



OFFICE OF THE ADVISORY COMMITTEE ON BUSINESS APPOINTMENTS

G/7 Ground Floor, 1 Horse Guards Road SW1A 2HQ

Telephone: 020 7271 0839

Email: acoba@acoba.gov.uk

Website: <http://www.gov.uk/acoba>

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BUSINESS APPOINTMENT APPLICATION: Dr Andrea Coscelli CBE, former Chief Executive, Competition and Markets Authority. Paid appointment with Keystone Strategy LLP.

1. Dr Coscelli sought advice from the Advisory Committee on Business Appointments (the Committee) under the government's Business Appointments Rules for former Crown servants (the Rules) on an appointment he wished to take up with Keystone Strategy LLP (Keystone) as a Consultant. The material information taken into consideration by the Committee is set out in the annex.
2. The purpose of the Rules is to protect the integrity of the government. Under the Rules, the Committee's remit is to consider the risks associated with the actions and decisions Dr Coscelli made during his time in government service, alongside the information and influence he may offer Keystone.
3. The Committee considered whether this appointment was unsuitable given Dr Coscelli's former role at the Competition and Markets Authority (CMA). As the Chief Executive of the CMA, he was Principal Accounting Officer and had oversight across the full remit of CMA's work. He now wishes to advise Keystone and its clients, including on competition and markets/antitrust issues.
4. The Committee also considered the information provided by the department about his specific dealings with this employer and the sector, including his previous experience in the sector before joining government. The Committee has advised that a number of conditions and a waiting period be imposed to mitigate the potential risks to the government associated with this appointment under the Rules; this does not imply the Committee has taken a view on the appropriateness of this appointment in any other respect.
5. The Rules set out that Crown servants must abide by the Committee's advice¹. It is an applicant's personal responsibility to manage the propriety of any

¹ Which apply by virtue of the Civil Service Management Code, The Code of Conduct for Special Advisers, The King's Regulations and the Diplomatic Service Code

appointment. Former Crown servants are expected to uphold the highest standards of propriety and act in accordance with the 7 Principles of Public Life.

The Committee's consideration of the risks presented

6. Keystone is a strategy, economics and technology consulting firm. The website states that it works in digital transformation, innovation, artificial intelligence and machine learning, data analytics, algorithms, ecosystem strategy, process optimisation, antitrust, intellectual property, and tax transfer expertise. It's work with clients has included a number of large well-known corporations such as Uber, Microsoft, Amazon, Facebook and Pfizer. Though it has an antitrust focus, Dr Coscelli said he chose Keystone as it has no presence in Europe and therefore the opportunity for conflict with his time at the CMA is limited.
7. Dr Coscelli said he would be consulting in three main areas: strategy, technology and competitions. When consulting on competition law he said he would be using his expertise, most notably in (but not limited to) global high tech/digital/innovation to offer advisory services to companies and government agencies (not the UK government or the CMA) on competition.
8. Dr Coscelli and the CMA confirmed there were no policy, regulatory or funding decisions he made that were specific to Keystone. The CMA confirmed it had a relationship with Keystone via some unpaid work related to the digital sector, but this did not fall to Dr Coscelli to manage, nor was it his decision for Keystone to carry out this work. The risk he could reasonably be seen to have been offered this role as a result of actions taken or decisions made in office is low.
9. As Chief Executive, Dr Coscelli was responsible for the regulation of UK competition. That included: investigating mergers; investigating entire markets if there are competition or consumer problems; taking action against cartels or anti-competitive behaviour; protecting consumers from unfair trading practices; and encouraging government and other regulators to use competition effectively on behalf of consumers. He therefore had significant knowledge of privileged material around these areas. The Committee² noted that the role he seeks to take up includes advising Keystone and its clients in the same general area - competition. In this regard, there is a risk his access to privileged information while in government could offer an unfair advantage to Keystone and its clients. This risk is difficult to mitigate where the specific clients and projects are unknown.
10. The Committee considered several mitigating factors raised by Dr Coscelli and the CMA, which reduce the scope of the above mentioned risks:
 - He is prevented from using sensitive information by a number of legal and professional provisions including as a result of the Enterprise Act 2002; and the Rules and principles which apply to all former Crown servants. Further, he must not disclose information acquired during his

²This application for advice was considered by Jonathan Baume; Andrew Cumpsty; Isabel Doherty; Sarah de Gay; Dr Susan Liautaud; The Rt Hon Lord Pickles; Richard Thomas; Mike Weir. Sarah De Gay was recused and Lord Larry Whitty was unavailable.

