



COMPETITION  
ANTI-CORRUPTION  
GOOD GOVERNANCE

**Mona Caroline Chammas**

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OECD - ESCWA - UNCTAD  
Competition Forum for the Arab Region  
Beirut, 24 Jan 2020

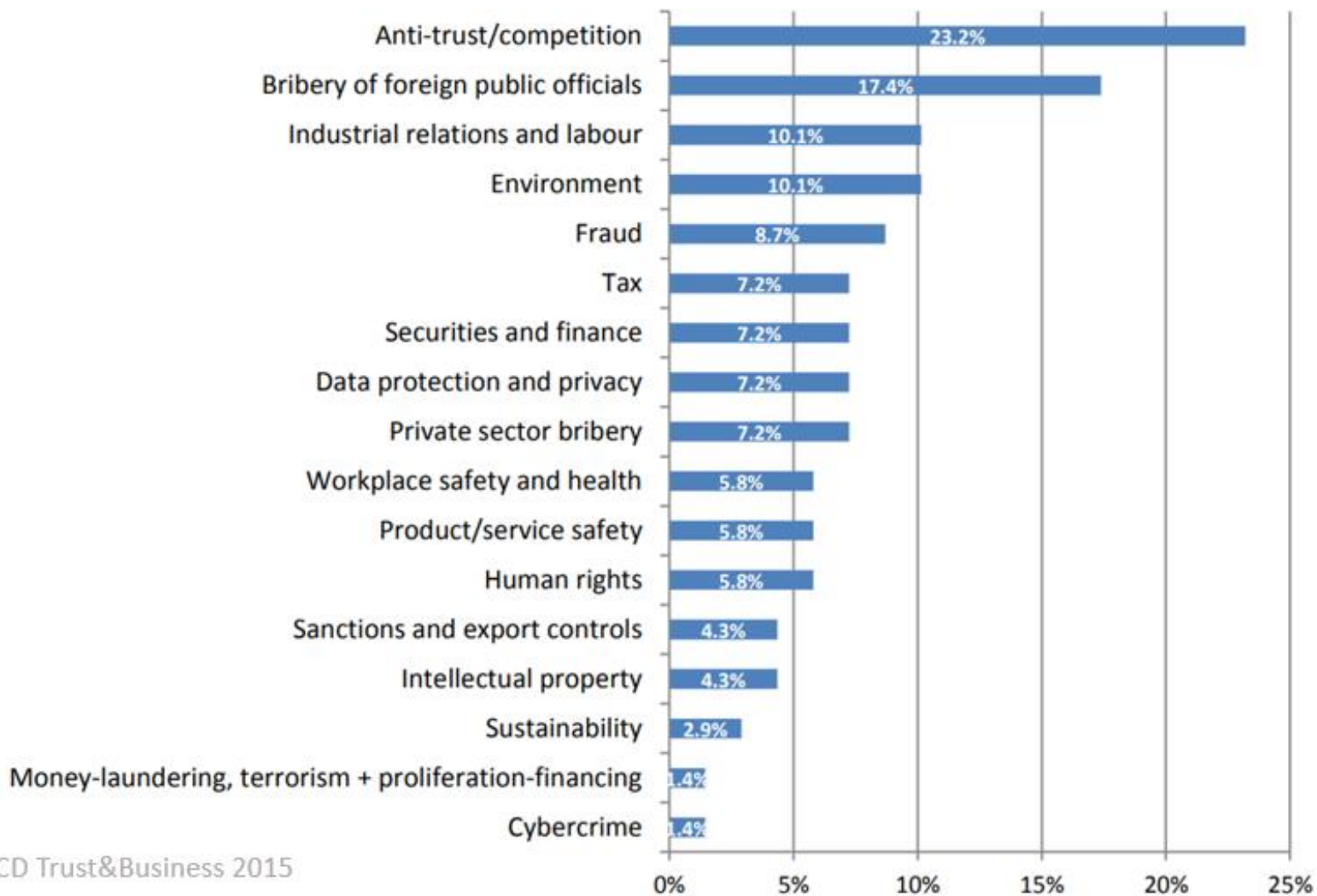
COMPETITION

ANTI-CORRUPTION



GOOD GOVERNANCE

Figure 21. **Company respondents subject to media allegations or law enforcement proceedings, per category of misconduct**



©OECD Trust&Business 2015

> Abuse of dominance and monopolisation

> Cartels and anti-competitive agreements

> Mergers

> Liberalisation and competition intervention in regulated sectors

> Pro-competitive Policy Reforms

> Competition enforcement practices

> Regulatory reform and competition policy

## Fighting corruption and promoting competition



### 2014 OECD GLOBAL FORUM ON COMPETITION DISCUSSES THE FIGHT AGAINST CORRUPTION

Three years after discussing [Collusion and Corruption in Public Procurement](#) at their 2011 meeting, participants at the 2014 [Global Forum on Competition](#) discussed how anti-competitive behaviour and corruption interact through the corruption of business licensing processes or other types of

regulation to restrict entry. More general links between corruption and anti-competitive behaviour were addressed such as public and judicial attitudes to these two abuses, as well as the links between institutions engaged in fighting them.

Participants shared relevant cases from their own jurisdictions and also any formal or informal agreements with anti-corruption institutions.

Issues discussed included:

- How do we define corruption?
- What factors favour the emergence or persistence of corruption?
- What are the policy levers to limit or eradicate corruption?
- How does the development of a competition policy help in the fight against corruption?

Four experts and the Forum keynote speaker, **Ms Obiageli Ezekwesili** (co-founder or Transparency International) interacted with participants during this discussion.

#### SUMMARY DOCUMENTS

[Executive Summary with key findings](#) | [Synthèse](#)

[Detailed summary of the discussion](#) | [Compte rendu](#)



Angel Gurría talks about the fight against corruption at the Chatham House Conference on Combating Global Corruption on 3 Feb 2014.

