For more information on Prince2, see http://www.ogc.gov.uk/methods_prince_2.asp and http://www.prince2.com/what-is-prince2.asp.

[28] See also "Project Characteristics" by Merrie Barron and Andrew R. Barron, 15 February 2011; http://www.pmhut.com/project-characteristics.

The following illustrations show the representations of project management processes over what is known as the project life cycle:

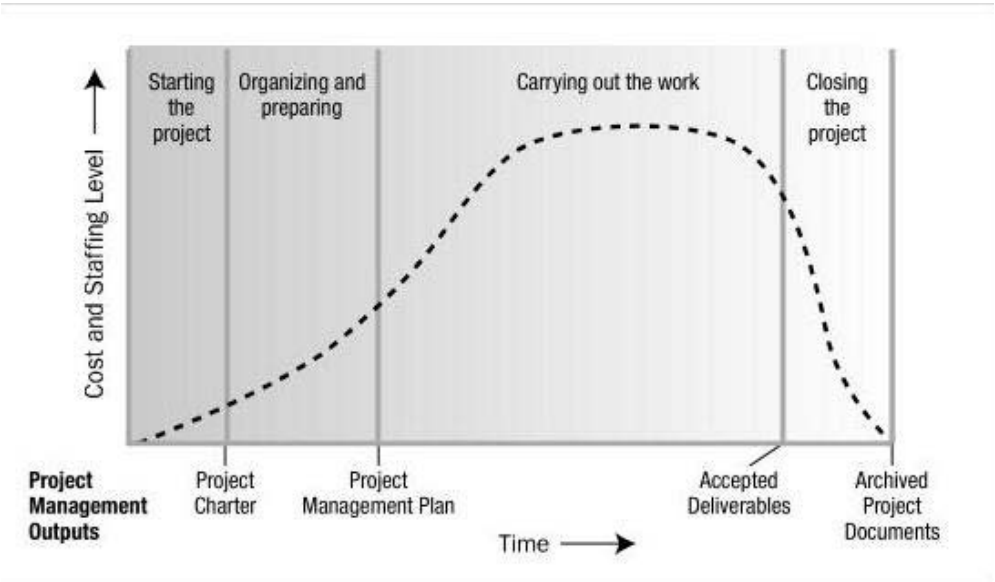

Figure 1: The Project Life Cycle (PMBOK, 2008)

