

## **Report on the International Competition Network (ICN) Business Outreach Workshop**

The ICN Business Outreach Workshop<sup>1</sup>, attended by representatives from 18 competition authorities, as well as the private sector<sup>2</sup>, built on the work of previous ICN subgroups, which had examined the most effective techniques for advocacy and consumer outreach used by competition authorities around the world.<sup>3</sup>

The focus of 2006 Workshop was to examine the business outreach practices of competition authorities, as the ICN has identified the business community as one of the key stakeholder groups whose support is critical in fostering a competition culture.

The Workshop, chaired by Sally Southey, Deputy Commissioner, External Relations and Public Affairs Branch, Competition Bureau Canada, provided an opportunity for ICN members to share best practices and experiences on the means they use to gain support from business and encourage compliance.

Some general themes emerged during the workshop:

- Messages should be simple and targeted to a business audience; businesses need to understand why competition law is relevant.
- Transparency and dialogue are important to enhance predictability for business.
- The small and medium-sized enterprise (SME) community needs to be targeted differently than the big business community.
- Effective outreach is two-way; it requires not only providing information to the business community, but also getting input.
- One of the best ways to inform the public and businesses about competition law is to widely publicize enforcement actions.
- Messages can be disseminated using the media and third party organizations such as trade and bar associations, as well as through academic institutions.
- There is a need to share business outreach practices amongst competition authorities.

The following summarizes the presentations and discussion during the Workshop.

---

<sup>1</sup> See Appendix A

<sup>2</sup> See Appendix B

<sup>3</sup> A summary of the 2005 Workshop on Consumer Outreach, as well as other work products from the Competition Policy Implementation (CPI) Working Group are available on the ICN Web site at [www.internationalcompetitionnetwork.org](http://www.internationalcompetitionnetwork.org), under Working Groups.

**Purvi Radia, Communications Advisor, Competition Bureau Canada**, provided an overview of the business outreach toolkit being prepared for the 2006 ICN annual conference. The toolkit is based on submissions from ICN members and gathers templates, links, and other pertinent information in one place to help competition agencies reach out to businesses more effectively.

She briefly outlined some key considerations for choosing outreach methods. Firstly, know the target audience. Be aware that even within the business community there are different target audiences such as big business with in-house counsel or access to competition lawyers, as well as SMEs that may not have the expertise, resources, or access to counsel needed to understand the law. Secondly, know the message. Is the message intended to educate a business or a business group about a specific provision of competition law? Is it intended to raise awareness about the benefits of competition? Or, is it to change the behaviour of a business? If it is the latter, interpersonal channels such as workshops or interactive educational programs can be more effective than Web sites or publications. Consider which channel best suits the message. Finally, know the options. There may be legislative, budgetary and human resources constraints on outreach activities of competition agencies.

Ms. Radia categorized each country's submissions on business outreach into three broad sections for the toolkit: activities designed to build awareness of the benefits of competition; activities designed to facilitate compliance with competition law; and activities designed to seek feedback from business and better understand the business environment. The toolkit will also contain a resources section with reference material, as well as a quiz tool that competition agencies can download and customize for use with their stakeholder groups.

Based on their experience with clients, private sector representatives also provided insight into how agencies could improve their business outreach practices. Businesses need clear explanations of the consequences of their actions. That is why it is important for competition authorities to be transparent. Detailed news releases, backgrounders and other publications that include the rationale behind an authority's actions are especially important where there is less jurisprudence in a country. In Canada, for example, when the merger regime was introduced, the competition authority issued guidelines for merger review that provided lawyers with a common analytical framework and lexicon.

Among big businesses there is an appetite for more information since they have access to in-house counsel and competition lawyers who can package and apply the information for them. Small businesses don't have this luxury and need information that is less detailed, in "sound byte" form that is easy to digest. News flashes sent by e-mail in real-time are also useful to reach out to business executives.

Consultation is another important element of business outreach. Providing opportunities for comment on competition authority guidelines and proposed amendments to the law creates buy-in and ensures that publications reflect current business realities. It is also important for small businesses to be able to give anonymous feedback. Consultations can

take place formally or informally. Hiring a facilitator can be very effective, especially for a competition authority that has limited experience with consultations. Given that SMEs also have limited experience with government, expert facilitators create a neutral atmosphere, encouraging dialogue.

A representative of the Republic of Indonesia Commission for the Supervision of Business Competition indicated that in his country, one of the requirements for becoming a commissioner is having a business background. This highlights the importance of knowledge of the business community. He also added that it's important to be aware of how the competition authority and competition law is perceived by the business community. He encourages his employees to represent the authority as a partner and not the police; this encourages businesses to cooperate with the authority and provide information when requested.