#### SEE ALSO

[Guidelines for fighting bid rigging in public procurement](#)

[Collusion and corruption in public procurement](#) (2011, pdf)

[CleanGovBiz initiative](#)

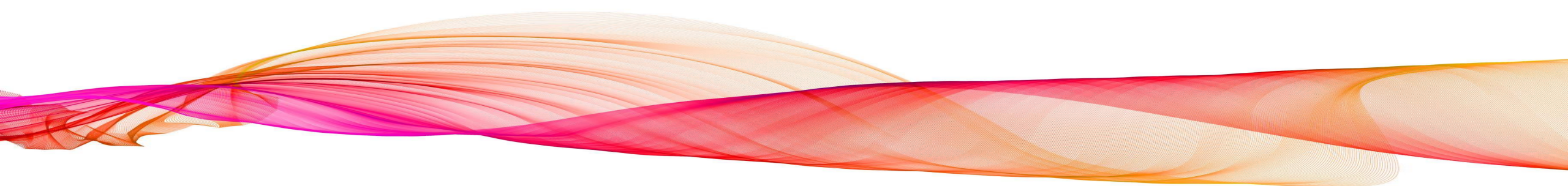
[Global Forum on Competition Home Page](#)

[Competition Home Page](#)

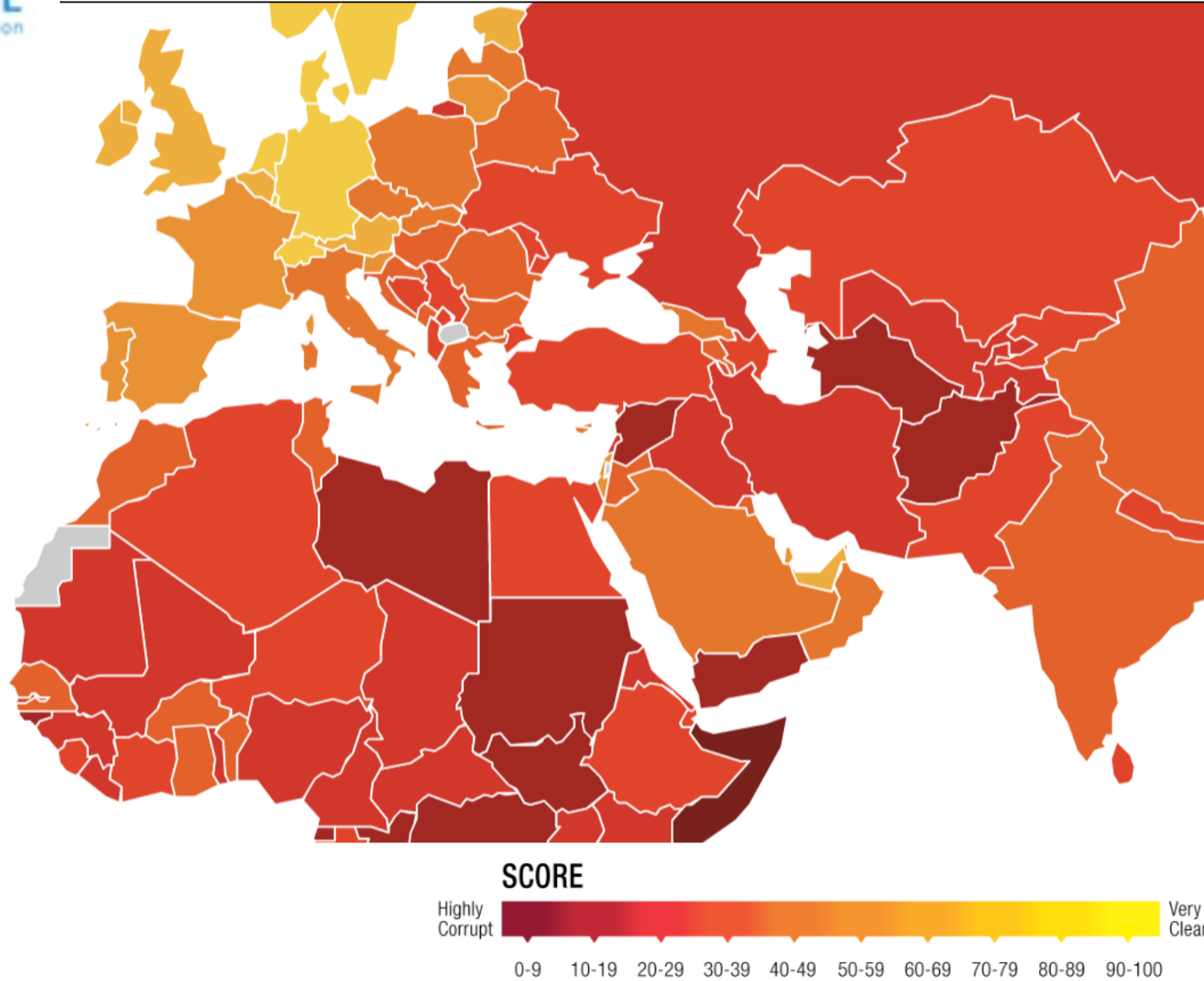
### GLOBAL FORUM SESSION DOCUMENTATION



# HOW DO YOU PERFORM ...ON CORRUPTION?



# CORRUPTION PERCEPTIONS INDEX 2019



# CORRUPTION PERCEPTIONS INDEX 2019

**18**

**COUNTRIES ASSESSED**

**39** /100

**AVERAGE REGIONAL SCORE**

**TOP SCORERS**

UNITED ARAB EMIRATES

**71**/100

QATAR

**62**/100

**BOTTOM SCORERS**

LIBYA

**18**/100

YEMEN

**15**/100

SYRIA

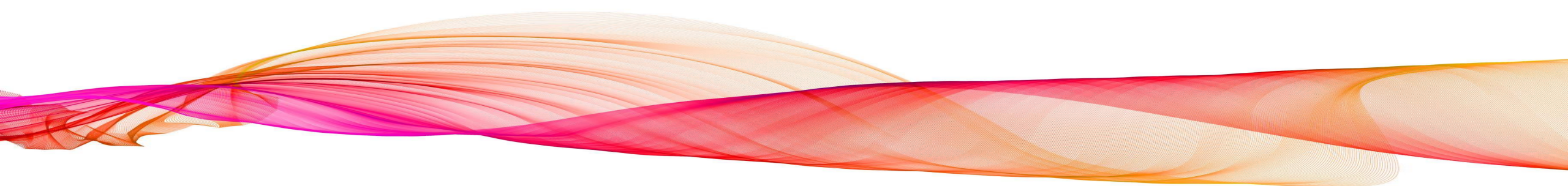
**13**/100







HOW DO YOU PERFORM  
...ON COMPETITIVENESS?