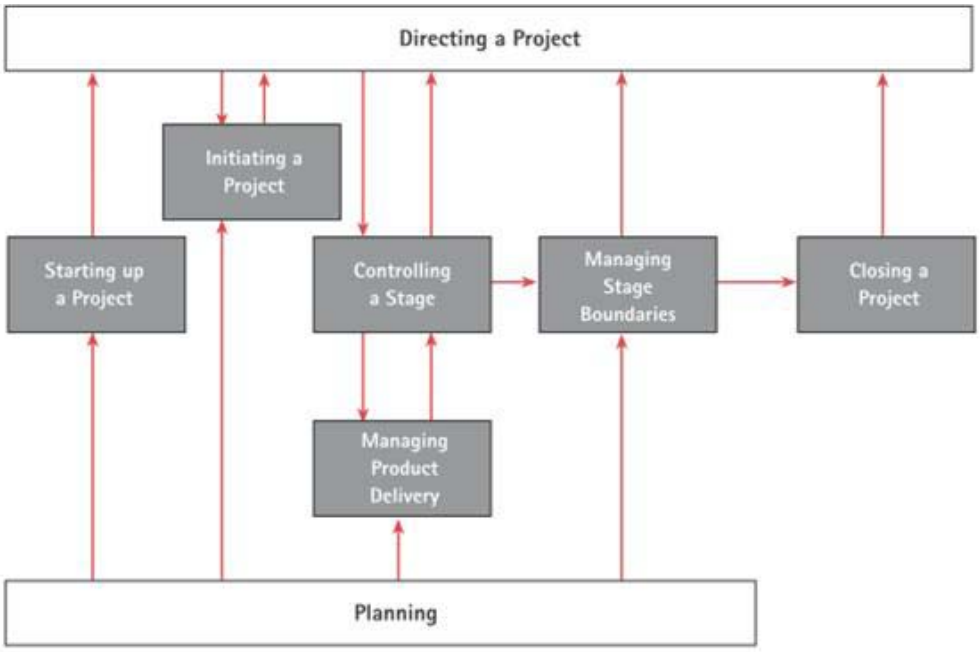

Figure 2: The Prince2 Process Model (Prince2 Manual, 3rd Ed, 2002)

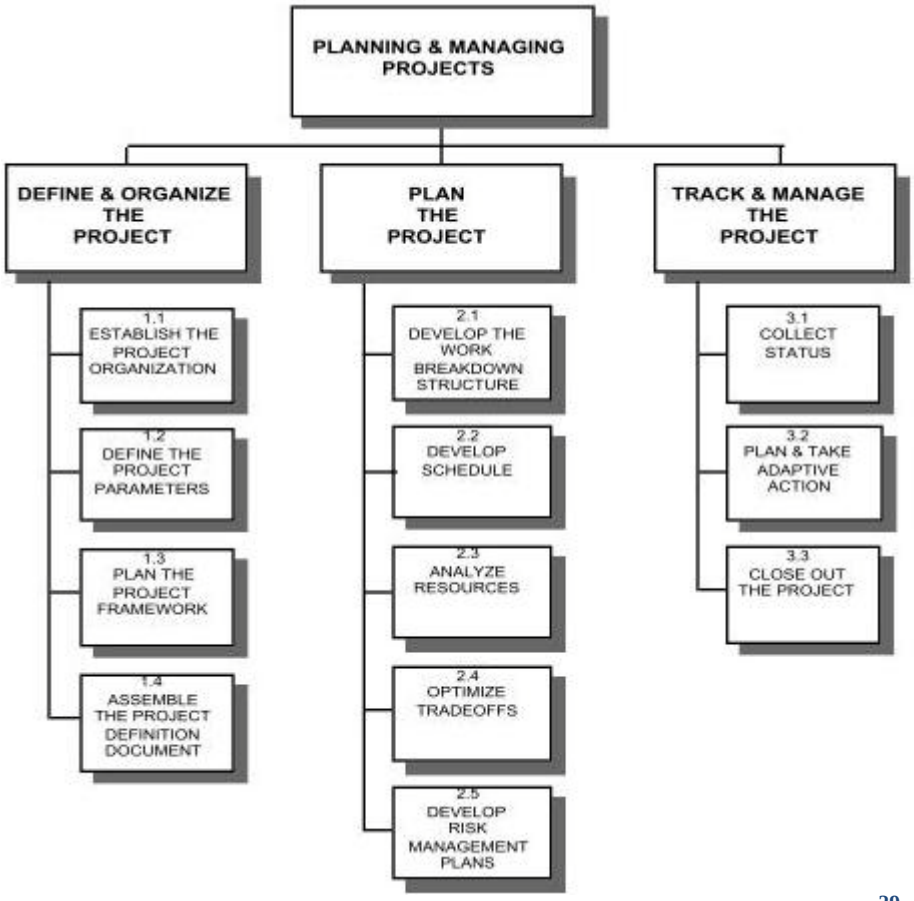

Figure 3: The Project Life Cycle (Project Management Manual, Harvard Business School, 1996)[29]

While each may use different terminology, the essential idea remains the same. Projects have to be ***defined****,* ***developed****,* ***implemented****, and* ***closed****. The basic elements in managing a project are: identifying requirements to the specific project, addressing the needs and expectations of stakeholders, and balancing competing project constraints (e.g., scope, schedule, budget, resources, and risks). It is crucial to identify each one of these elements before starting a project, because, simply put, what gets measured, gets "managed."*[30]

