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**Knowledge and human resource management for effective  
enforcement of competition law****Note by the UNCTAD secretariat***Executive summary*

Knowledge Management (KM) is an important aspect of an efficient competition agency so as to enable the acquisition and use of resources to create an environment in which knowledge and resources are efficiently and effectively utilized. The competition agency acquires, shares and uses that knowledge to build human and institutional capacity to implement the competition law effectively. Knowledge management safeguards institutional memory and continuity. Effective human resource management (HRM) is a common challenge faced particularly by competition agencies in their endeavor to attract and retain skilled personnel, and enable the agency to effectively fulfill its mandate and goals. This paper reviews the issues facing competition agencies to acquire, manage and effectively utilize knowledge and build the human and institutional capacity needed to enforce competition law with diligence. Both KM and HRM should be considered in the framework of the strategic planning and resource allocation for the internal effectiveness of a competition agency. It also explores the best fit between KM and HRM, the process of acquiring, managing and sharing knowledge and the way that knowledge is applied to strategic objectives of a competition agency.

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## **Introduction**

1. In the report on the “Foundations of an effective competition agency”. UNCTAD identified knowledge management and human resource issues as part of the pillars of an effective competition agency. The effectiveness of a competition agency achieves its objectives through appropriate use of internal resources. The design of the human resource functions and other capabilities of the agency influence the effectiveness of the agency’s decisions and its ability to fulfill its mandate.<sup>1</sup> The sources of information for this paper are replies by Member States to UNCTAD’s request for information, work carried out by the International Competition Network (ICN), and writings by academic practitioners.

2. Knowledge management (KM) is an important aspect of an efficient competition agency to ensure retention of knowledge and sharing of information to safeguard institutional memory and continuity in order to fulfill their mandates and goals. Effective human resource management (HRM) is a key ingredient to effective strategic management and is a challenge for public bodies in developing countries.

3. KM and HRM are critical for agency effectiveness. Both KM and HRM are necessary ingredients of a practical framework of strategic planning and resource allocation to ensure the best use of available resources in a competition agency.

### **I. Knowledge management and human resource management: definitions and objectives**

#### **A. Definitions**

*Knowledge management;*

4. According to Harman and Brelade (2007):

*‘Knowledge management is the acquisition and use of resources to create an environment in which information is accessible to individuals and in which*

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<sup>1</sup> See UNCTAD document TD/B/C.I/CLP/8, 2011 ‘Foundations of an effective competition agency’ presented during the 11<sup>th</sup> session of the IGE.

*individuals acquire, share and use that information to develop their own knowledge and are encouraged and enabled to apply their knowledge for the benefit of the organization.'*<sup>2</sup>

5. The above definition highlights the multidisciplinary approach necessary within organizations committed to knowledge management. It emphasizes that successful knowledge management is more than just implementing new technology and new systems. It has to create a culture, an organizational climate, in which the knowledge workers actually want to apply their knowledge for the benefit of the organization.

#### *Human resource management*

6. HRM is defined as:

*The administrative discipline of hiring and developing employees so that they become more valuable to the organization. HRM includes (1) conducting job analyses, (2) planning personnel needs, and recruitment, (3) selecting the right people for the job, (4) orienting and training, (5) determining and managing wages and salaries, (6) providing benefits and incentives, (7) appraising performance, (8) resolving disputes, (9) communicating with all employees at all levels.*

7. This paper discusses how HRM can manage the 'knowledge worker'. Knowledge worker was first defined by Drucker (1959) as 'one who works primarily with information or one who develops and uses knowledge in the workplace'<sup>3</sup>. Knowledge workers in today's workforce are individuals who are valued for their ability to act and communicate with knowledge within a specific subject area. They will often advance the overall understanding of the subject matter through focused analysis, design and/or development. They use research skills to define problems and to identify alternatives. Fueled by their expertise and insight, they work to solve those problems, in an effort to influence institutional decisions, priorities and strategies.

8. Majority of the knowledge workers are employees who have a good academic background and experience and are considered as people who "think for a living."

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<sup>2</sup> Chris Harman & Sue Brelade, 'Managing Human Resources in the Knowledge Economy' United Nations 7<sup>th</sup> Global Forum on Re-inventing Government, 26-29 June 2007.

<sup>3</sup> Peter Drucker, 'Landmarks of Tomorrow' Transaction Publishers, 1996.

They include among others doctors, lawyers, economists, and financial analysts. Majority of the staff in competition agencies fall under the scope of ‘knowledge workers’ and HRM can play the role of developing them to become more valuable to the organization. However, the paper does not exclude other support workers who make an important contribution to the running and execution of the work of the competition agencies. They are an integral part in the KM process.

## **B. Classification of knowledge management**

9. Knowledge management (KM) is about developing, sharing and applying knowledge within the organization to gain and sustain a competitive advantage. It has been argued that knowledge is dependent on people and that HRM activities, such as recruitment and selection, education and development, performance management, pay and rewards as well as the creation of a learning culture are vital for managing knowledge within organizations.

10. The most common classification of knowledge is either explicit or tacit (implicit). In this classification, *explicit knowledge* is considered to be formal and objective and can be expressed unambiguously in words, numbers and specifications. It can therefore be transferred via formal and systematic methods in the form of official statements, rules and procedures and is easy to codify. *Tacit knowledge*, by contrast, is subjective, situational and is intimately tied to the knower’s experience. Thus, making it difficult to formalize, document and communicate to others. Insights, intuition, beliefs, personal skills and craft and using rule - of - thumb to solve a complex problem are examples of tacit knowledge.<sup>4</sup> It is the ability of people to know how to use, relate to, and interpret explicit information like documents, and the ability to know how to take effective action in response to the agency’s environment and various elements within that environment. Tacit knowledge can be shared in relational situations, such as mentorships, coaching and through in house trainings where experienced employees are encouraged to share their experiences with their colleagues.