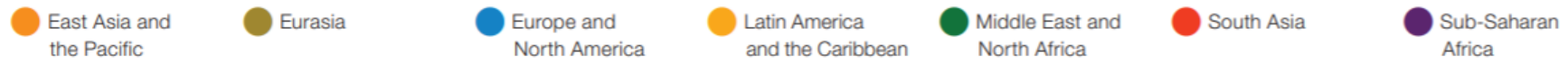


# The Global Competitiveness Index 4.0 2019 Rankings

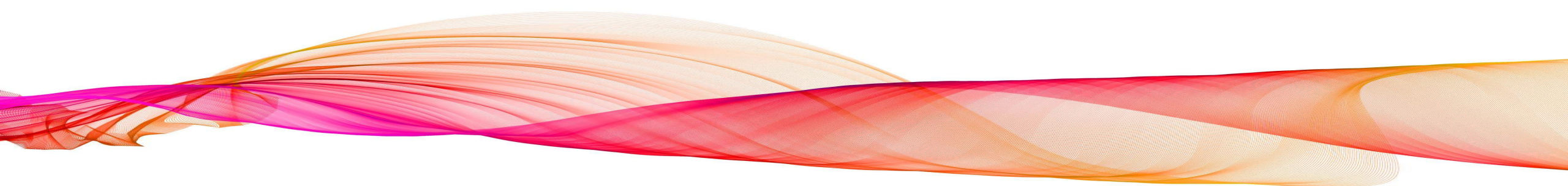
Covering 141 economies, the Global Competitiveness Index 4.0 measures national competitiveness—defined as the set of institutions, policies and factors that determine the level of productivity.

Rank	Economy	Score <sup>1</sup>	Diff. from 2018 <sup>2</sup>		Rank	Economy	Score <sup>1</sup>	Diff. from 2018 <sup>2</sup>		Rank	Economy	Score <sup>1</sup>	Diff. from 2018 <sup>2</sup>	
			Rank	Score				Rank	Score				Rank	Score
1	Singapore	84.8	+1	+1.3	48	Mexico	64.9	-2	+0.3	95	Kenya	54.1	-2	+0.5
2	United States	83.7	-1	-2.0	49	Bulgaria	64.9	+2	+1.3	96	Kyrgyz Republic	54.0	+1	+1.0
3	Hong Kong SAR	83.1	+4	+0.9	50	Indonesia	64.6	-5	-0.3	97	Paraguay	53.6	-2	+0.3
4	Netherlands	82.4	+2	—	51	Romania	64.4	+1	+0.9	98	Guatemala	53.5	-2	+0.2
5	Switzerland	82.3	-1	-0.3	52	Mauritius	64.3	-3	+0.5	99	Iran, Islamic Rep.	53.0	-10	-1.9
6	Japan	82.3	-1	-0.2	53	Oman	63.6	-6	-0.8	100	Rwanda	52.8	+8	+1.9
7	Germany	81.8	-4	-1.0	54	Uruguay	63.5	-1	+0.8	101	Honduras	52.7	—	+0.2
8	Sweden	81.2	+1	-0.4	55	Kazakhstan	62.9	+4	+1.1	102	Mongolia	52.6	-3	-0.1
9	United Kingdom	81.2	-1	-0.8	56	Brunei Darussalam	62.8	+6	+1.3	103	El Salvador	52.6	-5	-0.2
10	Denmark	81.2	—	+0.6	57	Colombia	62.7	+3	+1.1	104	Tajikistan	52.4	-2	+0.2
11	Finland	80.2	—	—	58	Azerbaijan	62.7	+11	+2.7	105	Bangladesh	52.1	-2	—
12	Taiwan, China	80.2	+1	+1.0	59	Greece	62.6	-2	+0.5	106	Cambodia	52.1	+4	+1.9
13	Korea, Rep.	79.6	+2	+0.8	60	South Africa	62.4	+7	+1.7	107	Bolivia	51.8	-2	+0.4
14	Canada	79.6	-2	-0.3	61	Turkey	62.1	—	+0.5	108	Nepal	51.6	+1	+0.8
15	France	78.8	+2	+0.8	62	Costa Rica	62.0	-7	-0.1	109	Nicaragua	51.5	-5	—
16	Australia	78.7	-2	-0.1	63	Croatia	61.9	+5	+1.8	110	Pakistan	51.4	-3	+0.3
17	Norway	78.1	-1	-0.1	64	Philippines	61.9	-8	-0.3	111	Ghana	51.2	-5	-0.1
18	Luxembourg	77.0	+1	+0.4	65	Peru	61.7	-2	+0.4	112	Cape Verde	50.8	-1	+0.6
19	New Zealand	76.7	-1	-0.8	66	Panama	61.6	-2	+0.6	113	Lao PDR	50.1	-1	+0.8
20	Israel	76.7	—	+0.1	67	Viet Nam	61.5	+10	+3.5	114	Senegal	49.7	-1	+0.7
21	Austria	76.6	+1	+0.3	68	India	61.4	-10	-0.7	115	Uganda	48.9	+2	+2.1
22	Belgium	76.4	-1	-0.2	69	Armenia	61.3	+1	+1.4	116	Nigeria	48.3	-1	+0.8
23	Spain	75.3	+3	+1.1	70	Jordan	60.9	+3	+1.6	117	Tanzania	48.2	-1	+1.0

23	Spain	75.3	+3	+1.1	70	Jordan	60.9	+3	+1.6	117	Tanzania	48.2	-1	+1.0
24	Ireland	75.1	-1	-0.6	71	Brazil	60.9	+1	+1.4	118	Côte d'Ivoire	48.1	-4	+0.6
25	United Arab Emirates	75.0	+2	+1.6	72	Serbia	60.9	-7	-	119	Gabon	47.5	n/a	n/a
26	Iceland	74.7	-2	+0.2	73	Montenegro	60.8	-2	+1.2	120	Zambia	46.5	-2	+0.5
27	Malaysia	74.6	-2	+0.2	74	Georgia	60.6	-8	-0.3	121	Eswatini	46.4	-1	+1.1
28	China	73.9	-	+1.3	75	Morocco	60.0	-	+1.5	122	Guinea	46.1	+4	+2.9
29	Qatar	72.9	+1	+1.9	76	Seychelles	59.6	-2	+1.1	123	Cameroon	46.0	-2	+0.9
30	Italy	71.5	+1	+0.8	77	Barbados	58.9	n/a	n/a	124	Gambia, The	45.9	-5	+0.5
31	Estonia	70.9	+1	+0.2	78	Dominican Republic	58.3	+4	+0.9	125	Benin	45.8	-2	+1.4
32	Czech Republic	70.9	-3	-0.3	79	Trinidad and Tobago	58.3	-1	+0.4	126	Ethiopia	44.4	-4	-0.1
33	Chile	70.5	-	+0.3	80	Jamaica	58.3	-1	+0.4	127	Zimbabwe	44.2	+1	+1.6
34	Portugal	70.4	-	+0.2	81	Albania	57.6	-5	-0.5	128	Malawi	43.7	+1	+1.3
35	Slovenia	70.2	-	+0.6	82	North Macedonia	57.3	+2	+0.7	129	Mali	43.6	-4	-
36	Saudi Arabia	70.0	+3	+2.5	83	Argentina	57.2	-2	-0.3	130	Burkina Faso	43.4	-6	-0.5
37	Poland	68.9	-	+0.7	84	Sri Lanka	57.1	+1	+1.1	131	Lesotho	42.9	-1	+0.6
38	Malta	68.5	-2	-0.2	85	Ukraine	57.0	-2	-	132	Madagascar	42.9	n/a	n/a
39	Lithuania	68.4	+1	+1.2	86	Moldova	56.7	+2	+1.2	133	Venezuela	41.8	-6	-1.3
40	Thailand	68.1	-2	+0.6	87	Tunisia	56.4	-	+0.8	134	Mauritania	40.9	-3	+0.1
41	Latvia	67.0	+1	+0.7	88	Lebanon	56.3	-8	-1.4	135	Burundi	40.3	+1	+2.7
42	Slovak Republic	66.8	-1	-0.1	89	Algeria	56.3	+3	+2.5	136	Angola	38.1	+1	+1.1
43	Russian Federation	66.7	-	+1.1	90	Ecuador	55.7	-4	-0.1	137	Mozambique	38.1	-4	-1.7
44	Cyprus	66.4	-	+0.8	91	Botswana	55.5	-1	+1.0	138	Haiti	36.3	-	-0.1
45	Bahrain	65.4	+5	+1.7	92	Bosnia and Herzegovina	54.7	-1	+0.6	139	Congo, Dem. Rep.	36.1	-4	-2.1
46	Kuwait	65.1	+8	+3.0	93	Egypt	54.5	+1	+1.0	140	Yemen	35.5	-1	-0.9
47	Hungary	65.1	+1	+0.8	94	Namibia	54.5	+6	+1.8	141	Chad	35.1	-1	-0.4