4. Principles of Project Management

> As to methods there may be a million and then some, but principles are few. The man who grasps principles can successfully select his own methods. The man who tries methods, ignoring principles, is sure to have trouble. Ralph Waldo Emerson

Successful project management is achieved by the intelligent application of sound principles, than by merely implementing a long list of standard techniques.[31] *Principles are (i) universal, in that they apply to every project; (ii) self-validating, in that they have been proven in practice over a period of time; and (iii) empowering, because they give project managers added confidence and ability to shape the project's outcome. Principles have often been used to describe practices. However, there is a difference and the two widely-used project management methodologies – Prince2 and PMBOK –*

[29] The manual is available at http://goo.gl/UrRtZ.
[30] See also "Everything is a Project," by Ben Snyder, 16 February 2011; http://www.pmhut.com/everything-is-a-project.
[31] A useful explanation of project management principles can be found at http://www.hyperthot.com/pm_princ.htm.

talk about principles that are widely applicable regardless of project type, the implementing organisation, geography, or culture.

4.1 Principles in Prince2

As a project management methodology, Prince2 wholly depends on principles, derived from successful and not-so-successful projects. To manage a project using Prince2 means adherence to these principles, as briefly explained below:[32]

1. ***Continued business justification.*** *A Prince2 project has continued business justification. Poor alignment with corporate strategies can also result in a competition agency that has a portfolio of projects that have mutually inconsistent or duplicated objectives. Although the justification should remain valid, it may change. If, for whatever reason, the project can no longer be justified, the project should be stopped. Funds and resources can be allocated towards other projects that provide more public value.*
2. ***Learning from experience.*** *Learning from experience permeates Prince2. When starting a project, previous or similar projects should be reviewed to see if lessons learned could be applied. As the project progresses, the project should continue to learn and seek opportunities to implement improvements during the lifecycle. As the project closes, it should pass on lessons thus acquired. It is the responsibility of everyone involved with the project to seek lessons learned rather than waiting for someone else to provide them.*
3. ***Defined roles and responsibilities.*** *A Prince2 project, to be successful, must have an explicit project management team structure consisting of defined and agreed roles and responsibilities for the people involved in the project and a means for effective communication between them.*
4. ***Manage by stages.*** *A Prince2 project is planned, monitored and controlled on a stage-by-stage basis. Management stages provide senior management with control points at major intervals throughout the project. At the end of each stage, the project's status should be assessed, the Business Case reviewed to ensure that the project remains viable, and a decision made as to whether to proceed.*
5. ***Manage by exception.*** *Prince2 enables appropriate governance by defining distinct responsibilities for directing, managing and delivering the project and clearly defining accountability at each level.*
6. ***Focus on product.*** *A Prince2 project is output-oriented not activity-oriented. An output-oriented project is one that agrees and defines the project's products prior to undertaking the activities required to produce them. To fulfill stakeholder expectations in accordance with the business justification, there must be a common understanding of the products required and the quality expectations for them.*
7. ***Tailor to suit the project environment.*** *Prince2 derives value from the fact is that it is a universal project management method. However, if Prince2 is not tailored, it is unlikely that the project management effort and approach are appropriate for the needs of the project. This can lead to 'robotic' project management at one extreme (the method is followed without question) or 'heroic' project management at the other extreme (the method is not followed at all).*

[32] See also http://www.ogc.gov.uk/methods_prince_2__whatisit.asp.