- employment with the CMA which is subject to legal professional privilege, including both legal advice privilege and litigation privilege.
- The CMA's process is transparent as it publishes its methodology; and consumer law impacting its decisions is publicly available.
 - The CMA considered the risks attached to his access to information can be mitigated through conditions which ring fence his role with Keystone to avoid areas of conflict.
 - This is a continuation of his professional expertise as an economist- a career he built prior to joining government.
11. Whilst Dr Coscelli is returning to the private sector and continuing in his career, he is a regulator who seeks to work, in part, on matters regulated by his former organisation. There are significant risks associated with his privileged access to information from his time in office, and his influence as the former regulator. There is a reasonable concern he could be perceived to unfairly influence the CMA in any future decisions it makes for the benefit of Keystone or its clients. The CMA's quasi-judicial role and statutory footing does help to limit the risks. The CMA considered the risks were most significant in the areas of digital/tech and pharma given the high profile nature of some of the CMA's work in these sectors and Keystone's activity in these areas. The CMA therefore removed Dr Coscelli from any involvement in those highest risk cases from 24 June 2022. The CMA recommended that he observe a waiting period and be prevented from working on any matters he was involved with, or which were in the pipeline of work from his time at the CMA to help mitigate the associated risks.
12. It is also relevant that Keystone confirmed its internal controls and processes will ensure the restrictions imposed by the Committee will be properly implemented and effectively monitored. It set its policy on walled client matters which are procedures for establishing ethical walls and maintaining the integrity of projects where the clients may be competitors or in dispute with other clients. Keystone also said it will maintain effective oversight to verify ongoing compliance with the Committee's advice, including case specific restrictions.
13. The CMA does not object to Dr Coscelli having contact with the CMA on the limited pieces of work that he might advise on (this would be limited to entirely new matters that occur after he left office). However, the risks associated with his network and influence within the CMA must be mitigated. The Committee determined it would not be appropriate for the former Chief Executive of a regulatory body to have any direct engagement with that same regulatory body on behalf of their employer (and of clients) whilst they are subject to the Rules (during the 2 years after leaving office). This would not prevent the CMA liaising with Dr Coscelli if necessary.
14. Dr Coscelli said he will be assisting the company to set up a presence in the UK. The Committee considers there is a risk he could be seen to have gained privileged access to contacts outside of the government developed during his time as the regulator, for example in business. The Committee recognises this is not his intention and that he sees his role in setting up the UK office as providing the necessary expertise.