# HOW DO YOU PERFORM ...ON CORPORATE GOVERNANCE?





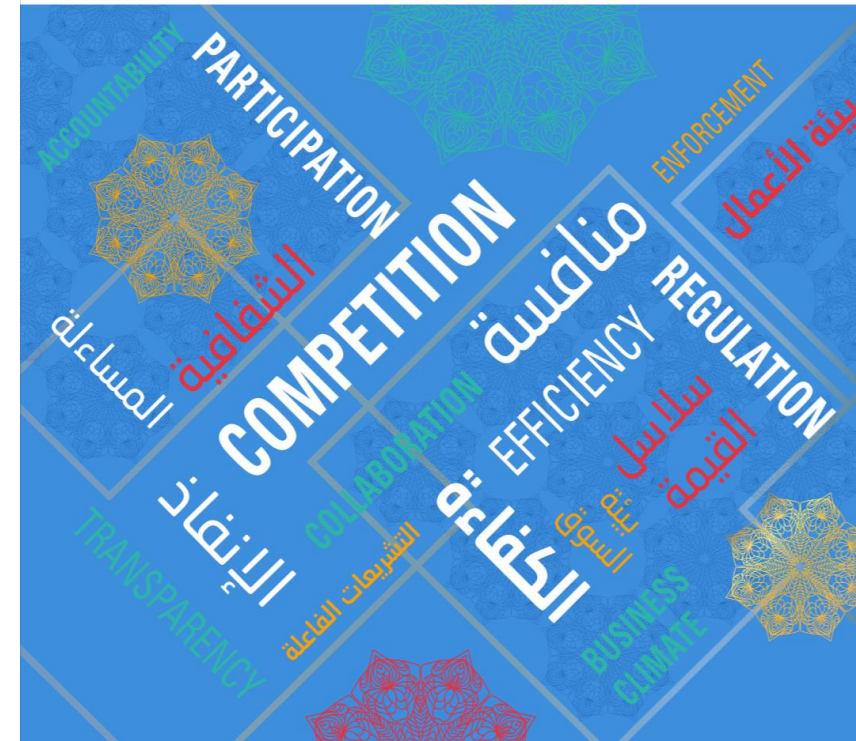
## The importance of family businesses in the Middle East



of the companies in the Middle East are family-owned businesses.

<b>Generate</b>	<b>80%</b>	of the region's GDP, approximately
<b>Constitute</b>	<b>75%</b>	of private sector economic activity
<b>Employ</b>	<b>70%</b>	of the labor force in the Cooperation Council for the Arab States of the Gulf region – more than 67 million employees
<b>Control</b>	<b>98%</b>	of the oil producing companies operating in the Gulf region

Economic and Social Commission for Western Asia



UNITED NATIONS  
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ESCWA

**Economic Governance Series**

Competition and Regulation  
in the Arab Region



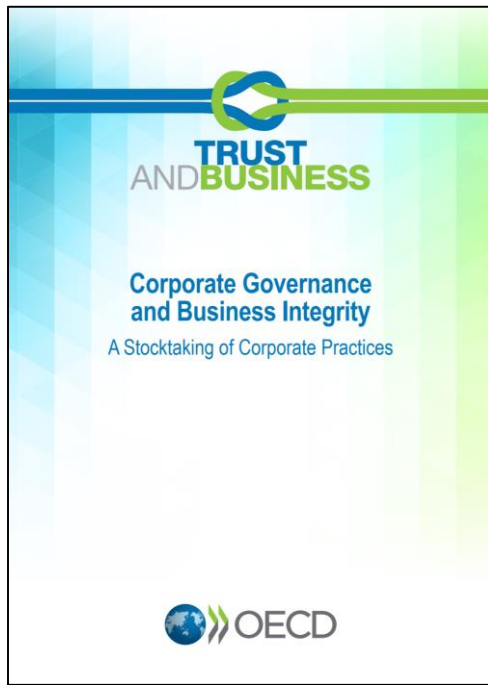
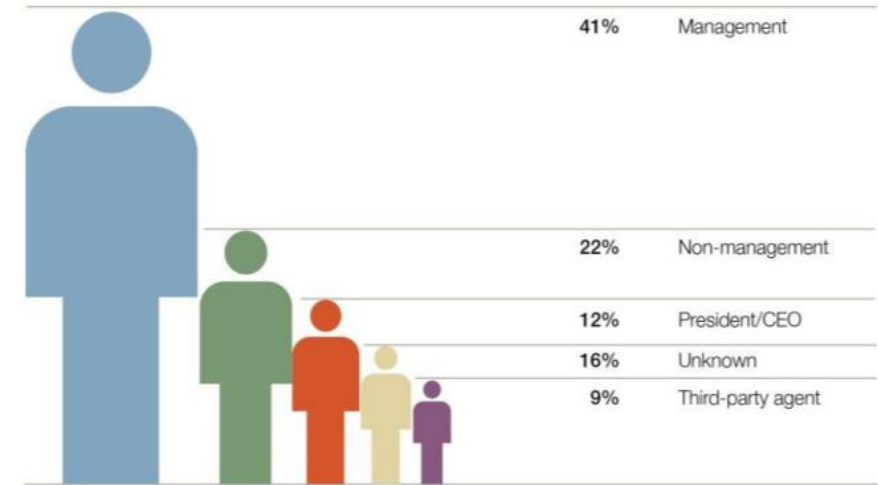


