



International
Competition
Network

2014 ICN SPECIAL PROJECT SURVEY

1. How are SOE's defined under your jurisdiction?

2. Application of competition law

a) Does your competition law apply to SOEs?

Applies

Does not apply / Exempt (please answer "applies" even if there are some exclusions).

b) Are (some) SOEs exempted from competition law in your jurisdiction as far as?

they are not engaged in trade or business

totally exempt

partially exempt; please provide examples of the terms of exemption

they are owned by the state or a public entity

they are in a regulated sector

if so, must the sector regulator consider impact on competition?

totally exempt

partially exempt; explain terms _____

they are in a strategic industry

If so, who defines what is a strategic industry? Please provide a few examples of what are considered "strategic" industries. _____

totally exempt

partially exempt; explain limits _____

NB : This survey covers both SOE's that ensure an activity of public interest and SOE's that have purely commercial activity.

they ensure a mission of public interest/service

totally exempt

partially exempt; please state terms of exemption, e.g., who has burden of proof of exemption; whether the exemption is only for activities necessary to carry out duties to the state

other; explain _____

c) Has your government ever revoked previously existing exemptions from competition enforcement for SOEs? If yes, please provide concrete examples? *For example, in many jurisdictions airlines and phone companies were previously owned and run by the state, but are now run as private enterprises.- Please provide other types of enterprises which have been privatized in your jurisdiction.*

3. Enforcement

a) What types of enforcement actions have your agency initiated against SOEs in your jurisdiction? *Please explain with brief case examples including sector, type of infringement and sanction imposed.*

b) If you have come across particular problems bringing cases against SOEs, please share these experiences. *For example: have you encountered market definition issues (impact not only on market where the SOE is active but also on related markets)? Have you already been confronted to situations in which SOEs carry out tasks other than the tasks assigned to them by the government? Has it been more difficult to determine and impose fines in the case of SOEs?*

4. Advocacy

a) How has your authority dealt with opposition to enforcing competition policy to SOEs (social or political pressure; press opposition)? *Please refer to case examples to explain your agency's advocacy efforts with regard to enforcing competition policy to include SOEs.*

b) Have you already conducted advocacy activities/sector inquiries targeted at SOEs ? On what topics? (e.g. liberalization process; negative neutrality; combination of regulatory powers and economic activities).

c) Do you have a success story in which your competition authority advocated for full(er) coverage by the law of SOEs? If yes, please share it with us. You may wish to include the role your agency played in the process. How did you explain to the government why the inclusion of SOEs within the jurisdiction of competition rules will lead to better conditions for consumers? Did you enlist allies in your advocacy

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efforts? (e.g., working with other international fora or organizations, such as the World Bank? Using law of other jurisdictions with legislators?)

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