

A Strong Federal Cartel Office 2026

Competition of the Future

Legal notice

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PUBLISHER

Monopolies Commission

The following should be cited as the source: Monopolies Commission (2026), A Strong Federal Cartel Office, Special Report 85.

Where tables and figures are accompanied by source references, these must also be cited as sources when quoting.

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DATE: October 2026

Executive summary



With this report, the Monopolies Commission seeks to contribute to the debate on effective institutions in a democratic state governed by the rule of law. The Federal Cartel Office (Bundeskartellamt) is a central institution within this framework. The economy and society are undergoing profound changes that can challenge, and at times even threaten, public institutions. On the one hand, external shocks can directly affect an independent institution such as the Federal Cartel Office in particular. Examples from abroad illustrate this: the dissolution of competition authorities is being discussed in parts of South America, and in June 2026 the US Supreme Court overturned the protection against dismissal enjoyed by members of the Federal Trade Commission, thereby weakening their independence. On the other hand, an institution must also be able to keep pace with change internally and adapt its working methods to new developments.

The analysis and recommendations in this report are therefore guided by three criteria:

ADHERENCE TO FUNDAMENTAL VALUES concerns the extent to which the authority remains firmly anchored in the democratic state governed by the rule of law despite its extensive powers. This rests on the interaction of several elements rather than a single safeguard: the authority's independence from political interference, accountability for its own powers through transparency, the duty to account for its actions and procedural rights, and its democratic legitimacy. The political independence of the Federal Cartel Office is the defining feature that makes the protection of competition in Germany possible in the first place. Safeguarding that independence, within this interplay of power and oversight, is a central concern of this report.

OPENNESS TO CHANGE concerns the authority's capacity to learn and adapt: can it learn from new insights and develop, rather than remain entrenched in familiar patterns? Can it enforce competition protection resolutely at a time when technological developments are changing markets ever more rapidly? This also involves dealing with unwelcome criticism. Any organisation readily accepts approval; its ability to learn is revealed by assessments it has not requested.

EFFECTIVENESS refers to the authority's substantive objective: successfully fulfilling its core task of protecting competition. The Federal Cartel Office already achieves this. It has performed its tasks to a high standard for decades and ranks among the leading competition authorities internationally. Effectiveness, however, is not a state that, once attained, is secured for ever; it must be sustained under changing conditions.

The three criteria stand alongside one another and run through all the sections that follow. They interact without being reducible to one another: an authority that does not learn will become less effective over time, and an authority that does not ensure accountability for its powers will lose the basis for exercising those powers at all.

The Monopolies Commission does not propose a fundamental restructuring of the authority. Proven features such as its narrowly defined remit, its political independence and the court-like working methods of the Decision Divisions should be retained. Instead, the report identifies specific areas where adjustments can better equip the authority for the future. In addition to the four topics addressed in the following summary, the report also examines the Federal Cartel Office's international integration.

1 – How can the Federal Cartel Office remain protected from political interference?

STATUS QUO



Political independence is the defining feature of the Federal Cartel Office: it decides its cases solely on legal and substantive criteria, without instructions from outside. This practice has proved its worth, although it is not consistently safeguarded in law. Independence rests on several distinct building blocks – the definition of its tasks, legal protection against instructions, transparency in internal processes and the arrangements governing the conduct of office. Each can be developed in a targeted way to make the authority still more resilient to future pressures.

ASSESSMENT



Effective protection of competition requires an independent authority. Independence alone is not enough, however: it must be balanced with democratic legitimacy and accountability, because any authority exercising extensive powers needs corresponding safeguards. Political independence is therefore not a condition that can simply be maximised: it redistributes decision-making powers, oversight and responsibility between political institutions and the authority, and each distribution entails its own trade-offs. The longer and more strongly a leadership shapes an authority's operating framework, the more important it becomes that this framework remains open to external scrutiny and is regularly renewed. This also strengthens the authority's resilience to external pressure and its openness to change.