Figure 2. Level of corporate management involved in foreign bribery cases



Source: OECD Foreign Bribery Report (2014)

Figure 19. Main reasons for seeking to detect, prevent and address misconduct

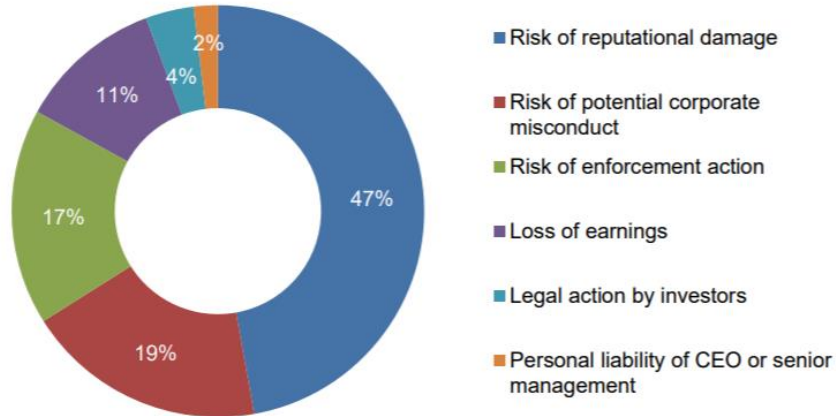
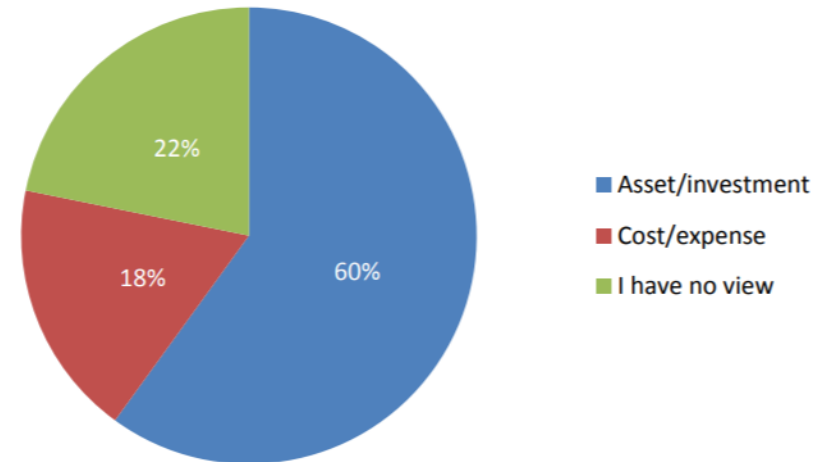
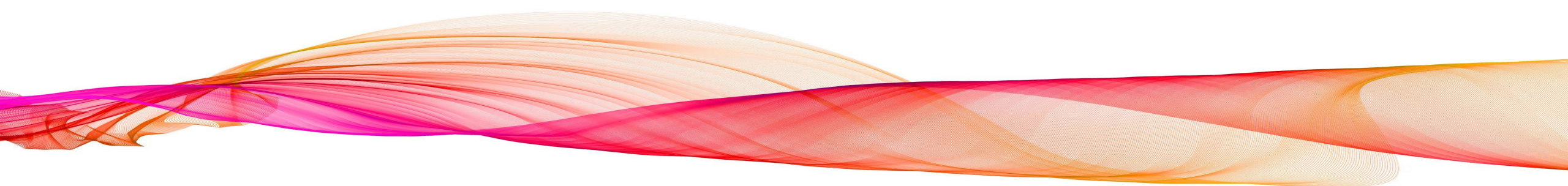


Figure 7. Business integrity budget: investment or expense?



WHAT



# What's COMPETITION POLICY

## Risks from the **business**

1. Cartels
2. Abuses of dominance
3. Merger control (anti-competitive mergers)



= classical competition  
law & enforcement

## Risks from **government**

1. Public procurement / grants
2. Preferential subsidies (state aid)
3. Anti-competitive regulation
4. State-owned enterprises (SOEs)



= wider competition policy & advocacy  
= competitive neutrality



# What's ANTI-CORRUPTION POLICY

## ANTI-CORRUPTION

1. Bribery
2. Gifts & invitations
3. Conflict of interests
4. Misuse of power, influence or assets
5. Clientelism



## What's GOOD GOVERNANCE

### GOOD GOVERNANCE

- **R**ule of Law (GOV) Corp Gov Rules (BUS)
- **R**oles & Performance
- **A**ccountability & Control
- **T**ransparency
- **E**quity
- **R**isk Management



## COMPETITION

1. Cartels
2. Abuses of dominance
3. Anti-competitive mergers
4. Preferential subsidies
5. Anti-competitive regulation

## ANTI-CORRUPTION

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## GOOD GOVERNANCE

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- **R**isk Management

What is this all about?

Government integrity

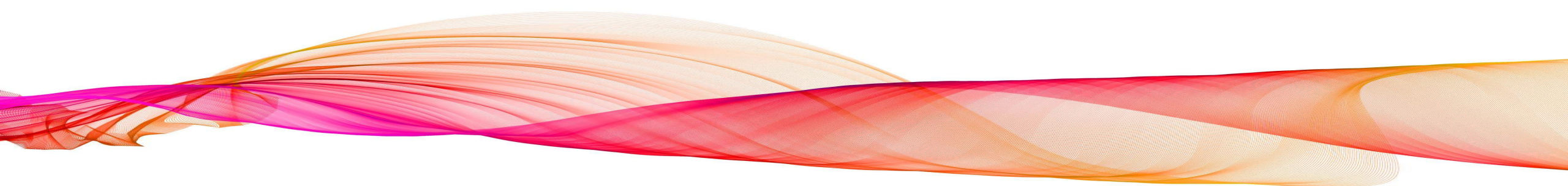
Business integrity

Trust

Sustainable growth



WHO



# WHO ARE THE INFRINGERS?

## BUSINESS: B2B, B2C



### Examples:

Cartel, exclusionary abuse (B2B)

Exploitative abuse (B2C)

Private bribery (B2B, B2C)

Lavish / personal gifts (B2B, B2C)

## GOVERNMENT: B2G, G2B



### Examples:

Public corruption (B2G)

Clientelism (G2B, G2C)

Anti-competitive regulation (G2B)

Preferential subsidies / advantages (G2B)

