



**FEDERAL
COMPETITION
AUTHORITY**
Fairness matters!

Competition and Gender

Joint ESCWA-UNCTAD-OECD

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I.1. Competition and fairer society-a new goal I

- The Austrian Federal Competition authority (FCA) always observes new developments and reflects on the **goals on the one hand** and the **output of its work on the other hand**. Of course one of the main objectives of competition law is consumer welfare, though there has been some discussion going on about the extent to which competition law can contribute to a fairer society as a whole. Fairness in this case means **reducing societal inequalities**. I think that our work does have an impact on fairness and equality in our society.

I.1. Competition and fairer society-a new goal II

- **A well-functioning market has an output on public welfare in many different ways, as for example:**
 - people have more choice and innovation increases;
 - everyone receives the same prices for the same goods, no matter how old they are, which gender they belong to or what their cultural background is;
 - locking-in costumers by monopolies is hampered so that everyone can participate in society even though they chose not to use certain products;
 - everyone can participate in society even though they are not willing to share their data;
 - certain technologies are not restraint to a few.

I.1. Competition and fairer society-a new goal III

- **fairer society as a new goal.**
- The question is, whether we, as a competition authority, have to work beyond that scope and really focus on a **fairer society as a new goal.**
- I am a little cautious when arguing that our work should *aim* at creating fairer societies in general. Because we would then have to see fairness separately and independently from consumer welfare in our work and define fairness. In doing so, we would work beyond our actual scope, because I would think that the question of how a fair society must look like is a social political question rather than a competition law question.

I.2. Competition and gender equality as part of fairer society I

- There has been a new aspect in this discussion, which is worth looking at more deeply: **the relationship between gender equality and competition.**
- Regarding this issue, in history gender equality was not a special goal of a competition authority's work.
- Nevertheless **gender equality can and should play a role in our work.** On the one hand by recognizing and fostering
 - gender as an **important category in defining markets**
 - and on the other hand in
 - **inquiring sectors that especially effect women.**
- Also, a fairer society means a better gender diversity with the result of more competition for ideas and a more efficient use of a scarce resource.

I.2. Competition and gender equality as part of fairer society II

- **This focus is not purely theoretical.** For example when analyzing certain markets such as body care products or childcare facilities under the aspect of gender pricing, it is not sufficient to categorize “consumers” without differentiating regarding their gender.
- Thus it can be necessary to look at certain markets through a **gender lens**. Furthermore, the question of which sectors are looked at in sector inquiries can also be taken gender-sensitively. This means, when we decide which sector we will look at more closely, we can do this by examining whether this sector does have an impact on a certain gender or not.

I.3. Conclusion

- In the future, competition authorities should focus on integrating gender into their strategy and practice, as formal and informal gender barriers are still existing.
- A greater gender equality offers not only equality but also efficiency gains for the economy.
- Gender may influence the functioning of markets as it may influence market entry due to legal barriers as well as behavioral and cultural factors.
- Gender has an influence on consumer prices and the transaction costs associated with participation in markets. This is important because the FCA is also in charge of the enforcement of the consumer protection laws and part of the European consumer protection cooperation.

II. Gender equality and the FCA enforcement work

- Overview of the main goals of the European and Austrian **Competition law**, the FCA has to enforce.
- **Gender strategy** and internal structure of the FCA from the aspects of gender.
- **Integration of gender equality in the working culture** of the FCA and promotion of initiatives.

II.1. Competition Law

The goal is to maintain fair and transparent competition

- Prosecution of cartels
 - Cartel: Agreements (at least bilateral) aimed at eliminating competition between competing companies.
 - Market power is not required.
 - Prohibition principle: Cartels are forbidden per se and only allowed exceptionally.
- Prosecution of the abuse of market power
 - Unilateral measures taken by companies having market power
 - Market power \neq monopolist
- Merger Control
 - Transaction in which certain limits are exceeded must be reported to the authorities.
 - If they entail competitive disadvantages, they are to be prohibited.
 - The emergence and strengthening of a dominant position should be prevented.
- Sector inquiries
 - If circumstances suggest that competition in an industry is restricted, the Federal Competition Authority is empowered to conduct sector inquiries.

product
market
definition

II.3. Gender Strategy

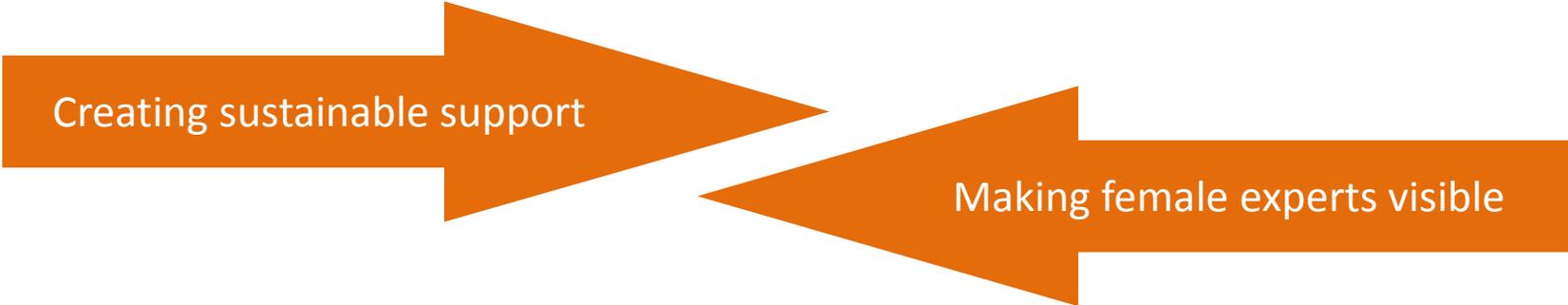
- **The topic of gender equality and competition also fits into the importance of the strategy and daily work of the FCA in different ways.**
 - Considerations and internal studies how to implement gender in the Authorities enforcement work.
 - the FCA promotes and supports initiatives for making female competition experts more visible (for example “Women in Competition Law Network Austria conference” which was held in Vienna in 4th April 2019).
 - this way, the FCA helps to show that antitrust law in Austria is shaped and refined by many great female experts. On the other hand it supports female experts to connect and thus become even stronger.