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<sup>4</sup> Edvardsson Runar Ingi (2003), ‘*Knowledge Management and Creative HRM*’, Occasional Paper 14, Department of Human Resource Management, University of Strathclyde.

11. Knowledge can also be classified as *individual* or *collective*. *Individual knowledge* is the knowledge harbored by an individual in an organization<sup>5</sup>. For example, in the course of work, an individual may undertake a new organizational task or even common task but in a new way which may yield the same or better results. If this knowledge is not shared with other employees, the organization can neither multiply nor leverage on the value of this expertise and can be lost permanently when the individual leaves the organization. However, if the individual knowledge is shared with other employees, it becomes collective knowledge.

12. *Collective knowledge* is therefore the knowledge held commonly by a group of members of an organization<sup>6</sup> and includes organizing principles, routines, practices, and relative organizational consensus on past experiences, goals, missions and results. Collective knowledge is more secure and more strategic and by comparison with individual knowledge is less volatile and less easily affected by staff turn over<sup>7</sup>.

13. Collaborative knowledge sharing practices within a competition agency will facilitate interaction of individual knowledge through which it is tested, enriched and redefined to create more collective knowledge and retained in the organizational memory.

14. Knowledge management is important for understanding:

- (a) What an organization knows.
- (b) The location of the knowledge, e.g. in the mind of a specific expert, a specific department, in old files, with a specific team, etc.
- (c) In what form this knowledge is stored; in the minds of experts, on paper, in notes etc.
- (d) How to best transfer this knowledge to relevant people, so as to take advantage of it or to ensure that it is not lost.
- (e) The need to methodically assess the organization's actual know-how versus the organization's needs and to act accordingly, for example by hiring, or promoting specific in-house knowledge creation.

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<sup>5</sup> Chua,A(2002) Taxonomy of Organizational knowledge, *Singapore Management Review*, Volume 24,Issue 2,pp. 69-76.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

15. KM is useful because it places a focus on knowledge as an actual asset, rather than as something intangible. In so doing, it enables an organization to better protect and exploit what it knows, and to improve and focus its knowledge development efforts to match its needs.

16. Consequently KM helps organizations (a) learn from past mistakes and successes; (b) better exploit existing knowledge assets by re-deploying them in areas where the organization stands to gain something, for example, using knowledge from one department to improve or support another department; (c) promotes a long term focus on developing the right competencies and skills and removing obsolete knowledge; (d) enhances the organization's ability to innovate; and (e) enhances the organization's ability to protect its key knowledge and competencies from being lost or copied.

17. Effective KM accomplishes the organization's objectives by structuring people, technology and knowledge contents: It considers, (i) creation, codification, storage and dissemination of knowledge; (ii) sharing knowledge as a way to promote learning and innovation; and (iii) technological tools and organizational culture and routines.

18. While the corporate sector organizes its KM strategies around increasing its productivity and lowering costs, young competition agencies have as their ultimate aim to make markets pro-poor. It is important for young competition agencies to establish their baseline, such as, consumer welfare, delivering goods and services to all, better delivery of the regulatory functions among others. The baseline when creating KM strategies would be grounded and bound by the competition legislation.

19. Young competition agencies face challenges of recruiting and retaining knowledge workers. They require specialized knowledge workers such as economists with knowledge of industrial organization, econometrics and economic regulation, lawyers, and experts who are dual qualified in economics and law to handle cases. They also require skills in drafting regulations, application guidelines, notification forms and other types of documents. Knowledge in investigations and case handling, design of remedies is also important. There is need to effectively manage the knowledge workers so as to share and retain the knowledge within the young competition agencies.

### **C. Human resource management**

20. HRM is the organizational function that deals with issues related to people such as compensation, hiring, performance management, organization development, safety, wellness, benefits, employee motivation, communication, administration, and training. It is the process through which personnel/staff is accorded its rightful position in the organization for the mutual benefit of the employer and the employee.

21. Competition agencies aim at regulating the market for the benefit of the consumer. In order to achieve this objective, HRM systems should be geared towards ensuring a well motivated staff that is provided with the opportunity to utilize their potential and talents to better the delivery of service to the clients. Staff skills improvement and learning programs are key to this process as well as competitive remuneration packages to minimize staff turnover.

22. HRM is also a strategic and comprehensive approach to managing people and the workplace culture and environment. Human resource functions are moving away from traditional personnel, administration, and transactional roles, which are increasingly getting outsourced<sup>8</sup>. HRM is now expected to add value to the strategic utilization of employees and put in place employee programs which impact the institutions in measurable ways.

23. Current human resource management trends are moving towards policies that respect and recognize the requirements of knowledge workers as individuals. Human resource management attempts to meet the expectations of knowledge workers through policies designed to facilitate differing 'lifestyle choices' such flexible work programmes, through actively articulating the organizational values, supporting involvement and respecting diversity.

24. Success in competition agencies will be seen in creating a culture that supports the sharing of knowledge and information, creates fluid organizational boundaries and focuses on bringing resources together creatively to deliver social outcomes.<sup>9</sup> For example, it has been recognized that there is need for use of economic analysis for

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<sup>8</sup> For example, many multinationals outsource payroll and administrative personnel functions.

<sup>9</sup> See footnote 2.



solving competition cases. High turnover and difficulty in attracting qualified staff can limit the availability of knowledge such as use economic analysis and fulfillment of organizational objectives<sup>10</sup>. There is need for HRM to design structures that will facilitate knowledge sharing and retention by knowledge workers within the agencies.