Collusion in public procurement (B2B2G)

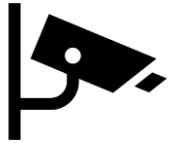


# WHO ARE THE ENFORCERS?



COMPETITION AUTHORITY

ANTI-CORRUPTION AUTHORITY



PROSECUTOR



COURTS



## Keys to success:

- ✓ Autonomy
- ✓ Competence
- ✓ Law & enforcement powers
- ✓ Skills
- ✓ Resources

# EU truckmakers fined \$3.2 billion over price collusion

CARTEL



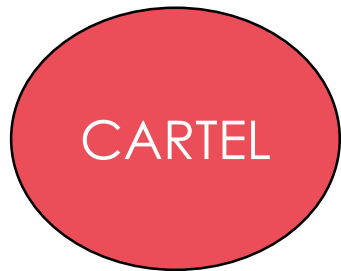
Volkswagen's ([VOWG\\_p.DE](http://VOWG_p.DE)) MAN, Daimler, Volvo, Iveco and DAF participated in an illegal cartel until 2011, the European Commission said. It launched its investigation that year after MAN blew the whistle, thereby escaping any penalty.

# Former SVP of Netherlands' Martinair extradited to USA



Martinair McDonnell Douglas MD-11F

© Martial Saugy (ch-aviation.com)



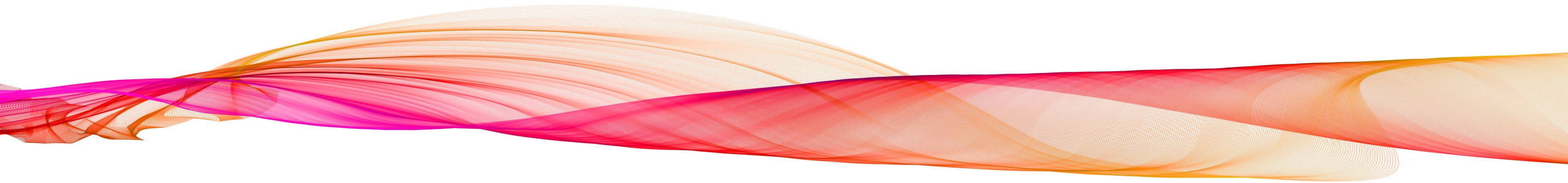
16.01.2020 - 03:18 UTC

After a decade of evading justice, a former Senior Vice President (Cargo Sales and Marketing) at **Martinair (MP, Amsterdam Schiphol)**, has been extradited to the United States to face charges related to allegedly participating in a price-fixing cartel, the US Department of Justice has announced in a press release.

According to the indictment, Ullings conspired with others to suppress and eliminate competition by fixing and coordinating surcharges, including those for fuel, charged to customers in the United States and elsewhere for cargo shipments.

Including Ullings, a total of 22 airlines and 21 executives have now been charged in the department's investigations into price fixing in the air transportation industry. More than USD1.8 billion in criminal fines have been imposed and seven executives have been sentenced to serve prison time.

# SYNERGY & ASYMMETRY





# SYNERGY: COMPETITION & CORRUPTION



- Fair game
- Effective allocation of resources
- Reward merits: Value for Money
- Equal chances / Open access
- Business integrity & Govt neutrality
- Efficiency

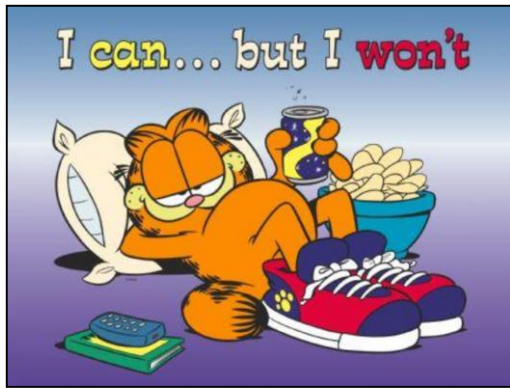
To the **benefit** of ALL: consumers, society, business, the economy, government

# How's life with corruption & no competition?

## BUSINESS

**LAZY**

- No stimulation
- No innovation
- No efficiency
- Discourage others
- Barriers to entry



## CUSTOMERS CONSUMERS

**EXPLOITED**

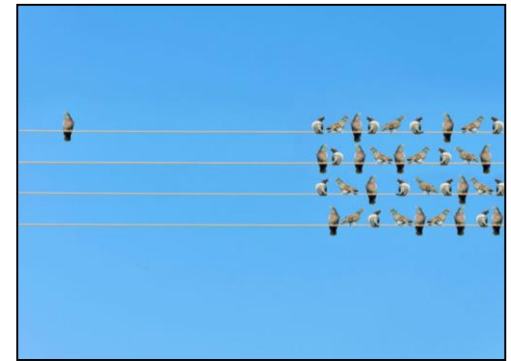
- Price rise
- No choice/access
- Locked in
- No novelty
- No bargaining power



## COUNTRY

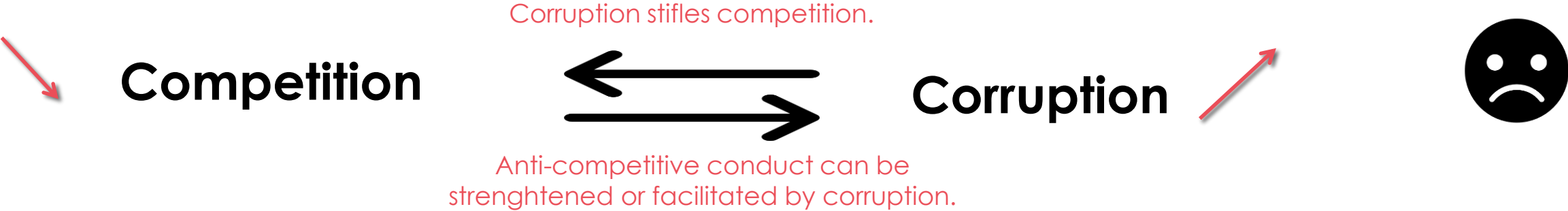
**INATTRACTIVE**

- Inattractive
- Poverty
- Unfairness
- Isolation
- Non-competitive





# INTERDEPENDENCE

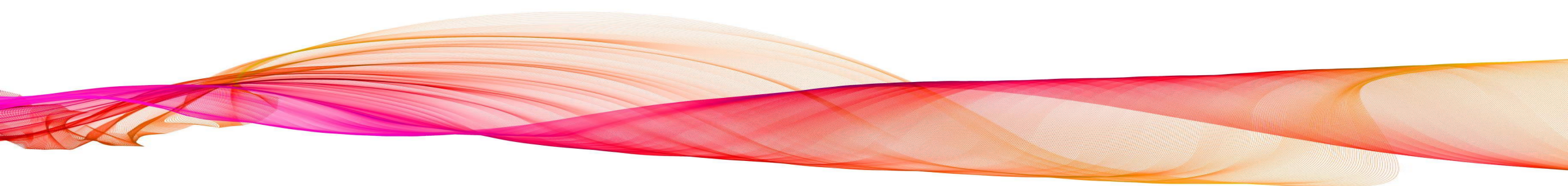


# ASYMMETRY ↔ BRIDGE & COOPERATION

- Criminal v. administrative
- Whistle-blowing v. self-reporting
- Corporate v. individual liability
- Preventive v. repressive enforcement
- Compliance impact on sanctions