The Committee's advice

15. Given this role could involve matters directly related to his time in office, the Committee agreed with the CMA it would be inappropriate for Dr Coscelli to advise on any matters that might have fallen to him as Chief Executive, or that the CMA dealt with during his tenure - as set out in detail below.
16. Dr Coscelli confirmed there will be no lobbying of the government in this role, in line with the expectations set out in the Rules. The Committee wishes to make it explicit that it would be inappropriate for Dr Coscelli to use contacts gained in office (directly or indirectly) to the advantage of Keystone or its clients. The Committee advises that he should have no direct engagement with the CMA on behalf of Keystone or its clients. This helps to mitigate the risk he may be seen to offer Keystone and its clients any unfair access and influence on regulatory matters.
17. The Committee also determined it was necessary to put a significant gap between Dr Coscelli's decision making and access to information at the CMA and his joining Keystone. There are risks that cannot be mitigated with restrictions alone. In particular, the perception that he offers a significant advantage to potential clients due to his unique access to information and influence at the very centre of UK regulation on antitrust/competition and markets. The Committee took into account the CMA's view and the quasi-judicial nature of the CMA. It recognised the governance of its decision making, including that it is transparent about its methodology and that the relevant consumer law is publicly available. In the circumstances, the Committee considered 6 months would be appropriate. This takes into consideration the background that Dr Coscelli already had in economic regulation and the addition of the conditions below. Together this appropriately mitigates the risks under the Rules in relation to insight and influence derived from any information he had access to as Chief Executive of the CMA. In respect of the specific timing, the Committee gave weight to the limitations imposed on Dr Coscelli's role by the CMA for his final month in office. In the particular circumstances of this case, the Committee considered the 6 months should run from when the CMA took steps to actively manage these risks - on 24 June 2022.
18. Taking into account these factors, in accordance with the government's Business Appointment Rules, the Committee's advice is this appointment with **Keystone Strategy LLP** be subject to the following conditions:
 - a waiting period of 6 months from 24 June 2022;
 - he should not draw on (disclose or use for the benefit of himself or the organisations to which this advice refers) any privileged information available to him from his time in Crown service;
 - for two years from his last day in Crown service, he should not provide advice to Keystone or any of its clients on any matter which was under consideration by CMA during his time as Chief Executive. Without limiting the generality of

this restriction, this includes in particular:

- any matter directly associated with the CMA's current or pipeline of markets cases as at his last day in office (27 July 2022), including any of the following current or known pipeline cases set out below:

- [REDACTED]

- Any cases he was involved in personally by virtue of his role as Chief Executive at the CMA
- for two years from his last day in Crown service, he should not become personally involved in lobbying the CMA, the UK government or any of its Arm's Length Bodies on behalf of Keystone or its clients(including parent companies, subsidiaries, partners and clients); nor should he make use, directly or indirectly, of his contacts in the government and/or Crown service contacts to influence policy, secure business/funding or otherwise unfairly advantage those he advises (including parent companies, subsidiaries, partners and clients);
- for two years from his last day in Crown service, he should not provide advice to Keystone Strategy LLP (including parent companies, subsidiaries, partners and clients) on the terms of, or with regard to the subject matter of, a bid with, or contract relating directly to the work of the CMA, the UK government or any of its Arm's Length Bodies;

- for two years from his last day in Crown service he should not have any engagement on behalf of Keystone Strategy LLP (including parent companies, subsidiaries, partners and clients) with the CMA, the UK government or its Arms' Length Bodies; and
 - for two years from his last day in Crown service, he should not become personally involved in lobbying contacts he has developed during his time in office in external organisations (including other governments) for the purpose of securing business for Keystone Strategy LLP (including parent companies, subsidiaries and partners).
19. The advice and the conditions under the government's Business Appointment Rules relate to Dr Coscelli's previous role in government only; they are separate to rules administered by other bodies such as the Office of the Registrar of Consultant Lobbyists or the Parliamentary Commissioner for Standards. It is an applicant's personal responsibility to understand any other rules and regulations they may be subject to in parallel with this Committee's advice.
20. By 'privileged information' we mean official information to which a Minister or Crown servant has had access as a consequence of his or her office or employment and which has not been made publicly available. Applicants are also reminded that they may be subject to other duties of confidentiality, whether under the Official Secrets Act, the Ministerial Code or otherwise.
21. The Business Appointment Rules explain that the restriction on lobbying means that the former Crown servant/Minister "should not engage in communication with government (Ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a Government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office." This Rule is separate and not a replacement for the Rules in the house.
22. Dr Coscelli must inform us as soon as he takes up employment with Keystone, or if it is announced that he will do so. We shall otherwise not be able to deal with any enquiries, since we do not release information about appointments that have not been taken up or announced. This could lead to a false assumption being made about whether he has complied with the Rules. Please also inform us if he proposes to extend or otherwise change the nature of his role as, depending on the circumstances, it may be necessary for him to make a fresh application.
23. Once the appointment(s) has been publicly announced or taken up, we will publish this letter on the Committee's website, and where appropriate, refer to it in the relevant annual report.