#### **D. Objectives and benefits of joint strategies in knowledge and human resource management**

25. Knowledge management is a process of learning and reviewing existing processes with the aim of fulfilling the goals and objectives of the organization. Young competition agencies especially from developing countries face among others the challenge of setting up joint KM and HRM processes, maintaining and utilizing them to enhance their management and other roles in order to fulfill their legislative and policy mandates.

26. Researchers have been working on KM issues for more than 2 decades. Collison and Parcel<sup>11</sup>, outlines KM strategies embracing issues ranging from multicultural recognition, use of ICT( information, communication and technology) tools to enhance intra and extra communication, procedures for sharing information, collaboration and networking systems, staff profiles exchange, innovation and talent blooming, among others. The types of KM and HRM strategies to implement for effective enforcement and implementation of their mandates is the prerogative of each organization depending on their culture of doing business, the operating environment and their systems of realizing mandates and goals.

27. There is need for joint KM and HRM strategies in competition agencies to support exchange of information within the agencies, comity considerations and exchange of confidential information with other competition agencies. One of the constraints faced by many competition agencies on sharing information under comity considerations is the extent to which case specific information of a confidential nature can be shared without hurting business interests. This has hampered the implementation of competition related provisions within regional economic communities.

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<sup>10</sup> See UNCTAD document TD/B/C.1/CLP/4 'The use of economic analysis in competition cases' presented during the 10<sup>th</sup> session of the IGE.

<sup>11</sup> Collison, Chris and Geoff Parcell(2001) ' *Learning to Fly: Practical Lessons from one of the World's Leading Knowledge Companies,* ' Oxford, Capstone.

28. Limits in exchange and flow of information within the competition agencies and between different competition agencies limit effective enforcement of competition laws. Joint KM and HRM strategies will enhance and create information flow within competition agencies and between stakeholders to support effective enforcement of competition law and policy.

29. Competition agencies' joint KM and HRM strategies objectives should aim at influencing policy making for the following two reasons; (i) as a way of influencing policies that promote competition and consumer welfare in their countries and regions, and (ii) to create understanding of competition agencies' work for budget support purposes.

30. Another objective for competition agencies' joint KM and HRM strategies is to influence businesses policies in support of a competitive market. The strategies should target building capabilities within the agencies to communicate and advocate the business community's understanding of the benefits of competition. The strategies should also create ways and means of engagement with the business community to reach an understanding of the role of competition law and its institutions in preserving the business environment.

31. Joint strategies in KM and HRM should be a priority for 'bare-foot' and young competition agencies in developing countries. Joint strategies in KM and HRM will create an organizational culture where there is free flow of information, cohesiveness and teamwork. In this way young competition agencies will be able to perform their mandates effectively.

## **II. Common challenges for effective knowledge and human resource management in competition law enforcement**

### **A. Recruitment and retention of staff**

32. For many developing countries 'bare foot' and young competition agencies there are challenges in recruitment and retention of highly qualified staff due to budgetary constraints. Many young competition agencies need highly qualified staff, but cannot

compete with private-sector salaries. They therefore motivate and retain their staff using other inducements, such as high-quality training, the opportunity to engage in academic work, and a superior work-life balance. Training in such areas such as project management, procedure and communication and advocacy techniques may complement the academic educational background of the lawyers and economists who dominate many agencies<sup>12</sup>.

**Box 1. Recruitment processes**

The traditional recruitment processes are based on interviewing methods that focus on assessing educational and technical background and the professional certificates a person has obtained. The interviewing processes do not incorporate competency interviewing methods where an individual's problem solving, communication, teamwork, leadership skills are assessed. Competency based interviews contribute to assessing knowledge management and sharing skills of an individual.

33. Young competition agencies also need to be administratively independent. Independence status allows the agency to compete with the private sector for the best talents, offer competitive salaries and benefits and avoid civil servant employment conditions.<sup>13</sup>

34. There is need for HRM in competition agencies to create programs on retention of knowledge held by staff. Before one starts on such a program, there is need to ask the following question; 'what is the key knowledge needed to be protected by the organization?' An organization requires a KM strategy that addresses this. If an organization does not have a KM strategy, there is need to assess the following: (a) what are the crucial areas of knowledge for the organization's future success? (b) of these, which are most valuable? (c) which are most at risk of loss through staff loss and turnover? and (d) which could be easily replaced when lost and which are irreplaceable?

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<sup>12</sup> See UNCTAD document Ibid footnote 1.

<sup>13</sup> See UNCTAD document TD/B/COM.2/CLP/67, 'Independence and accountability of competition agencies'

35. The most irreplaceable, high-risk knowledge fields prone to high turn-over are where a competition agency knowledge retention efforts need to be focused. It is important to identify exactly what knowledge a person has and grade it accordingly with the person's help and input from colleagues. This knowledge can be codified through ICT or other manual systems that codify, store, disseminate and allow reuse of knowledge. These systems should manage the institutional memory of an organization. For competition agencies with strong financial strength, investing in an ICT system that can store and allow reuse of knowledge would be critical. For competition agencies without strong financial capabilities simple databases can be used to manage and share the knowledge and creation of manual registries and documentation centers with written records of high graded knowledge.

### **Box 2. Korean Fair Trade Commission, KM retention and sharing system**

The Korean Fair Trade Commission has an ICT based knowledge management system that supports the registration, evaluation, accumulation and sharing of knowledge. The *knowledge registration* process is where case information (examination report, written resolution), work products (market study information, policy reports and other types of information) are automatically included in the knowledge management system and employees can post any information deemed useful. In *knowledge evaluation*, the Junior Advisory Board evaluates quality of registered knowledge based on relevance, utility and creativity. The registered knowledge is then organized and *accumulated* by categories on ‘knowledge map’ of the knowledge management system and updated regularly, this process is known as knowledge accumulation. Consequently the employees are able to search for the knowledge that they need by using the knowledge management system in place and *share* it among themselves. (Source: South Korea submission to ICN working group.)