RECOMMENDATIONS



To protect the Federal Cartel Office from political interference and strengthen competition law enforcement in the long term, the Monopolies Commission proposes targeted adjustments:

- **A clear mandate:** The Federal Cartel Office should concentrate on enforcing competition law and take on additional tasks only where there are clear synergies with its core activity, because a limited remit offers fewer points of vulnerability.
- **Independent leadership:** The President should be selected through a transparent process involving a public advertisement and a clear profile of the required expertise, enshrined in the GWB. The term of office should be limited to around eight to twelve years, with no possibility of reappointment, so that the leadership is regularly renewed and remains open to external scrutiny. The bill for the 12th amendment to the GWB already provides for eight years, which the Monopolies Commission welcomes.
- **Legal safeguards:** The independence of the Decision Divisions – the Office's decision-making units, which are organised along court-like lines – should be expressly enshrined in law. Under this provision, decisions in individual cases would be taken independently and free from instructions from the leadership or other bodies. Constitutional entrenchment is unnecessary.
- **Public transparency:** The Federal Cartel Office should draw up, on its own responsibility, a publicly accessible list of priorities disclosing the criteria by which it selects cases. Its rules of procedure and schedule of responsibilities should be published. Its activity report should also present staffing and material resources in relation to its tasks, because adequate resources are a prerequisite for effective independence.

2 – How are independence and decision-making powers distributed within the authority?

STATUS QUO



Within the Federal Cartel Office, the Decision Divisions decide cases independently on their merits, including independently of the authority's own leadership. This is unusual internationally and a defining feature of the German model. The arrangement works well in the great majority of proceedings because

responsibility is clearly assigned and those taking the decision know the case from their own investigation. However, all proceedings are decided by a panel of no more than three people, irrespective of the case's significance. The Federal Cartel Office has a single-head leadership structure. Its decisions may be challenged in court. Case selection, priorities in casework, investigative approaches, the discontinuation of proceedings and forms of action that do not result in appealable decisions are subject to no judicial review or only limited review. Transparency concerning these activities is relatively limited.

ASSESSMENT



Wherever decision-making powers are exercised independently, the same question arises: who decides, and how is accountability for those powers ensured? This applies to the day-to-day work of the Decision Divisions just as much as to the authority's leadership. There is therefore an international debate about whether a competition authority is better led by a single head or a collegial body. A collegial body can bring together different professional perspectives and make capture more difficult, but tends to slow down decisions. The Monopolies Commission favours retaining the existing single-head model because the substantive decision-making powers lie with the Decision Divisions in any event. Instead, accountability should focus on the areas where it is most needed: case selection, particularly significant individual decisions, personnel interventions that may impair independence, and the authority's transparency and accountability for its practice.

RECOMMENDATIONS



The Monopolies Commission addresses three points that specifically remedy existing weaknesses while retaining the authority's basic structure.

- **Broader participation in decision-making:** Proceedings of major significance, particularly under sections 19a and 32f(3) and (4) GWB, should be decided by an enlarged Decision Division comprising five people. This would include, for example, proceedings against digital companies of paramount significance for competition across markets. Its composition and case selection should be determined by an internal committee that has yet to be established. This committee should also participate in the exercise of far-reaching powers such as publishing the Office's list of priorities.
- **Protected case responsibilities:** Changes to responsibilities during ongoing proceedings, such as replacing rapporteurs, should be possible only for objective reasons and, where appropriate, require the consent of the internal

committee to be established. This would prevent cases from being reasigned for extraneous reasons.

- **Transparency and openness to criticism:** Significant decisions and Letters of the Chairman should be published promptly and in full. The Federal Cartel Office should respond visibly to reasoned criticism from the expert community and put institutional arrangements in place to ensure this.

3 – How can the Federal Cartel Office promote its openness to change?

STATUS QUO



The Federal Cartel Office is regarded internationally as one of the best competition authorities. Yet precisely this long-standing success carries a risk: entrenched perspectives can become more firmly established without this being noticed internally. Decisions regularly involve only a small group of staff. The intensity of judicial review is low. Independent external expertise is rarely brought into proceedings. Independence provides protection, rightly, against consequences.