Yours sincerely,

Cat Marshall

Committee Secretariat

Annex - Material information

The role

1. Dr Coscelli wishes to join Keystone in a full-time paid role as a Partner. He said the company operates in strategy, economics and technology. Its website says it is a strategy, economics and technology consulting firm delivering transformative ideas to the global market. It works in *'digital transformation, innovation, AI/ML, data analytics, algorithms, ecosystem strategy, process optimization, antitrust, intellectual property, and tax transfer expertise.'* It describes itself as a *'...leading innovative strategy and economics consulting firm dedicated to delivering transformative ideas and cutting-edge solutions to Fortune Global 500 companies, top law firms, and government agencies.'* Its focus on AI driven solutions includes litigation. It's work with clients has included a number of large well known corporations such as Uber, Microsoft, Amazon, Facebook, Pfizer. Though it has an antitrust focus, Dr Coscelli said he chose Keystone as it has no presence in Europe and therefore the opportunity for conflict with his time in office is limited.
2. Dr Coscelli stated this consulting position will involve *'...strategic, antitrust and regulatory advice to companies, Governments [not the UK government] and law firms mainly in the US, Asia-Pacific and Europe....My expectation is that I will work on strategy, antitrust and regulatory matters advising companies, law firms and Government agencies in the UK, Europe and outside Europe. I will obviously respect any client conflicts arising from my work at the CMA.'* He envisages working across the US, Australia and Europe - also helping to set up offices in London and Brussels where he will be based (though with international travel to work on international assignments).
3. He described the work in three main parts:
 - Strategy consulting.
 - Tech consulting.
 - Competitions consulting where he would be using his expertise, most notably in (but not limited to) global high tech/digital/innovation to offer advisory services to companies and government agencies on competition.
4. He noted he is an experienced economist by trade and his advice on antitrust/competition would be mostly economic advice, including detailed analysis on case law etc. He would also provide advice on matters in court, which would be limited to those outside any that came via the CMA during his time given the restrictions recommended by the CMA. (He said this was likely to come as a result of a matter of private legislation/two companies in disagreement.) However, he does seek to advise companies on competition matters that could be in front of the CMA, in an advisory capacity - that are new and began after his time at the CMA. He does not believe this offers an advantage as these matters would be separate to his time in post and he would not represent in person against the CMA. As such, he would be using his expertise based on what is in the public domain (precedent decisions, caselaw, and economic theory etc alongside his own judgement and opinion) to advise

(include the extensive guidance on CMA processes e.g., detailed Merger Guidelines). For example were a company planning to enter into a potentially contentious merger with another and seeking advice on all things antitrust/competition.

5. Though he plans to set up the European office(s), his role will not be in business development. This would be more about using his experience in this area in the UK/Europe - rather than to develop new client relationships specifically. This is also something he did extensively before joining the Civil Service, i.e. working on cases in front of the European Commission or National Competition Authorities in the EU. He noted he will not be using any specific privileged access to contacts or information to bring in clients, but his years of experience (including at the CMA) will help Keystone provide the type of advice required to the UK/Europe market.
6. Though he may be willing to agree to not representing clients in engaging directly with the CMA - Dr Coscelli noted the scope for any undue influence here is limited given the quasi-judicial nature of the CMA and its work. He noted this distinguishes the CMA from Permanent Secretaries and Directors General in Whitehall Departments - because of the quasi-judicial nature of the CMA work, which is transparent on its website. He considers that with detailed guidelines about the CMA processes means there is little additional knowledge about processes that is not in the public domain.
7. Dr Coscelli was an economist prior to joining the public sector. He noted that Keystone *'...employs economists, data scientists and technologists. I was a partner in an economics consulting firm (Charles River Associates) before joining the public sector so this job (as a Partner in the firm) in many ways will be like going back to my previous role in the private sector. The main difference is the type of consulting firm and the fact that it has had no presence so far in Europe.'* Before joining the public sector, Dr Coscelli was Vice-President (Partner) at European Competition Practice at Charles River Associates International, Associate Director at Lexecon Ltd and co-founder of the Association of Competition Economics (ACE).