36. In addition, the circumstances under which an employee is leaving will have a direct impact on the organization’s knowledge retention capabilities. An exit/knowledge retention interview is important for purposes of extracting knowledge. Handing over notes are not sufficient for purposes of knowledge retention. It is important to start the interview with the high graded list of topics. Help the interviewee identify broad areas of successes or challenges in these topic areas as they tend to provide the most learning points and are a good place to start. Ask questions such as ‘*what are the key factors that make this a success?*’ or, ‘*what are the common pitfalls*’ or, ‘*what are some of the things your successor should be aware of?*’ As the interviewee talks, it is important to make a list of these factors and then start to probe for detail, advice and record the feedback.

**Box 3. South Africa Competition Commission KM Exit Interview process**

In the South Africa Competition Commission, when staff leaves a position they have case file ‘hand over’ sessions where the exiting staff member will discuss details of the case with his or her manager and team members. This is part of a formal KM Exit Process, which is included as part of the Commission’s Termination Policy. It supplements a human resource exit process, and focuses only on information and knowledge transfer. The KM exit standardizes the activities relating to staff who leave, with specific requirements for knowledge transfer interactions, a checklist for information types to be transferred, and standard questions to be asked in a KM Exit Interview. The exit interview is conducted by the Knowledge Management Co-ordinator and further supplements the divisional management process, and the ongoing use of the KM system to ensure effective knowledge transfer.

(Source: South Africa submission to UNCTAD)

37. Further with the concurrence of the interviewee one can: *Analyze their diary*: look for the activities and when they happen and find out how they approached the activity. *Discuss their contact list*: who do they interact with, why and when, and how do they best work with these people. *Reference their filing cabinet and online files*: What are the sources they use, what are the documents they refer to, what are the slide sets, programs, spreadsheets etc. that they use? What are the things they keep in their bottom drawer?<sup>14</sup>

38. In some competition agencies the knowledge is in a few employees. Such agencies could easily get crippled if the employees’ exit by retirement or resignation. Ways to harness such knowledge involve creating good relationships and encouraging them to discuss their experiences and train the staff and codify the information through recording it manually or in ICT. Good relationships are crucial in accessing individual knowledge.

39. One of the ways to address the challenge of retention of staff is by competition agencies doing more than most public sector employers do to motivate and retain staff.

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<sup>14</sup> Young Tom, *Implementing a Knowledge Retention Strategy*, Knowledge Management review ;Nov/Dec 2006 5-9.

This include applying strategies such as high-quality training, opportunity to engage in academic work, flexibility over working time and location, encouraging work-life balance, bonuses, awards for top performing employees as well as being given credit for significant pieces of work<sup>15</sup>. For many knowledge workers it may be motivating to have free time to work on knowledge-building projects, going to conferences, or spending time on interesting projects, as monetary rewards.

40. On the other hand, a certain level of staff turnover is healthy, to ensure development and growth opportunities for those who remain, and avoid stagnation. Maintaining good relations with the organization's alumni is beneficial as they may have useful information and contacts, which the organization could rely on.

41. It is important to note that building an interactive culture and creating time for informal discussions between staff as a regular process of work is the best way to share knowledge. Exit /retention interviews should be an addition to on going process of information sharing.

## **B. Knowledge sharing**

42. Many young competition agencies report a lack of knowledge sharing culture. Individuals keep the knowledge to themselves. There is need to build a knowledge sharing culture in order to add value to staff in competition agencies and other institutions. The discipline of knowledge management is about creating and managing the processes to get the right knowledge to the right people at the right time and act on information to improve organizational performance.<sup>16</sup> People and not technology are the key to knowledge management because sharing and learning are social activities, which take place among people. Technology can capture descriptions and information, but only people can convey practices. To ensure that practices are not only shared but transferred effectively to other staff in a competition agency, one has to connect employees and allow them to share their deep, rich, tacit knowledge. Once employees start helping one another and sharing what they know, the effort becomes a self-perpetuating cycle leading to a knowledge-sharing culture.

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<sup>15</sup> ICN `Seminar on Competition Agency Effectiveness` Summary Report, January 2009.

<sup>16</sup> O'Dell Carla;Hubert Cindy, `Building a Knowledge-Sharing Culture` ,The Journal for Quality and participation; Jul 2011;34.

43. Competition agencies should create institutional structures that promote knowledge sharing between departments where meet and share with the management and between peers information on their assignments. Staff retreats, team building events are good forums to share information on what the agency is doing. This will create cohesiveness among staff in the agency and leads to knowledge sharing.

44. The agencies should build a culture in which learning from day-to-day practice is valued, encouraged and supported by providing time, public and private spaces for learning, providing learning resources (information centers, virtual universities) and reward sharers and learners. There is need to establish avenues to allow for flow of information within the agency.

45. Typical practices in the UK public sector designed to share knowledge and information include<sup>17</sup>:

- (a) Staff forums –where senior managers meet with staff and explain decisions or communicate policies and strategies in an informal setting.
- (b)  Electronic bulletins –weekly updates circulated electronically to all staff.
- (c) Traditional printed organizational newsletter and newspapers.
- (d)  Regular formal meetings with staff representatives at departmental and corporate levels.
- (e) Regular briefings cascaded verbally via managers through-out an organization
- (f)  Open access to minutes of meetings/agendas via an intranet.
- (g)  Pod casts<sup>18</sup> of presentations and speeches by senior managers/political leaders.

46. The emphasis on the above approaches is to move away from secretive and ‘need to know’ approaches and to create an open environment where information flows freely.