The presentation of the business perspective was followed by a question over whether guidance material should be interpreted as binding or suggestive. A representative of the U.S. Federal Trade Commission explained that competition authorities must find a balance between being too rigid and being too flexible, which reduces predictability for business. It was acknowledged that some guidance materials must respond to legal requirements, such as deadlines for merger filings. However, other documents related to the competition authority's approach to enforcing a particular provision of the law could benefit from the feedback of the parties that need to comply with the law. Having some flexibility ensures the competition authority can adapt to changing circumstances. An open consultative approach to the business community also ensures there is a continual process of assessment at the competition authority.

**Barbara Lee, Executive Director, Jamaica Fair Trading Commission (FTC)** spoke about the experiences of her agency in a country where the competition culture is not highly developed.

She briefly outlined a number of ways the agency is reaching out to business. The FTC has worked with the Bar Association to present a mock trial on abuse of dominance, which was a success. However, this did not translate into more lawyers attending other agency events. Meetings with the Jamaica Bankers Association have led to more understanding of the competition law and more detailed banking information to consumers. Similarly, meetings with the Jamaica Veterinary Medical Association have led to pro-competitive changes to the group's constitution and by-laws.

The FTC hosts an annual Shirley Playfair lecture, where an expert in competition is invited to speak on a topic of competition significance, followed by a question and answer period. This year's event focused on competition and development, and the implications of water and energy policies for competition. The event was filmed and two fifty-minute packages have been developed for airing on national television. However, this is limited to when free airtime is available.

To maximize the impact of this initiative in a cost-effective way, Ms. Lee presented the idea of asking university communications students to break the video into smaller, more user-friendly segments. These can then be used in schools to teach students about competition.

Ms. Lee mentioned the FTC would like to have the ability to provide advisory opinions, however, they are not legislated to charge fees and do not otherwise have the resources.

Ms. Lee outlined the importance of showing business the benefits of competition, in order for them to buy into it. As a result, the FTC is engaged in producing a study on how competition has benefited the telecommunications sector, which affects everyone.

It is a constant struggle to make competition appealing, and the FTC is considering jingles or a reader-friendly publication called "Competition in a nutshell." The agency has successfully used cartoons in newspapers before.

In response to the challenges presented by Ms. Lee, a representative from the Netherlands Competition Authority emphasized the importance of publicizing enforcement work. The competition regime is relatively new in the country and it took a number of fines and cases before the business community started to understand the effect of the law. In addition, the authority devoted staff to communications and outreach. Publicizing the enforcement work went a long way in establishing credibility for a competition authority and helping the public understand the benefits of competition law.

**Nick Heys, Director, International Unit, Australian Competition and Consumer Commission (ACCC)**, presented the agency's history and experience with business outreach. The ACCC has a very extensive business outreach program, having also named Commissioner John Martin with special responsibilities for small business related matters. He was appointed because of his background in business and the position also gives small business an internal prominence in the operations of the ACCC.

Mr. Heys said the ACCC uses its mandate in its educational work and appeals to a wide audience with the image of being a consumer and competition watchdog. The ACCC operates by what is referred to as the compliance pyramid, based on the assumption that it is more sensible to have businesses comply with the Trade Practices Act (TPA) in the first place instead of having to punish them and undo any economic harm after the fact. The base of the pyramid is made up of education, advice and persuasion, along with liaison, voluntary compliance and industry self-co-regulation. At the top are enforceable undertakings, court cases and penalties. He pointed out that when enforcement is required, the ACCC must act quickly to minimize the harm caused or it removes credibility from the other activities.

The ACCC first started business outreach in 1974 with an initial focus on big business since the community was hostile to the new TPA passed that year. It took 24 years before the ACCC implemented a specific small business program. Some of the mechanisms to reach small business are similar to those used to reach big business. For example, all of

the agency's news releases include an explanation of the provision of law involved in the case in order to enhance understanding of the law. Articles about the ACCC appear regularly in the media, including in tabloids.

The ACCC realized that the small business community had to be treated differently since they lacked resources to educate staff about TPA requirements and compliance. Mr. Heys stressed the importance of putting oneself into the shoes of a small business and looking at the issues they face. Small businesses must deal with bigger businesses, other small businesses, consumers and governments. The agency had to determine the most effective ways of ensuring small businesses knew about their obligations and their rights under the law. That led to the creation of a specific small business strategy, with a focus on developing small business friendly information. When the program started, the ACCC recruited people who had owned or worked in a small business so they would better understand the target audience. The ACCC also worked with other government agencies in putting together information about the rights and obligations of small businesses. Looking at where small business gathers information, they found one place is accounting firms.