4.2 Principles in the Project Management Body of Knowledge

Max Wideman, author of the 1987 version of the Project Management Body of Knowledge (PMBOK), listed the seven first principles of project management.[33]

1. *The **Success Principle**: The goal of project management is to produce a successful product.*
2. *The **Commitment Principle**: A mutually acceptable commitment between a project sponsor and a project team must exist before a viable project exists.*
3. *The **Tetrad-Tradeoff Principle**: The core variables of the project management process, namely (i) product scope and quality, (ii) time-to-produce, and (iii) cost-to-complete must all be mutually consistent.*
4. *The **Primary Communication Channel** (or Unity-of-Command) **Principle**: A single channel of communication must exist between the project sponsor and the project team leader for all decisions affecting the product of the project.*
5. *The **Cultural Environment** (or Suitability) **Principle**: An informed management must provide a supportive cultural environment to enable the project team to produce its best work.*
6. *The **Process Principle**: Effective and efficient policies and procedures must be in place for the conduct of the project commitment.*
7. *The **Life-Cycle Principle**: Plan first, then do. These two sequential activities form the basis of every project life-cycle, and can be expanded to suit the control requirements of every type of project in every area of project management application.*

5. Planning Projects[34]

Project planning is not, and should not be, a one-time activity. Rather, the agency must plan and manage projects in an adaptive, flexible, and iterative way, adjusting to changes made along the way according to the project's progress and the dynamic changes in the authorising environment.

Project planning should include early identification of what is expected from the project in terms of the agency's needs and those of the authorising environment. Instead of using time, budget, and requirements as the major drivers of project success (as done by the private sector), the "value added" by the project should be the criteria for judging success or failure.

Applying the adaptive approach to a project is not difficult when it is treated as an iterative, and not a linear, process. It may be necessary to revisit the project definition and planning based on its initial uncertainties and later findings during execution. During the planning phase, the success and failure criteria should be determined based on the expectations of the authorising environment and the agreement between senior management of the competition agency executives and the project team(s) about how to judge success and what can go wrong. At this stage, the impact of the project

[33] Wideman, Max "First Principles of Project Management," available at http://www.ibm.com/developerworks/rational/library/feb05/wideman/.

[34] For more, please see (i) *The Project Management Survival Toolkit* by Gary Hamilton, Gareth Byatt, and Jeff Hodgkinson, http://www.pmhut.com/the-project-management-survival-toolkit; (ii) *The 9 Steps to Produce a Structured Project Plan* by Richard Morreale, http://www.pmhut.com/the-9-steps-to-produce-a-structured-project-plan; and (iii) Project Planning: Expect the Unexpected, John Duff, http://www.pmhut.com/project-planning-expect-the-unexpected.

type on the project management approach can be assessed, identifying the actions that need to be taken that are specific to that type.

Project plans generally include three levels, depending on the complexity of the task and its duration. First is a master plan that lists major milestones throughout the project and serves to report to and communicate with top management. Second is a series of middle-level plans with a time horizon of a few months (in quarters, perhaps). These will be updated periodically and used to report to and communicate with middle-level management. Third would be the highly-detailed work plans focusing on shorter time frames (2-4 weeks), updated regularly, and outlining each activity of the project team members to the day.

During project execution, it may be necessary to add a few new steps and action items to incorporate the situational context. Based on this, it may be necessary to review the original plan to assess the "go/no-go" feasibility of the project.

6. Managing Projects[35]

Effective project delivery will vary for different project types. The process for small projects will not be the same as for large projects, and investigation, merger analysis, and advocacy projects will differ from each other based on both the different outcomes of each of these and the legal framework of the competition agency. A competition agency's standard operating procedures (SOPs), thus, might outline the life cycle and typical phases of various types of projects, including the major milestones and approval dates, which may be mandatory by law itself.[36] It should describe the decisions to be made at each milestone, along with supporting documentation. The SOPs also should include templates and documents for planning, reporting, monitoring, and coordinating projects to ensure consistency in managing, documenting, and reporting.

7. Create a Methodology for Portfolio Management and Project Selection

After defining specific SOPs for planning and management and creating the requisite organisational support for effective project delivery, competition agencies should decide what their needs are in managing their project portfolio(s) and individual projects therein.[37] A methodology that outlines the relevant models and dimensions for classifying projects will help in ensuring consistency in project planning, managing, reporting, and closing.