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<sup>17</sup> Chris Harman & Sue Brelade, ‘Managing Human Resources in the Knowledge Economy’ United Nations 7<sup>th</sup> Global Forum on Re-inventing Government, 26-29 June 2007

<sup>18</sup> A podcast is an audio or video program formatted to be played on the iPod and made available for free or for purchase over the Internet. Pod casts are now commonly used for organizational announcements and meetings in large organizations.



### **III. Possible strategies and tools to address knowledge management and human resource management challenges within a young competition agency:**

47. A question that can be asked is, how, then, is KM related to HRM? HRM is now expected to add value to the strategic utilization of employees and that employee programs impact the institutions in measurable ways. It has been argued that knowledge is dependent on people and that HRM issues, such as recruitment and selection, education and development, performance management, pay and reward, as well as the creation of a learning culture are vital for managing knowledge within firms<sup>19</sup>.

48. There is need to incorporate KM in fulfilling HRM functions such as recruitment and selection, training and development, performance management, rewards and recognition, career management and improving work environment.

#### **A. Selection processes**

49. In recruiting and selecting staff, the interview and selection processes should gather evidence about individuals' knowledge-building behaviors. In recruitment and selection processes, new questions need to be asked, such as: (i) How have they helped develop their colleagues or teams?(ii) How do they keep their own knowledge up-to-date?(iii) What are their professional networks, in terms of membership and involvement in professional associations? There is also need to assess a candidate's willingness and ability to work in groups and share knowledge. Ability to generate innovative thoughts and communicate are important abilities for the new employee to have.

50. HRM role in recruitment would therefore mean identifying and recruiting talent and allowing jobs to develop around the person. Functions should be based on the knowledge capabilities of the individuals and encourage multi-skilling depending on the capabilities of individuals.

51. Not all knowledge workers generate the same level of value to an organization or have the same impact on organizational development or growth. This may mean that

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<sup>19</sup> Edvardsson Runar Ingi(2008), *HRM and knowledge management*, Employee Relations, Vol. 30 Iss: 5, pp.553 – 556.

competition agencies adopt techniques and approaches of large corporations of ascribing different measure in earnings to different individuals based on contribution and value added. This will require the agencies communicating to the governments and authorities that fund their budgets of the need to ascribe different compensation levels depending on contribution and value addition of knowledge workers to the agencies.

52. Once an employee is recruited, there is need to develop a 'friendship system' where the new employee is attached to an experienced staff for a short time such as one month and helped to settle in. This is done by way of introduction to colleagues, being shown round the organization; on-boarding sessions with key members of staff such as other department leaders to show the recruited staff how to optimize the KM system within the institution. This will contribute to building the knowledge capabilities in the newly recruited staff and enable them settle in quickly and contribute to the organizational goals effectively.

## **B. Training and development**

53. It is important to have continuous professional development in order for the staff of competition agencies to stay at the forefront of their professional fields. Staff needs to participate in activities that offer opportunities to further their professional development.

54. Staff attachments and study tours to competition agencies with strong institutional structures are a strong component of professional training and development where knowledge is transferred to develop institutional capabilities. In some countries such as Kenya, the civil service regulations provide that government staff who undergo specific types of professional training and attachments are bonded between 1-3 years depending on length and nature of training so as to transfer knowledge and utilize the knowledge within their institutions. This is to prevent exit of staff immediately after receiving training.

55. Trainings should be planned and designed to reinforce the organization's objectives. Sometimes training is too oriented on academic issues of good competition law and neglects the basics, such as good procedure, communication, advocacy

techniques and other practical aspects of competition law enforcement. Participation in local and international events, such as trade fairs, UNCTAD meetings, ICN workshops, OECD global forum, are also a beneficial component of staff training and knowledge.

56. Competition agencies can also create coaching and mentoring programs to encourage sharing of personalized knowledge. Coaching is the practice of supporting an individual, through the process of achieving a specific personal or professional result. The coach and coachee work together towards specific professional goals.

57. Mentoring is crucial as it supports and encourage people to manage their own learning and work in order to maximize their potential, develop skills, and improve performance. Mentoring is the long-term provision of guidance to someone less experienced in order to support their general development at work.

58. Coaching and mentoring is critical for passing on of individual and tacit knowledge from more experienced staff to less experienced ones. The main reasons why organizations need coaching and mentoring activities are as follows:

(a) To maximize knowledge transfer: coaching and mentoring leads to transfer of knowledge within the agency and contextual learning.

(b) To increase the skill levels: coaching and mentoring leads to transfer of core skills ,customization of skills in relation to the agency’s mandate and cross training of staff can be achieved. It allows workers learn new skills, makes them more valuable, breaks routines and combats worker boredom.

(c)For succession planning: coaching and mentoring enhances the ability for the agency to identify “fast track” candidates and prepare them for new jobs. It also ensures continuity of performance when key workers leave the organization because core skills have already been transferred.

59. Objective-setting for individual staff members, and their evaluation, should flow naturally from the strategic plan. Deadlines and targets for staff members should be clear. Internal communication with staff (goals, objectives, and priorities etc.) is important so that staff can own the vision and objectives, strategies and goals of the competition agency.

60. Staff's participation in training and development programs, coaching and mentoring should form an integral part in the performance appraisal. In this case, employees will be required to account for how they have built the competition agency and themselves in any of the above areas.

### **C. Performance management**

61. Performance management identifies who or what delivers the critical performance with respect to the organizational strategy and objectives, and ensures that performance is successfully carried out. Performance management needs to consider the different ways in which individuals contribute knowledge. Managers need to consider:

(a) Knowledge acquisition - what knowledge has the individual brought into the competition agency?

(b) Knowledge sharing - how has the individual applied their knowledge to help others to develop?

(c) Knowledge re-use - how frequently has the individual re-used existing knowledge and what has been the outcome?

(d) Knowledge development - has the individual actively developed his/her own knowledge and skills? How well has the individual applied his/her learning?