Mr. Heys spoke about the importance of face-to-face contact. As much as possible, getting out into the community, meeting with businesses, and participating in industry shows where appropriate, helps to spread the message about competition. Informed businesses can become witnesses to anti-competitive activity, and report it so the ACCC can take action. Being "out on the street" also helps the ACCC to identify trade practices and small business concerns in the marketplace.

Newsletters, publications, guidelines, compliance toolkits and humour are other ways the ACCC educates small business. The ACCC sends out approximately 3,000 SME publications every week on a wide range of issues, and visitors to its Web site can also download a lot of information from a Small Business Access Point. Using industry association communications channels and personal delivery in rural and regional areas has also been useful in educating the small business community.

The ACCC runs the Competing Fairly Forum delivered in the form of a panel discussion, featuring the ACCC Chairman and Australian business leaders, to business communities in various cities. Each forum addresses a different trade practices topic. The ACCC also has a Small Business Advisory Group to consult with small business made up of a number of industry associations representing various sectors of the economy that are characterized by their significant small business membership.

While the ACCC used to play a more active role in the monitoring of compliance programs, that role was removed and is now carried by the private sector.

Mr. Heys pointed to a specific campaign in the real estate sector that used an integrated compliance strategy. The ACCC had identified a number of issues concerning conduct within the real estate sector that had potential trade practices implications. It launched a

public campaign using the media and speaking engagements to get its message across to the real estate industry, in addition to meeting with the relevant industry bodies. This campaign led to successful court cases that were in turn publicized. This exercise underlined the importance of having enforcement staff ready to take on complaints in a sector targeted by outreach. It also showed the effectiveness of combining education and enforcement action.

Mr. Heys recognized that there might be a perceived conflict of interest if it uses industry associations for outreach who may also be subject to enforcement actions. However, there is strong recognition internally and externally of the value of outreach at the ACCC. He also stressed the importance of regularly evaluating the effectiveness of the outreach program.

Mr. Heys' presentation was followed by a small debate on the timing of when to publicize a case. The general consensus was that a case should only be publicized at its outcome, to avoid "trial by press."

**Sue Cook, Head of Publicity and Marketing at the United Kingdom's Office of Fair Trading (OFT)**, described her agency's efforts to reach out to consumers and businesses, focussing on the SME community.

The OFT has devoted resources to stakeholder outreach to determine stakeholder attitudes and knowledge of competition legislation and issues, as well as to focus both consumers and businesses on the benefits of competition.

Ms. Cook described the tracking research the OFT has conducted using phone and face-to-face interviews over the past four years. Among businesses, it was found that awareness of the Competition Act is gradually increasing, as is action taken to comply with the law. Both results showed a trend related to size of business, where larger companies had more knowledge and took more action to comply. Results of the research are available on the OFT's Web site at [www.of.gov.uk/News/Research+reports/default.htm](http://www.of.gov.uk/News/Research+reports/default.htm)

The OFT has used the results of its tracking research to design outreach campaigns. In 2003, a campaign called "It's Your Call" was targeted at consumers to help them use competition for their benefit. The consumer campaign was very successful and used a variety of channels to educate consumers and help them overcome their reluctance to negotiate deals and bargain. Ms. Cook explained it was important to recognize the cultural attitudes of the target audience and hit on those in campaign material. For the business community, the OFT has organized a year-long campaign called "Championing Competition to Business" with pulses throughout the year.

Since the campaign was ongoing at the time of the workshop, Ms. Cook focussed on the method and lessons learned so far. She pointed out that small enterprises are a key part of the U.K economy (99.3 per cent of enterprises in the U.K have less than 49 employees) and the OFT wanted them to recognize that the key to success is to innovate and respond

to competition instead of retreating. The OFT hired a public relations company to focus on the business outreach campaign. An omnibus survey on business attitudes was also launched so the results could be used for the campaign. The OFT's campaign aims to get competition into the consciousness of SMEs, to help them use competition to expand their businesses, and, to recognize and report anti-competitive practices. A variety of activities were organized including the launch of the research on business attitudes; the publication of an academic paper on SMEs followed by a roundtable discussion with SME representatives and journalists; a re-branded cartels hotline and a Leniency month; and by-lined articles, among others.

Ms. Cook emphasized the need to understand the target audience and its limitations. An effective way is to speak directly to SMEs and look at issues through their point of view. She gave the example of an interview with a small ferry company that has only 30 employees, but must keep 3 working full-time on compliance. Government agencies should ensure they provide relevant and easy-to-understand information to already burdened SMEs. Ms. Cook also noted that one fifth of the population in the U.K cannot use the yellow pages due to low literacy, another consideration when planning outreach.

