How Do We Rank Agencies

Every year practitioners wait for the Global Competition Review's Rating Enforcement to see which agencies earned elite status. Agency heads cite them in budget testimony the way the university students and administrators focus on various rankings. But the GCR rating answers a narrower question than the one we should care about. It tells us how busy an agency is. However, it does not tell us whether the agency made markets work better and if standards of procedural fairness are met.

Professor and former US FTC chair William Kovacic recognized this problem a decade ago in his paper Rating the Competition Agencies: What Constitutes Good Performance and in related later works. He warned that a case-centric report card gives agency leaders the wrong incentives. It rewards the number of matters filed rather than their difficulty or their actual economic effect, and it undervalues the slower investments in research, advocacy and institutional capacity. The core problem is the confusion of activity with accomplishment. Counting cases opened, mergers challenged, fines imposed, and decisions won are outputs. But these outputs are incomplete and do not measure appropriate outcomes.

Outputs reward the wrong things. An agency that brings twenty small and simple cartel cases may look "better" than one that brings a single well-chosen monopolization case that reshapes an industry. Further, some monopolization cases may be high profile and may score politically but may be weaker cases than a case that is lower profile but where the effects are not ambiguous. Similarly fines may be a poor proxy. A large penalty may reflect a strong case, or an aggressive theory.

But fines and case counts as well as high profile cases are easy to measure. The problem is that these measurements do not tell us, for example, if prices fell after the cartel was broken up or if a structural or behavioral remedy actually worked or created unforeseen negative effects or simply was ineffective. For mergers these simple case counts do not inform us whether a merger challenge preserved a rival that went on to innovate or if it instead chilled start up acquisitions.

Case counts also do not inform us about process. A competition authority can win every case or nearly because defendants do not have their procedural rights protected. Questions that should be asked in a ratings system include: Do parties see the evidence against them? Do they have a meaningful chance to respond before a decision? Are investigative and decision-making functions separated? Is there timely, independent judicial review?

The good news is that better measurement tools already exist. The International Competition Network's (ICN) Agency Effectiveness Working Group 2025 survey examines how agencies track results in court, monitor whether remedies are implemented, estimate the expected benefits of interventions and evaluate actual effects after the fact. Further, tThe ICN's Guidance on Investigative Process and its Framework on Competition Agency Procedures supply procedural benchmarks for better quality measurements.

Others are building other measurements. The U.S. Chamber of Commerce surveys practitioners on transparency and due process in investigations across key jurisdictions while in Latin America, the CentroCompetencia at Universidad Adolfo Ibáñez, with George Washington University's Competition Law Center, runs a perception study based on practitioners that highlights the effectiveness of the region's competition authorities. This survey has resulted in a composite index of institutional strength, the Termómetro CeCo. There is nothing equivalent in Asia to date.

One reason that better rankings are difficult to create is that measuring outcomes is harder than counting outputs. Ex post evaluation takes human resources and data. GCR could ask agencies whether they commission and publish independent retrospectives, how their decisions fare on appeal, how they track remedy compliance and how they meet ICN procedural benchmarks. It could weight its practitioner surveys toward process. The competition community already knows how to measure what matters. There is need in Asia for a more sophisticated set of rankings.