### **D. Compensation and rewards**

62. As indicated above, one of the advantages of administrative independence is that HRM can also offer attractive compensation and rewards. Reward systems indicate that the organization values and shapes individuals' behavior. It is important to reward and recognize knowledge-sharing behaviors. Rewards address the universal question, '*what's in it for me?*' they also help to communicate what is really important for the organization. Employees should be rewarded for sharing what they know, and reward departments for fostering collaboration. Best practice organizations see rewards and recognitions as a way to acknowledge the value of sharing knowledge, appreciate the contributions employees make, and increase awareness of teamwork.

63. For instance, the Korean Fair Trade Commission(KFTC) has a system of rewards to maintain vitality of the knowledge management system through knowledge registration, evaluation, accumulation and sharing. The system of rewards is in the form of ‘knowledge mileage program’ where miles are given based on the number of registrations, reference, evaluation and comments. At the end of the year, a monetary or non-monetary award is given for an employee based on the miles earned. The KFTC also organizes a ‘Knowledge Contest’ where every employee provides one piece of knowledge for a limited period. All information is evaluated and the employees selected as providers of outstanding knowledge are awarded.<sup>20</sup>

#### **F. Change in management roles**

64. In order for knowledge and human resource management to be effective for the enforcement of competition law, management roles have to change from the roles of managers as controllers to managers playing roles of coaches, co-workers, and facilitators. According to Chris Harman and Sue Brelade<sup>21</sup>, experience indicates that the effective manager in a knowledge environment supports the acquisition and sharing of information and expertise by:

- (a) Encouraging individuals to use their knowledge and expertise
- (b) Facilitating innovation and creativity and encouraging new ideas.
- (c) Representing the interests of the team/individuals to the organization.
- (d) Supporting the work of physical and virtual teams.

65. In this context, the management of virtual teams exhibits a less controlling approach to the management task. It emphasizes skills such as project management, prioritizing and planning, setting objectives, monitoring outcomes. An example of management of virtual and multi disciplinary teams in enforcement of competition law is the UNCTAD led COMPAL programme<sup>22</sup>. COMPAL is a technical assistance programme on competition and consumer protection policies for Latin America supported by SECO (Switzerland). This programme assists Bolivia, Colombia, Costa

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<sup>20</sup> Jaeho Moon, ‘Knowledge Management System in the KFTC’ presentation for the ICN 10<sup>th</sup> Annual Conference, Hague.

<sup>21</sup> Chris Harman & Sue Brelade, ‘*Managing Human Resources in the Knowledge Economy*’ United Nations 7<sup>th</sup> Global Forum on Re-inventing Government 26-29 June 2007.

<sup>22</sup> <http://compal.unctad.org>.

Rica, Ecuador, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, and Uruguay, to strengthen their capacities and institutions in the areas of competition and consumer protection laws and policies. The teams are composed of people from a number of different organizations – government, competition and consumer protection agencies, university research professors, private sector companies and individual experts.

66. The COMPAL lead team in Geneva has clear targets and deliverables, and less direct control over the team engaged in the project. The use of web-based technology has helped teams work virtually. The managers deliver results without the traditional tools of ‘command and control’. Motivation is based on the intrinsic motivation in the work and the role of the managers is to facilitate, coach and as co-workers not direct control. This has led to tremendous reforms in COMPAL countries, where all have countries have competition and consumer laws in place. At the outset only Peru and Costa Rica had competition laws and authorities in place. There has been capacity building in the countries in form of free flow of knowledge.

67. The above model can be replicated by young competition agencies in different regions which could work together towards similar outcomes of capacity building and enforcing competition law and policy within their regions. For example, the AFRICOMP programme is an example of such an effort aimed at helping African countries develop appropriate administrative, institutional and legal structures for effective enforcement of competition and consumer laws and policies. UNCTAD has been working with development partners to extend the concept to the establishment of two training centers in Francophone and Anglophone Africa.

68. The virtual partnerships between competition agencies will help to develop an integrated approach towards competition law enforcement in their regions. They will be able to share information, knowledge and resources across organizational and country boundaries. For human resources managers in competition agencies this will involve:

- (i) Encouraging collaboration
- (ii) Making ideas accessible
- (iii) Exploring (and resolving) conflicts

- (iv) Encouraging dialogue
- (v) Encouraging a sense of community, common interest and trust.

69. At individual level it will involve suspending judgment on some occasions and being tolerant of different viewpoints.

70. For managers of young competition agencies to succeed in this type of environment, human resource departments activities need to encourage and equip them to:

- (a) Challenge their own assumptions.
- (b) Understand how their actions can help or hinder creativity and innovation.
- (c) Learn to trust, accept and productively manage ‘maverick’ behavior.<sup>23</sup>
- (d) Structure work to maximize learning opportunities.
- (e) Accept that some mistakes will occur.
- (f) Coach and mentor others as an intrinsic part of the work.
- (g) Redefine problems as learning opportunities.
- (h) Recognize and reward innovative contributions.

71. For managers this involves understanding individuals and teams and having a willingness to be open to new ideas and development.

## **G. Values and ethics**

72. For individuals to actively contribute in a knowledge environment there should be a balance in HRM policies and practices that has an ethical basis that can be recognized and accepted. This is more clearly seen in situations of knowledge transfer, for example collaborative projects, mergers and acquisitions and, at national level, the transfer of skilled workers from one country to another. In knowledge transfer, knowledge workers are being asked to pass on their knowledge to others or facilitate the competition agency in encapsulating and encoding what they know. This can be a threatening exercise for the individual if they perceive that their value is based on

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<sup>23</sup>Behavior of an independent person who refuses to follow the usual standards or customs of the group. For instance the late Steve Jobs made great accomplishments in ICT by refusing to follow the usual standards. He stretched the limit of technology to meet unmet needs of consumers which made Apple Inc. ahead of the competition in its products.

what they know. The individual may feel that if they share whatever knowledge they have, their positions will be in jeopardy.