The OFT has had success in explaining complex issues with case studies and advice on how to compete. Research has been key since it's better to understand than to assume. Building relationships with reporters as well as third party organizations has also been useful in getting messages across.

Ms. Cook advised that all authorities should consider the following activities: identifying key journalists and giving them the information they need; using an external agency or specific in-house staff to focus on outreach to avoid diversions by other pressures; setting long-term results in recognition that results won't come right away; and devoting resources to research and dialogue.

A number of interesting issues were raised during the **question and answer session** at the end of the workshop.

A representative from the Korea Fair Trade Commission emphasized its commitment to encouraging compliance programs, recognizing that prevention is just as important as enforcement because it reduces public cost. Criteria for compliance programs include: the commitment of executives, a program manager, a manual, employee education, a report on results, and, enforceable rules and punishment. The authority also provides incentives for companies to establish compliance programs such as reducing the severity of sanctions for competition law violations or the use of the compliance program in its promotional materials. This lends to higher public awareness of the competition authority since consumers can identify with the authority's logo on company Web sites.

The choice of words is important when communicating. Ms. Lee gave the example of the law in their country entitled: the Fair Competition Act and offered their slogan, "A fair deal, your right by law." She mentioned this is challenging because many stakeholders find this confusing since unfair doesn't always mean anti-competitive. Other countries

echoed her views and shared the same opinion that words must be chosen carefully so they don't build up the expectations of stakeholders.

Workshop attendees all agreed on the importance of educating the media. There was debate over whether it was necessary to correct inaccurate media reports. Countries were divided on this issue. Some were of the view that once a fact is reported, the damage is done and it is difficult to correct. Others thought it was important to correct a journalist's mistake and use the opportunity to build a relationship with the reporter by explaining more about the competition authority and its role.

Different competition authorities have different strategies for speeches as well. Some choose specific senior officials to deliver speeches while others focus on specific sectors. The ACCC has a systematic way of reviewing both the upcoming speech schedule and all publications. An Internal Communications Committee has been established to analyse the mechanisms and examine the communications focus before implementation.

Feedback from the workshop participants was very positive.

*The Workshop Chair would like to thank all presenters and participants for sharing their experiences at this workshop.*

## Appendix A

### AGENDA

**Business Outreach Workshop**  
**Tuesday, February 7, 2006**  
**13:00 - 17:00**  
**Room no. 5 at the Château de la Muette at the OECD**  
**19 rue de Franqueville**  
**Paris, France**

<b>TIME</b>	<b>TOPIC</b>
13:00	Introductions and Objectives of Workshop Sally Southey, Deputy Commissioner External Relations and Public Affairs Branch Competition Bureau Canada
13:30	Overview of Toolkit on Business Outreach Purvi Radia, Communications Advisor Competition Bureau Canada
14:00	Challenges getting buy-in from business: the experience of a new competition agency Barbara Lee, Executive Director Jamaica Fair Trading Commission (FTC)
14:45	Lessons learned in Business Outreach Australian Competition and Consumer Commission Nick Heys, Director, International Unit Australian Competition and Consumer Commission (ACCC)
15:45	Outreach to SMEs – “Championing Competition Campaign” The importance of research and evaluation Sue Cook, Head of Publicity and Marketing United Kingdom’s Office of Fair Trading (OFT)
16:30	Conclusion and Q&A session

## **Appendix B**

### **PARTICIPANTS**

1. Australian Competition and Consumer Commission
2. Bundeskartellamt, Germany
3. Commission for the Supervision of Business Competition, Indonesia
4. Competition Bureau Canada
5. Croatian Competition Council
6. Direction Générale de la Concurrence, de la Consommation et de la Répression des frauds, France
7. European Commission's Directorate-General for Competition Direction
8. Générale de la Concurrence et de la Consommation au Ministère de l'Economie et des Finances, Gabon
9. Jamaica Fair Trading Commission
10. Japan Fair Trade Commission
11. Korea Fair Trade Commission
12. National Institute for the Defense of Competition and Intellectual Property, Peru
13. Netherlands Competition Authority (NMa)
14. Office for the Protection of Competition, Czech Republic
15. Portuguese Competition Authority
16. Republic of Lithuania
17. U.K. Office of Fair Trading
18. U.S. Federal Trade Commission
19. Blake, Cassels & Graydon LLP
20. Osler, Hoskin & Harcourt LLP