Dealings in office

8. Dr Coscelli noted that Keystone Strategy has only provided digital expertise in the context of a limited number of digital projects to the CMA (in which he was not directly involved). To the best of his knowledge it has never acted against the CMA or the UK government as it has not had any European presence so far.
9. He confirmed he had not had access to confidential information about economic strategic consulting firms that are either European or competitors' of Keystone specifically.

Departmental assessment

10. The CMA confirmed the details provided by Dr Coscelli. This included that its

only relationship with Keystone is some unpaid work carried out by Keystone in 2 'discrete areas of engagement': to help the CMA source digital experts and to provide an overview of the technical aspects of the digital advertising market and a background teach in on the advertising chain. The CMA confirmed Dr Coscelli was not involved in this engagement; it was the Project Director's decision to engage Keystone, not Dr Coscelli's.

11. The CMA confirmed Dr Coscelli worked on a number of projects advising government officials on policy related to competition legislation reform; the proposed new digital regime; and the development of the CMA's most recent functions of Internal Markets and Subsidy Control. However, the CMA also confirmed all such policy and thinking around it is now in the public domain, with the government's recent responses to consultations on Reforming Competition and Consumer policy and a new pro-competition regime for digital markets being published in April and May 2022.
12. The CMA noted the challenges that come with mitigating the risks associated with Dr Coscelli's high profile and senior role and the 'economy-wide purview' at the CMA. It noted, in particular the perception risk of a former senior CMA official joining a consultancy which advises clients on competition matters, and which have been/are parties to CMA cases and will be affected by the new proposed digital regime. The CMA confirmed Dr Coscelli had access to a range of privileged and commercially sensitive information about companies the CMA is investigating. If one of the companies being investigated (or one of its competitors) becomes a client of Keystone, this could benefit Keystone. However he considered overall that the recommendations of the CMA would address the risks appropriately.
13. The CMA highlighted that as part of the CMA's executive function, he would have had access to highly sensitive information regarding past, current and future pipeline cases: *'Andrea was a Board member and the CMA's Chief Executive, whose responsibilities included fulfilling the role of the CMA's Principal Accounting Officer, advising the CMA Board on the discharge of its responsibilities and advising on the CMA's performance against its aims and objectives. In order to fulfil the role, Andrea had oversight across the full complement of the work undertaken by the executive function and was involved in decision-making as required, by virtue of his membership of a number of executive committees, and the Board. Given Andrea's seniority, the pivotal role he played in managing and steering the performance of the CMA's executive function and the access he has had to highly sensitive information concerning past, current and future CMA work, we consider that Andrea taking up the proposed appointment represents some limited risks to public trust in the Civil Service, in particular:*
 - *there are some risks related to confidential information that Andrea has had access to, about CMA cases across all tools while working for the CMA; and*
 - *there are perception risks with Andrea working on any current or pipeline CMA matters in the new appointment. In order to address these risks, we have set out below a number of conditions that we propose would be appropriate in the circumstances and would allow for approval of the*

appointment.

