



FAIR TRADING COMMISSION

7th Annual Lecture

Celebrating 10 Years



The Second Decade

The Life Cycle of Regulatory Agencies

What's Next for the FTC?

William E. Kovacic
U.S. Federal Trade Commission
7th Annual Lecture
Barbados, 25 February 2011



The FTC at Ten: Why Celebrate Anniversaries?

- To Honor Accomplishment
- To See the Way Ahead
 - Sustain what works well
 - Identify possible improvements
 - Anticipate challenges



Today's Theme: Building a Stronger Institution 2011-21

- Physics vs. Engineering
- Institutions as Policy Infrastructure
- Better Institutional Technique Delivers Better Policy Outcomes



Overview

- Fair Trading Commission in Global Context
- First Decade Institutional Accomplishments
- Challenges for the Next Decade
- Possible Means Based Upon International Experience
- Personal Views



Modern Law Reform: Example of Competition Law

- Competition Laws Circa 1950
 - Fewer than 10 jurisdictions
 - One that mattered: US
- Jurisdictions with Competition Systems
 - Today: Closing in on 120
 - New Systems since 1980: 80+
 - Potential gains from comparative study



Regulatory Agencies: A Life Cycle Interpretation

- First Decade: Vital Start-Up Tasks
- Second Decade: Crucial Period of Reassessment and Refinement
- Later Decades: Preserving Urgency for Renewal and Adaptation
 - Avoiding contentment and rigidity
 - Pursuing regular upgrades



Western Hemisphere: Major Second Decade Retooling

- Brazil
- Chile
- Mexico



FTC at 10: A Successful Beginning

- High Standards for Appointments
- Formation of a Strong Staff
- Business and Social Awareness
- Focus on Significant Issues
- Significant Links to Collateral Bodies
- Compare: Australia, CA, EU, UK, US



FTC's Larger Significance

- Model for Similarly Situated Agencies
- Impact on Broader International Audience
 - Example: FTC Public Procurement work



FTC Challenges: 2011-2021

- Upgrade the Statutory Framework
- Set Realistic Expectations
- Preserve/Build Human Capital and Agency Knowledge
- Manage a Diverse Policy Portfolio
- Pursue Regional Integration



Upgrading the Statutory Framework

- Experimental Nature of Legal System
- Regular Need for Upgrades
- Benefits and Limits of Borrowing
- FTC Law Reform Project
 - Gaps in substantive coverage?
 - Sensible legal standards?
 - Remedies and procedures?



Set Realistic Expectations

- Paradox of Agency Success
- Importance of Continuing Public Engagement and Consultations
 - Speeches
 - Workshops
 - Hearings
 - Revelation of intentions and decisions



Preserve/Build Human Capital and Institutional Knowledge

- Vital to Success: “Who’s playing?”
- Sustain Norm of Superior Appointments
 - Second generation handoffs
- Anticipate and Cope with Turnover
 - Know-how/memory, training, recruiting
- Invest in R&D: Own Work/Academics



Manage a Diverse Portfolio

- FTC as Policy Conglomerate
 - Compare: ACCC, OFT, US FTC
- Implications
 - Sustaining needed levels of capability
 - Means for setting priorities
 - Realizing synergies
 - Achieving coherence



Pursue Regional Integration

- Value of “Co-Producers” (Allan Fels)
 - Pooling experience
 - Shared tasks: e.g., research, training
- Special Circumstances in This Region
 - The Big Networks: value and limitations
 - Beginning with modest projects
 - Mexico’s Initiative/Alliance of the Americas



Suggested Means: Summary

- Clear Statement of Goals
- Process to Set Priorities and Strategy
- Quality Control Techniques
- Investments in Building Capability
- External Communications/Consultation
- Networks with Other Institutions



Definition of Agency Goals

- Discipline for Resource Allocation
- Means to Set Expectations Correctly
- Ask: What Brand Do We Want to Create for the Agency?
 - Technical proficiency
 - High standards of public administration
 - Success in problem solving



Process to Set Priorities and Strategy

- Regular, Routine Exercise
- Portfolio Approach that Accounts for Risks and Rewards
 - Doctrine, likely economic effect, politics, resource intensity
- Match Commitments to Capabilities



Emphasis on Quality Control

- Measure Activity
- Assess Outputs
- Anticipate Judicial Review that Focuses on Administrative Process
- High Standards for Administration: Ethics, Records, Disclosure
- Identify What Needs to Be Changed



Investments in Building Capacity

- Recruiting Personnel
- Training Programs that Account for Turnover
- Adding to Agency's Base of Knowledge
 - Own research and partnerships
- Outlays for Strong IT System



External Communication and Consultation

- Media Relations
- Public Consultations on Policy Issues
- Links with Collateral Public Bodies
 - Formal agreements
 - Personal ties at all levels of agency



International Networks

- Multinational, Regional, Bilateral
 - Special benefits of regional approaches
- Discussions/Benchmarking
 - With older agencies: Tell them how to help
 - With newer agencies
 - Who went through this recently?
 - Who is facing the same tasks now?



Concluding Thoughts

- The Long Distance Policy Relay
 - Good institutions emerge from gradual, incremental, steady progress
 - Relax, and you fall behind
- Starting Point Important, Not Decisive
 - Every successful agencies require and obtain upgrades over time
 - Maintaining the urgency to improve