II.4. WCNA – Woman in competition Law Austria

Strengthening the position of female competition law experts.

WCNA's aim is to:

- create a network of female practitioners of competition law in Austria, comprising women who are active in private practice, at the Austrian Cartel Court, the Federal Competition Authority or other agencies dealing with competition law, including universities, and
- unveil the capabilities and expertise of these women and to exchange know how, through informal gatherings and/or more formal events.



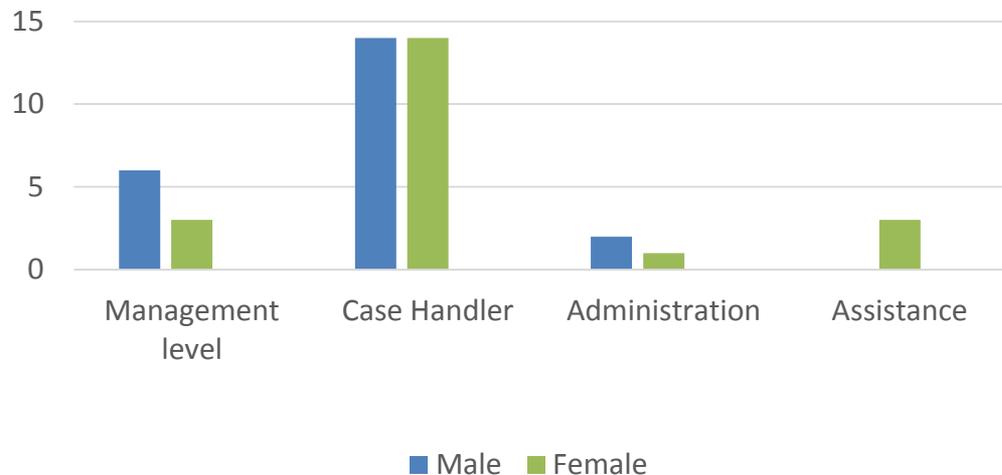
Creating sustainable support

Making female experts visible

II.5. Within the Austrian Federal Competition Authority I

How gender equality is fostered and lived within the Austrian Federal Competition Authority

- Ratio of male and female employees



- We try to get female experts interested in the topic

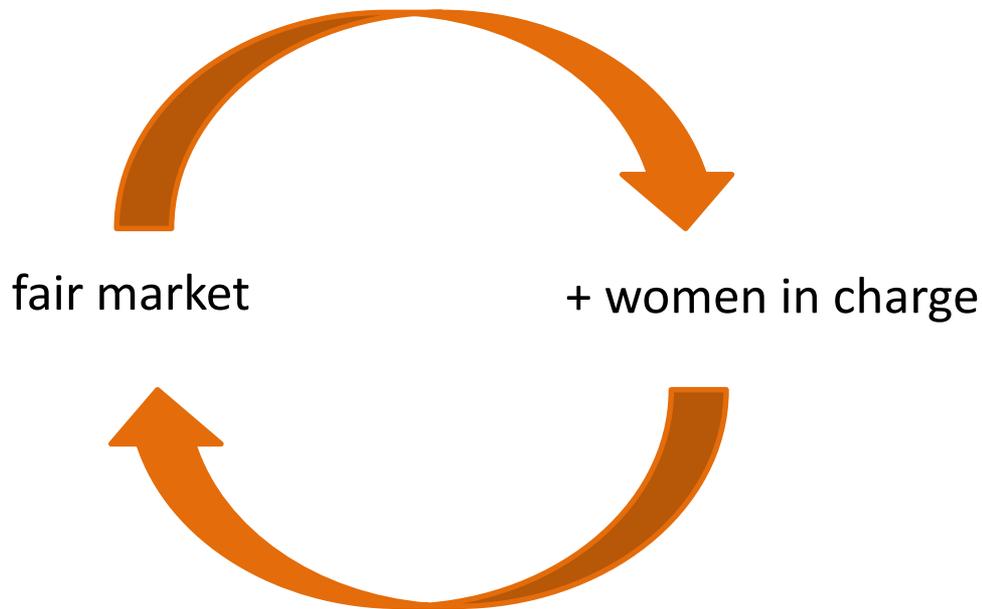
II.5. Within the Austrian Federal Competition Authority II

How gender equality is fostered and lived within the Austrian Federal Competition Authority

- Work allocation
 - based on capacities, strengths and expertise
 - gender balanced distribution will be fostered
- Public appearance
 - Spokeswoman Sarah Furlinger, LL.M LL.M
 - Competition Advocacy:
 - Conferences
 - Competition talks
 - Articles in academic papers
- Internal prosecution and protection against discrimination
 - Equal Opportunities Officer
 - Code of Conduct
- Implementation of gender mainstreaming in our daily work
 - Including gender in examining product markets
 - Sector investigations on markets that mainly effect women

More women in charge = less infringement of competition law?

Would the increase of women in leadership positions help reduce violations of competition law?



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Thank you
for your attention!