HOW



# 1. GOOD GOVERNANCE WITHIN THE AUTHORITIES

Clean up one's own backyard first

Credibility

Legitimacy

Lead by Example

Ex: COI checks, revolving door, incompatibility, G&H



## 2. DETECTION & COOPERATION BETWEEN COMP & ABC

What comes to your door?

Ex. 80% of complaints to comp authority are about bribery

→ What do you do?



### 3. COMP & ABC AUTHORITIES TOWARDS GOVERNMENT

Public procurement authorities

Subsidies

Regulation

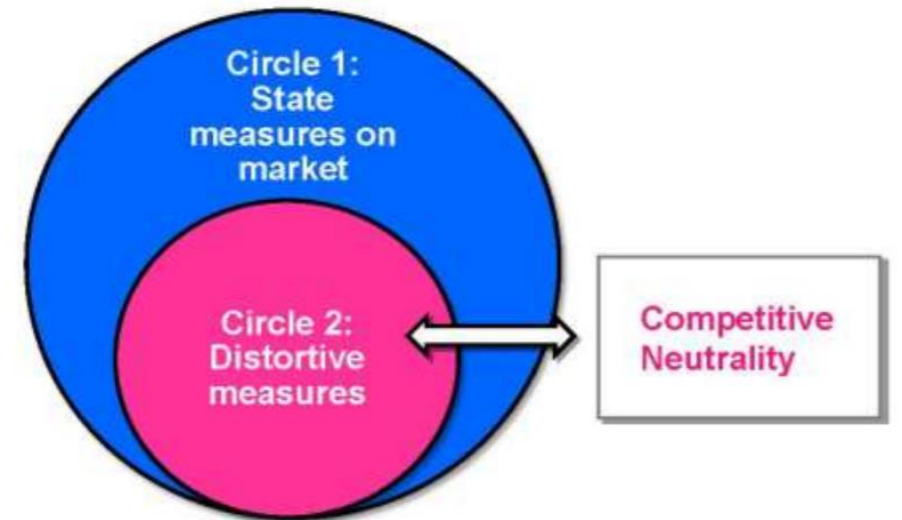
Concession

Privatisation

Major events



### COMPETITIVE NEUTRALITY





## 4. ADD GOOD GOVERNANCE DUTIES TO COMP ENFORCEMENT OUTPUT

**Forbes**

### Most Mergers Fail Because People Aren't Boxes

Ex: approved mergers based on expected synergies, efficiencies:  
better with suited governance frameworks between the merging entities.



What are suitable commitments when SOEs behaves anti-competitively?

## 5. CORRUPTION INCLUDED IN COMPETITION IMPACT ASSESSMENT

Competition impact assessment and consumer welfare:  
could they factor in corruption and bad governance risks  
// privacy, climate, ... picking up factors in competition

Debate around “other public interest goals”  
interfering in “pure competition” impact assessment



## 6. BUSINESS COMPLIANCE PROGRAMS & GOOD GOVERNANCE

How can enforcement prompt compliance?

When / how can compliance be monitored?

In silos or holistic?

Link between companies with a compliance program and their COMP & ABC behaviour?

How is compliance taken in account in sanctioning?

New role(s) for authorities around compliance (ex ante)?

Show me your governance, I'll tell your compliance



# THE ICC ANTITRUST COMPLIANCE TOOLKIT



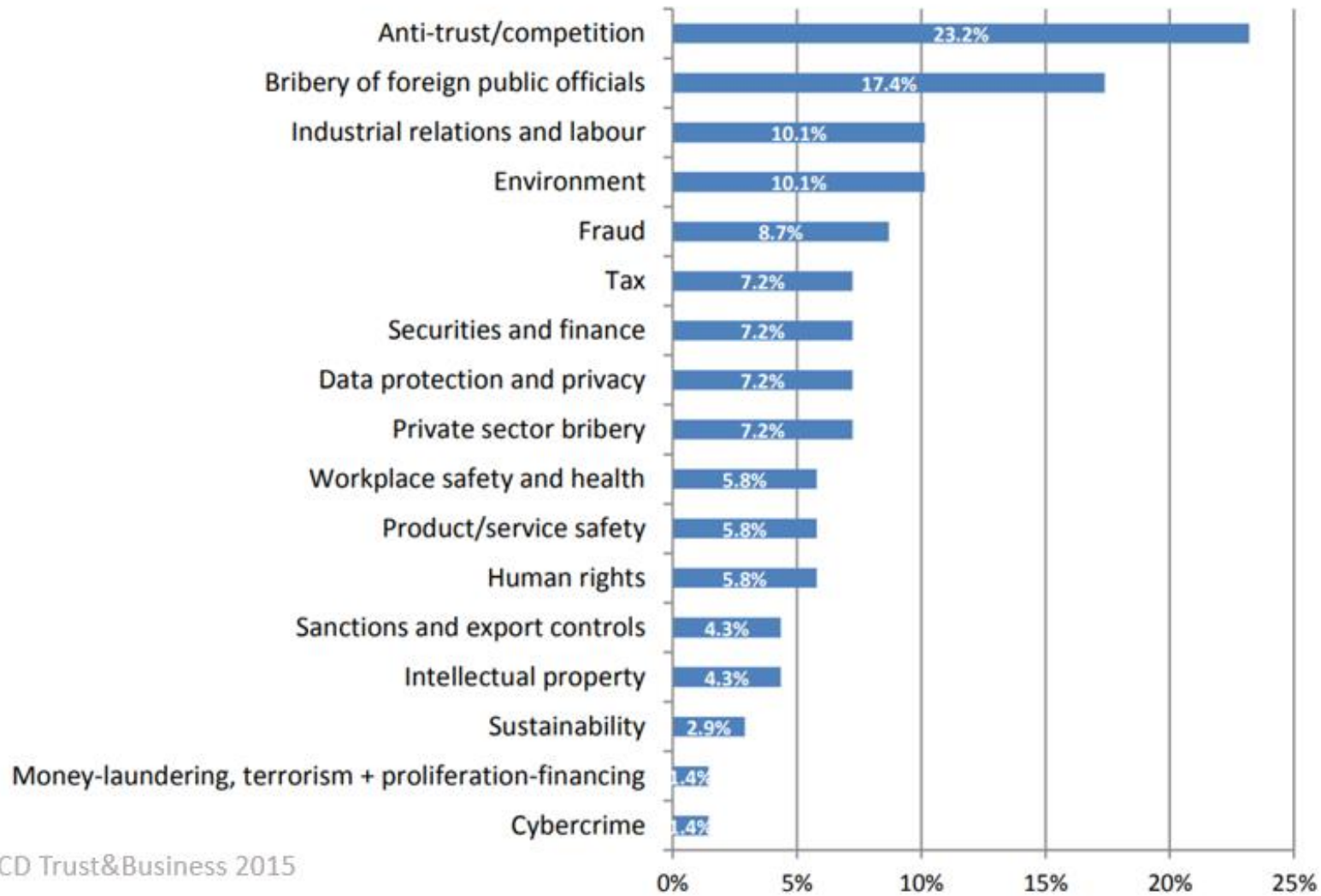
Practical antitrust compliance tools for SMEs and larger companies