Some agencies may need to focus more on mergers/acquisitions, others on cartel investigations, and yet others on advocacy related activities. By dividing projects into major groups, senior management can allocate the competition agency's resources based on strategic prioritisation. The methodology should also outline the related managerial implications for each project type, be they related to investigations, mergers, or advocacy.

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[35] For more information, please see *Successful Project Scheduling*, Keith Mathis, http://www.pmhut.com/successful-project-scheduling and *Project Management - What Can Go Wrong, and How to Avoid It!*, John Wade, http://www.pmhut.com/project-management-what-can-go-wrong-and-how-to-avoid-it.

[36] In Pakistan, for example, a merger must be approved within 30 days of the application, unless it necessitates a phase two review, which must be cleared within 90 days.

[37] A very good treatment of the subject is the *Project Portfolio Management Framework* developed through the e-Innovations programme by Cambridgeshire County Council and partners. http://www.idea.gov.uk/idk/core/page.do?pageId=5829740.

Some projects, such as those related to market studies and advocacy, will be less complicated to implement than those related to investigations and mergers. Based on the competition agency's strategic priorities, effective project delivery could be a custom mix that includes portfolio management, resource allocation, skill development, project organisation, or other specific needs. After projects are classified, a policy for project portfolio management – assigning staff and allocating resources to them – can be formulated. [38]

8. Develop a Project Management Training Programme[39]

Based on the specific needs for effective project delivery, a unique set of training packages for project managers at various levels and for various project types may be necessary. Project managers for smaller projects may be young and less experienced, and they will require basic training, whereas project managers, who control projects of higher complexity, higher uncertainty, and greater stakes, will require more advanced training.

Internal training should teach general knowledge about project management theory as well as practice and experience from the larger world. Additionally, the programme should present a competition agency's own models and processes and should include the study of internal lessons and project case studies of previous programs (including failures) to carry the lessons over from generation to generation.

9. Organisational Support for Project Management[40]

The role of senior management in instilling a project management culture cannot be underscored.

Effective project delivery will only gain traction within a competition agency if project management is treated (and highlighted) as a key driver of operating capability. A clear signal will be required to show that project management is not just the concern of only project managers, but of everyone at the managerial level. Raising the awareness of managers at all levels about the potential of the agency's projects and their contribution to public value should be the business of everyone at every managerial level.

Creating an organisational framework and developing SOPs for project management is a clear signal of organisational support and commitment. Creating a career path for project managers is another clear signal.

Though most competition agencies are funded by the government and focus on costs, projects should be treated as investments in creating public value. An investment in effective project delivery is perhaps one of the better capability building initiatives a competition agency can take.

The best people should lead projects. The same person may not be suitable for two projects with different outputs. The temptation (and often the norm) of putting the agency's best people in charge of operations, the routine on-going things, must be changed. It is easier to manage operations than complex, uncertain projects. The public visibility of competition agencies will come from projects executed well rather than operations.

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[38] Please see *To Portfolio Manage or Not*, Brian Egan, http://www.pmhut.com/to-portfolio-manage-or-not.
[39] For a number of articles on training, please see http://www.pmhut.com/category/training.
[40] For more information, please see *Project-Oriented Skills: Support the Profession and the Role*, Ben Snyder, http://www.pmhut.com/project-oriented-skills-support-the-profession-and-the-role.

As each competition agency is unique in its environment, business, people, and technology, the basic project management models suggested in most business school teachings may fit, but not all, and not fully. Some adaptation to the work of a competition agency will be necessary.

10. Develop Criteria for Selecting Project Managers and their Career Paths

The success or failure of projects depends on the skills of people assigned to them. Effective project delivery will require competition agencies to invest in developing project management expertise in the long term. Clear guidelines and criteria for the selection and development of project managers will be necessary. Technical competence should not be the sole factor as, among other things, leadership skills, communication skills, organising ability, self-confidence, enthusiasm, drive, and the ability to see the 'big picture' are equally important attributes.