73. Cooperation in knowledge sharing is readily obtained where there is an ethical framework based on recognizing the mutuality of interest. Three principles that have been found to be common in successful knowledge transfers are;(i) reciprocity (a mutuality of benefit for the individual and the organization; whether economic, social, developmental etc.); (ii) recognition (that is an acknowledgement that there is shared ownership of the knowledge, between the individual, the organization and wider society);(iii) utilization (that the result of the knowledge transfer will be a wider sharing and use of the knowledge)<sup>24</sup>.

74. Incorporating the idea of social ownership of knowledge to develop society in knowledge transfer becomes particularly relevant. That society has invested in the infrastructure, provided education and development of the individual and the framework within which both the individual and the competition agency exist and operate.<sup>25</sup> UNCTAD has created a *Research Partnership Platform on Competition and Consumer Protection (RPP)*<sup>26</sup>. UNCTAD RPP is an initiative that aims at contributing to the development of best practices in the formulation and effective enforcement of competition and consumer protection laws and policies so as to promote development. The RPP brings together research institutions, universities, competition agencies, business and civil society, and provides a platform where they can undertake joint research and other activities with UNCTAD, exchange ideas on the issues and challenges in the area of competition and consumer protection faced particularly by developing countries and economies in transition. This incorporates the idea of social ownership of knowledge to develop society and will help build human resource capacity in competition law and policy in universities, competition agencies, and other institutions.

## **H. Culture and change**

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<sup>24</sup> Chris Harman & Sue Brelade, 'Managing Human Resources in the Knowledge Economy' United Nations 7<sup>th</sup> Global Forum on Re-inventing Government 26-29 June 2007.

<sup>25</sup> Ibid.

<sup>26</sup> [www.unctad.org](http://www.unctad.org)



75. The working definition of knowledge management given in this paper has great implications for organizational culture. Experience indicates that a culture conducive to knowledge management is one that values:(a) □networking and broad contacts externally and internally; (b) □respect for individuals;(c) creativity and innovation; (d) trust ;(e) sharing of ideas and information ;(f) sound underlying systems and procedures ; and (g) continuous learning and development.

76. When engaged in culture transformation, making a competition agency fit for the knowledge economy, it is usual to invest in the systems and processes, such as ICT systems and processes. A challenge in any such project is to effectively manage the culture of the agency to utilize the knowledge management systems and to align that culture with what is required in the knowledge economy.

77. Understanding an existing culture, involves understanding what creates it, what drives it, what reinforces it. Where change programmes do not succeed, the technology driven changes will also often fail to deliver the promised benefits. There is need to understand the organizational culture in order to implement change programmes to implement KM strategies.

78. Competition agencies should design tailor-made KM and HRM systems geared towards addressing their various clientele and stakeholders needs, including business community, policy makers, consumer associations, academia, sector specific regulators. There should be a culture of information flow from the agencies to the stakeholders. In addition, internal KM systems should adequately create synergies between staff and management; including, chief executive, board members, the courts, the appeal tribunal. The holistic approach to application of KM is recommended when considering effective enforcement in a competition agency.

79. Where such change programmes are more successful, there is usually observable evidence of conscious working with the existing culture. The change is based on understanding and building on those values inherent within the existing culture that are conducive to effective knowledge management. Building a culture for knowledge management through this approach require changes to systems and processes and changes to the ways of doing things.

80. In addition, when considering KM and HRM strategies for competition agencies, it is important to consider the local environment in terms of priority sectors, market distortion areas, and major stakeholders and build capabilities in staff to handle the challenges of the local environment. Cultural values should also be considered when designing KM systems in different regions especially in cases where best practices are being adopted from one region to the other. In KM and HRM matters, not one size fits all. Transplanting systems from other competition agencies, jurisdictions and, regions is not always a perfect fit. Alignment to local conditions is necessary in order to produce the desired results. Identification of local knowledge base should act as the spring board towards designing effective KM and HR systems especially in the South.

81. HRM polices and activities which transmit the organizational culture to new employees and reinforce the organizational culture with existing employees should not involve trying wholesale to replace the existing culture or importing a new culture and a new way of doing things with no regard to what already exists. The more successful change programmes align new values with old, the new culture with the old culture. They do not seek to confront the old culture head-on but rather work with and through it.

#### **IV. Knowledge management strategies that can be applied to human resource management**

82. Researchers have indicated that organizations do not adopt a uniform approach to knowledge management<sup>27</sup>. They outline two distinct strategies utilized when selecting a KM approach. The strategies are '*codification*' centered around ICT systems and processes and '*personalization*' centered around human resources.

83. Codification strategy refers to the classification of explicit knowledge that is formal and objective and can be expressed in words, numbers and specifications. Knowledge such as cases, legal-precedents, peer-agency approaches and outcomes, peer, academic and judicial critiques tends to be stored in databases where it can be accessed and used readily by anyone in the competition agency. Competition agencies can invest in ICT for projects like intranets, data warehousing and data mining, knowledge mapping (identifying where knowledge is located in the firm) and

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<sup>27</sup> Hansen, M.T., Nohria, N. and Tierney, T. (1999) 'What's your strategy for managing knowledge?' Harvard Business Review, 77, 106-116.

#### **Box 4. South Africa Competition Commission KM system**

The South African Competition Commission has recently completed an upgrade to Sharepoint 2007, coupled with a workflow component (K2 Blackpearl) to better support collaboration and management information tracking. The system is available to all members and teams are allocated areas per case, within which they are required to store and reference all case-related material. The system also has divisional and non-case areas for the retention and retrieval of general information that is useful for executing its mandate and supports case-work more broadly.