14. The CMA recommended that Andrea be subject to a three month wait and prevented from working on:
- CMA cases that were current as of his last day in office (27 July 2022);
 - not work on CMA cases that were in the pipeline of cases as his last day in office (27 July 2022);
 - any matter that involves Microsoft, Apple, Google, Meta and Amazon or Pfizer for a period of 6 months;
 - cases in which he was personally involved at the CMA or those where his involvement in his role as Chief Executive at the CMA would give rise to a conflict of interest in relation to his future appointment.
15. The CMA considered that the quasi-judicial aspect of its work is a significant mitigating factor, stating that it *'...is a statutory body subject to a requirement to take decisions on an independent basis (with certain decisions taken independently of the CMA Board by a group of CMA panel members). Given the extensive legal powers held by the CMA, and the often-contentious nature of its work and market interventions, parties are ready and willing to take legal action to defend their interests. Accordingly, and in order to adhere to principles of public law, the CMA has a complex set of governance arrangements and authorisations for decision taking on cases which guard against the possibility of outside influence being unduly brought to bear. We have therefore been very aware of the need to protect the organisation's decision-making processes, and avoid even the perception of undue influence, in the conditions we have suggested for [Dr Coscelli]'*. The conditions the CMA recommended would permit Dr Coscelli to be involved in new work for clients on CMA regulated matters - if it does not *'...directly conflict, both in an advisory capacity in the background and by more directly engaging on behalf of clients before the CMA'*.
16. The CMA considered its robust and independent decision making processes mean there is little scope for inappropriate influence, including:
- In depth merger and market investigations and regulatory appeals are overseen by independent panel members, appointed by the Department for Business, Energy and Industrial Strategy (BEIS), not the CMA. These decisions are taken independently from the CMA Board. This is enshrined in law and means there is no influence from the Board and CEO in these decisions.
 - Where the CMA investigates breaches of competition or consumer law, there are 2 or 3 decision makers - no single person is required to make a decision and therefore influence cannot be brought to bear on any one individual.
 - The CMA is purposely transparent about its methodology - with its and processes clearly laid out so the CMA does not believe that he has inside knowledge. The CMA noted there were a number of legal and specialist economic advisory firms that have intimate knowledge of the law and CMA methodology and process.
 - If there is anything in the pipeline that Dr Coscelli is aware of that might become a CMA matter, or where it is currently under investigation - then

he is prevented from working on it as a result of the conditions recommended. Anything else would be a new matter that he is unaware of.

17. In coming to a view on how long was long enough for a waiting period, the CMA considered the precedent information (other cases in the public domain) and came to the view that three months was appropriate because:
- he was ring fenced from the most high-profile work relating to the digital and pharma sectors (from 24 June 2022, a month before leaving office on 27 July);
 - its recommendation would prevent him from any work involving the most significant digital and pharma companies for a further three months on all matters; and in relation to any matters that the CMA has worked upon for two years;
 - it is an accepted mitigating factor that he is returning to the field he was working in prior to joining the CMA;
 - he had no contact with Keystone in his capacity as Chief Executive at the CMA (and save for some ad hoc and working level engagement with Keystone, the CMA had no relationship with Keystone);

18. Further, the CMA notes that separate to the Rules, he must continue to comply with all relevant statutory and non-statutory obligations of non-disclosure in relation to information acquired during Andrea's employment (including those provided for in the Civil Service Code, the Official Secrets Act 1989, Enterprise Act 2002 and under the terms of his appointment with the CMA). Further, he must not use or in any way disclose information acquired during Andrea's employment with the CMA which is subject to legal professional privilege, including both legal advice privilege and litigation privilege.

Keystone Strategy LLC

19. Dr Coscelli's proposed employer also wrote to the Committee to confirm it will maintain effective oversight to verify ongoing compliance with ACOBA's advice with respect to Andrea Coscelli (including the case-specific restrictions requested by the CMA). It also confirmed it would maintain effective oversight of its policies and procedures which are agreed to by all Keystone personnel, including:
- *'...that all Keystone personnel shall safeguard all proprietary and confidential information of each client, including information obtained from clients or through the course of litigation; such information from one matter may not be used for any other matter or purpose.'*
 - Its policy on Walled Client Matters sets out *'...the structure and procedures establishing ethical walls and maintaining the integrity of projects of clients that may be competitors or in disputes with other clients. Keystone's IT department has developed access security protocols for project team members for client data and project materials. Any matters involving the CMA or the restrictions set forth in paragraphs (a) through (d) below will be walled at a minimum at Level 2, a restricted access environment where only those members of the project team are*

permitted to access project materials and client data.'