Competition agencies may also find it helpful to consider an internal certification programme for their project managers. International certification such as Project Management Professional (PMP), Certified International Project Manager (CIPM), and Prince2 will keep people's knowledge updated and benchmark their skills against internationally recognised standards.

Training alone will be not enough. A clear career path in project management in a competition agency setting will need to be established. Project management should not be a one-time assignment, but rather a profession. Skills which enhance effective project delivery should be treated as an organisational asset. People should be noted for their ability to climb the project management ladder up to an executive level.[41]

11. Create a "Learning" Environment around Projects

Every project creates a unique learning opportunity. Circumstances change rapidly, decisions are constantly made and are being evaluated against many factors, and mistakes are made.

Lessons can be learned continuously at every milestone and at project completion. But few organisations have the habit of recording, documenting, and sharing project lessons internally. For example, whenever a project is terminated, there are valuable lessons that must be learned. Yet managers (perhaps because of human nature) often tend to avoid discussing or dwelling on any failures; they would rather move on.

Competition agencies should instill a learning culture in, of, and around projects.[42] *Only then will meaningful knowledge management be possible. It should become a habit to summarise and share lessons learned from each opportunity or major milestone and to document a completed project (whether a success or failure; in fact more so in the case of a "failure") with a summary report describing the lessons learned. This report should be prepared after all team members have shared their thoughts during a session of discussion about what went right or wrong and why, and then be*

[41] See also "Building Your Project Management Workforce" by Michael Young, 5 February 2011, available online at http://www.pmhut.com/building-your-project-management-workforce.

[42] See also *Learning Project Lessons - Before You Begin, as You Progress, and When You Have Finished*, Gary Hamilton, Gareth Byatt, and Jeff Hodgkinson, http://www.pmhut.com/learning-project-lessons-before-you-begin-as-you-progress-and-when-you-have-finished.

distributed to the rest of the agency. In this way, the competition agency will retain its organisational memory and will be able to avoid repeating failures of the same kind.[43]

In addition, for the purpose of knowledge management, several key projects should be selected as case studies. These case studies will serve as learning tools for a competition agency's in-house training and educational programmes. Each case should involve a full case history, a learning case, and an executive summary containing a short list of the major lessons.

12. Common Reasons for Project Failure

There are many case studies that show how expensive the failure of well-intended strategies in the execution phase become,[44] *and although these projects go on and diminish, all of them represent a significant drain of resources that could have been put to a better use, which would actually have generated a benefit to the organisation.*

According to the UK's National Audit Office,[45] *most common reasons for project failure are:*

1. *Lack of clear link between the project and the organization's key strategic priorities, including agreed measures of success.*
2. *Lack of clear senior management and Ministerial ownership and leadership.*
3. *Lack of effective engagement with stakeholders.*
4. *Lack of skills and proven approach to project management and risk management.*
5. *Too little attention to breaking development and implementation into manageable steps.*
6. *Evaluation of proposals driven by initial price rather than long-term value for money (especially securing delivery of business benefits).*
7. *Lack of understanding of and contact with the supply industry at senior levels in the organisation.*
8. *Lack of effective project team integration between clients, the supplier team and the supply chain.*

[43] See "Improve Project Performance With Lessons Learned" by Dave Nielsen, 1 September 2010, available online at http://www.pmhut.com/improve-project-performance-with-lessons-learned.

[44] See *Reasons Why Projects Fail*, Tom Carlos, http://www.projectsmart.co.uk/reasons-why-projects-fail.html.

[45] Though the report talks about failures in information technology projects, the reasons are generally applicable across the spectrum of projects. http://www.ogc.gov.uk/documents/Project_Failure.pdf.