Through the KM system – users can upload and store information and outputs on the electronic system. Hard copy information is archived at an offsite document management service provider. *(Source : submission by South Africa)*

electronic libraries<sup>28</sup>. This increases effectiveness and growth as the re-use of knowledge saves work, reduces communications costs, and allows the competition agency to take in more work/projects. It is therefore closely related to exploitative learning, which tends to refine existing capabilities and technologies, bringing through standardization and routine and is risk averse.

84. Personalization strategy refers to personal development of tacit knowledge that is based on insights, intuition and personal skills for solving complex problems. Such knowledge is mainly shared through direct person-to person contacts. Employees who collaborate and share knowledge are better able to achieve their work objectives, do their assignments more quickly and thoroughly and receive recognition from their peers and mentors as key contributors and experts.

85. Communities of practice are among the techniques that have to be used in order to facilitate knowledge sharing. A community of practice is group of people who share similar interests e.g. a craft or a profession, and is created with a goal of increasing knowledge related to their field. They can exist online through ‘discussion boards’ or ‘newsrooms’ or in real groups that meet at work. It is through the process of sharing

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<sup>28</sup> Edvardsson Runar Ingi(2008), *HRM and knowledge management*, Employee Relations, Vol. 30 Iss: 5, pp.553 – 561.

information and experiences with the group that the members learn from each other, and have an opportunity to develop themselves personally and professionally. Competition agencies should create communities of practice where staff learn from one another, these can be online or real groups that meet regularly for knowledge sharing and transfer.

86. Personalization and explorative learning are closely related, where explorative learning is associated with complex search, basic research, innovation, risk-taking and more relaxed controls. For personalization strategy to succeed there is need for flexibility, investment in learning and the creation of new capabilities within a competition agency. The more experienced staff must be encouraged to share their knowledge with other staff and there should be a strong focus on on-the-job knowledge transfer and learning.

87. The ICN survey on effective KM, found that most responding agencies (80%) do not have methods of organizing work that facilitate knowledge sharing, such as project teams mixing junior and senior staff or new recruited staff with experienced staff, 75% have an a training induction course that includes training on how to use the agency's KM system. 56% have materials regarding how to used the agency's KM stored on its Km system that staff can access easily and 77% carried out informal training-on-the job or mentoring. Some agencies introduced in-depth training and coaching system and assigned experienced employees to mentor and tutor newcomers.<sup>29</sup>

88. When codification and personalization strategies are implemented together, the institution's KM capabilities are strengthened. For example since 2005, the National Economic Prosecutor's Bureau of Chile has developed and used an electronic system of case follow-up, first in the Economic Analysis Division and then extended to the rest of the organization. It is used in several areas of work, and includes tools of planning, reporting and storage of reports. The Bureau also set up a specialized library that holds up to date collection of titles in competition law, economic and other relevant subjects for competition analysis with access to main electronic sources including 'econlit' full text, legal references and several databases. In the area of HRM, the Bureau built capacity in hiring high profile young staff, and offers internal

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<sup>29</sup> ICN *'Effective Knowledge Management'* Ch.3, Agency effectiveness handbook, 2012

mechanisms of performance assessment and incentives that aim to reward the alignment of individual performance with institutional goals<sup>30</sup>.

89. The codification and personalization strategies in KM help to frame the management practices of the organization as a whole are outlined in the Table<sup>31</sup> below.

*Knowledge management strategies that can be applied to human resource management*

	<b>Codification Strategy</b>	<b>Personalization strategy</b>
General strategy	Develop ICT system that codifies ,stores, disseminates and allows re-use of knowledge	Develop networks for linking people so that tacit knowledge can be shared.
Use of ICT	Invest heavily in ICT	Invest moderately in ICT
Human Resources: Recruitment and Selection	Hire new college graduates who are well suited to the re-use of knowledge and the implementation of solutions	Hire MBAs who like problem solving and can tolerate ambiguity
Training and Development	Train people in groups and through computer-based	Train people through one-to-one mentoring

<sup>30</sup> Submission by Chile

<sup>31</sup> Edvardsson Runar Ingi (2003), 'Knowledge Management and Creative HRM', Occasional Paper 14, Department of Human Resource Management, University of Strathclyde.

	distance learning	/coaching
Rewards Systems	Reward people for using and contributing to document databases	Reward people for directly sharing knowledge with others.

Source: - Edvardsson Runar Ingi (2003) '*Knowledge Management and Creative HRM*'

90. The above table links both KM and HRM to the competitive strategy of the organization, that is, it is not knowledge itself but the way it is applied to strategic objectives of an organization that is the critical ingredient of competitiveness and success. This is likely to bring multiplier effects to the effectiveness of the operations of competition agencies and therefore successful implementation of competition policy and law within a country.

91. Effective KM facilitates the acquisition of knowledge by individuals and encourages them to apply their knowledge for the benefit of the organization so that competitive advantage and service excellence are achieved. Making knowledge workers productive requires changes in attitude, not only on the part of the individual knowledge worker, but on the part of the whole organization.<sup>32</sup>

## V. Issues for discussion

- a) In the first years of competition agency operations, which areas of KM and HRM should be given priority in order to create maximum impact?
- b) How can young competition agencies include KM and HRM strategies into their organization procedures?
- c) In cases where competition agencies are a department in a government ministry, how can the agencies influence government policy to include KM and HRM strategies that are oriented to their needs?
- d) What strategies can the mature competition agencies adopt to share best KM and HRM practices with young competition agencies in developing countries?

<sup>32</sup> Drucker P.F. (1999) 'Management Challenges for the 21st Century', pg.156 Butterworth-Heinemann, Oxford.