ASSESSMENT



The academic literature describes a recurring pattern in successful organisations: past successes can encourage defensive ways of thinking that keep necessary criticism at bay. In the Monopolies Commission's view, openness to change means that an authority can incorporate new elements, embed learning institutionally and remain receptive to input from outside. Behavioural economic concepts such as confirmation bias (the tendency to seek only information that confirms existing beliefs) and the risk of regulatory capture (a gradual convergence of perceptions through years of contact with the same companies) are particularly relevant to competition authorities. Other authorities internationally make more deliberate use of external input.

RECOMMENDATIONS



The Monopolies Commission proposes several building blocks that together feed a wider range of external and internal perspectives into the work of the Decision Divisions in a structured way, while preserving their decision-making authority.

- **The position of Chief Economist:** This position should be filled externally for a fixed term, following a public advertisement and through a selection committee involving external experts. The Chief Economist should be free from instructions on substantive matters and prepare an independent economic assessment in proceedings of fundamental significance, to be published after the proceedings have concluded. This would bring an independent economic perspective into proceedings. It would not confer a right to participate in taking the decision.
- **External input:** The Federal Cartel Office should establish a programme under which external experts from business, the legal profession, economic consultancies, academia or civil society work at the Office for a limited period. The Office should also conduct public consultations more frequently in proceedings of fundamental significance.
- **Systematic knowledge management:** Fixed rotation rules for staff in the Decision Divisions should promote exchanges between divisions. The existing case database should be expanded into a comprehensive knowledge management system accessible to all staff. Debriefings on major projects should become mandatory and be documented.
- **The position of Procedural Officer:** This new position should be filled externally for a fixed term. The person should be selected following a public advertisement and with the involvement of a selection committee. They would support the Decision Divisions on procedural rights and mediate in disputes with companies.

4 – How can the Federal Cartel Office protect competition in the digital age?

STATUS QUO



The authority already devotes considerable substantive attention to markets shaped by digitalisation. It applies section 19a GWB in proceedings against major digital companies and, in the Facebook proceedings, decided one of the best-known cases concerning data-driven business models. However, it does not yet have a dedicated, systematic approach to monitoring innovation and technology as drivers of competition. The Federal Cartel Office has so far made only isolated use of digital tools in its internal working processes: the use of artificial intelligence to analyse large volumes of documents is still in its early stages, and

electronic case files are being planned. This data could also provide a basis for reviewing more systematically than before whether past decisions and forecasts were correct. The authority has not yet established such ex-post evaluation of its own decision-making practice. Proceedings are less structured than in other countries and involve numerous organisational tasks that often delay their swift conclusion.

ASSESSMENT



Technological change operates on two levels: it changes how markets function, for example through network effects and data-driven business models. At the same time, it enables authorities to adopt new ways of working, such as using artificial intelligence to analyse large volumes of documents. International comparisons show that other competition authorities have already progressed further in this area. In 2018, the UK's Competition and Markets Authority (CMA) introduced a dedicated Data, Technology and Analytics unit and embedded it in its leadership through a new position, the Chief Data, Technology and Insight Officer. International experience with ex-post evaluations likewise shows that many competition authorities have conducted them in the recent past.

RECOMMENDATIONS



The Monopolies Commission proposes a package of measures to integrate technological expertise more closely into casework, enable systematic learning from past decisions and accelerate proceedings in a targeted manner while preserving companies' procedural rights.

- **Technological expertise:** The Federal Cartel Office should build a data-driven competition monitoring system focused on innovation and technology and involve more staff with scientific or technical backgrounds for this purpose. The expertise in digital services, data analysis and emerging technologies that is currently dispersed should be brought together under a head of Monitoring, Innovation and Technology. This position should be filled externally for a fixed term through an open selection process.
- **Systematic ex-post evaluations:** Ex-post evaluations should in future be conducted regularly to review competition law decisions. The Federal Cartel Office, the Monopolies Commission and academic experts should discuss cases and methodology jointly. The findings should feed systematically back into the Federal Cartel Office's future casework.

- **Modernising proceedings:** The planned electronic case files and the use of AI applications should be supplemented by an electronic case portal. Proceedings should be given a clearer structure by narrowing the scope of the investigation at an early stage and setting milestones with deadlines. Lawyers-only access to the file should also be introduced in administrative competition proceedings, so that trade and business secrets no longer have to be redacted separately for each instance of access to the file.