# Economies of scale and scope in compliance

*“In those cases where compliance risks extend to several areas, greater effectiveness will be ensured as far as competition compliance is developed and implemented not on its own, but as part of a wider and broader program of corporate integrity and ethical conduct.”*

CADE – Brazil Competition Compliance Guidelines 2016

Figure 21. Company respondents subject to media allegations or law enforcement proceedings, per category of misconduct



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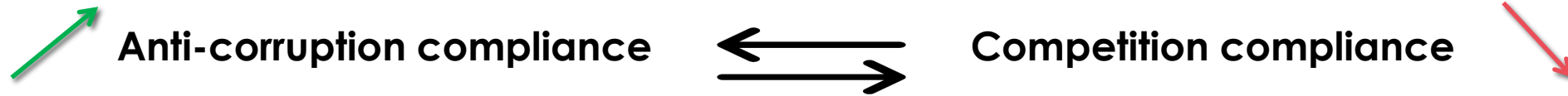


# WATCH OUT FOR SILOS



- ❖ Energy companies announce joint action to boycott corrupted government
- ❖ Trade association gathers to adopt good governance principles
- ❖ Competitors develop joint digital platform for better data and service management
- ❖ A dominant pharma company refuse to supply distributors on ground of bribery rumors

## SILO RISK:



## REAL COMPLIANCE INTELLIGENCE:

Maximise cross-field compliance 

## The Code and our Standard of Conduct

Our Framework

Foreword from Alan Jope

The Code of Business Principles

Living the Code

Legal Consultation

Responsible Risk Management

## Safeguarding Information

Protecting Unilever's Information

Preventing Insider Trading

Competitors' Information & Intellectual Property

Personal Data & Privacy

Use of Information Technology

## Countering Corruption

Avoiding Conflicts of Interest

Anti-Bribery

Gifts & Hospitality

Accurate Records, Reporting & Accounting

Protecting Unilever's Physical & Financial Assets  
& Intellectual Property

Anti-money Laundering

## Engaging Externally

Responsible Innovation

Responsible Marketing

Product Quality

Responsible Sourcing

Fair Competition

Contact with Government, Regulators &  
Non-governmental Organisations (NGOs)

Political Activities & Political Donations

External Communications –  
The Media, Investors & Analysts

## Respecting People

Occupational Health & Safety

Respect, Dignity & Fair Treatment

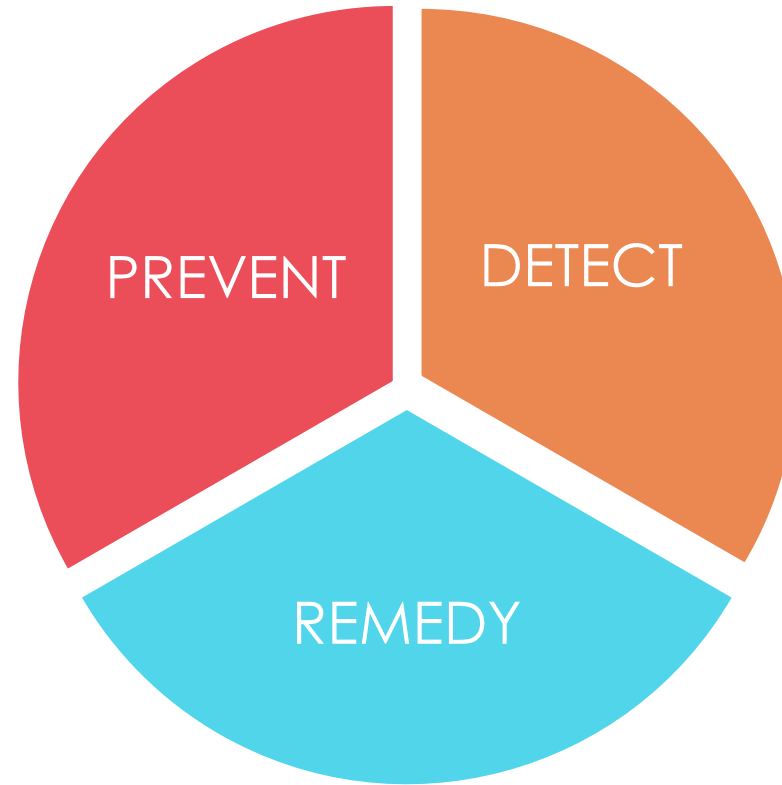
# CODE OF BUSINESS PRINCIPLES AND CODE POLICIES



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Version November 2019



- Communication
- Collaboration
- Business & data intelligence
- Security
- Risk management
- Reflex integration in business



- Breach and wrongdoing detection
- Prompt processing of complaints
- Monitoring and audit
- Tracking and recording
- Expertise to handle public investigations
- In-house and third party accountability



- Breach notification
- Satisfaction of requests and rights
- Re-examination of toolbox and processed
- Responsibility and fines (legal, HR)
- Communication, crisis response

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## 7. HOW DIFFERENT CORP GOVERNANCE FRAMEWORKS IMPACT COMP & ABC

### EXTERNALLY

Who, how determines competition strategy?

Which functions pose corruption risks?

Interlocking directorships?

Revolving doors?

COI checks?



### INTERNALLY

Company itself benefits from competition and integrity “within”

Ex: bribe colleague to get promotion



# BENEFITS







# GOVERN & LAW

Good Governance. Better Law. Integrity.

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