

August 2002

Re: ICN International Merger Workshop in Washington, D.C., November 21-22, 2002

Dear ICN Member:

As chair of the International Competition Network's Merger Working Group, I am writing to invite your agency to participate in an ICN workshop on investigative techniques for merger review. This two-day workshop will be held in Washington, D.C. on November 21 and 22, 2002, and promises to be an excellent vehicle for the world's law enforcers to network and learn from one another. Information on how to register for this workshop is attached. Additional information also will be available at the first annual International Competition Network conference on September 28-29, 2002, in Naples, Italy.

As you know, the past decade has seen a rapid shift toward market-based economic systems. Concurrently, national trade barriers have been declining and globalization has become an economic reality. Antitrust law and its practice have become prominent, and competition enforcement agencies have proliferated. Today businesses are more transnational than ever before, and cross-border transactions have grown to become daily events.

The workshop is designed to provide a venue for lawyers and economists from many antitrust agencies to meet and learn from one another's practical experiences in conducting merger reviews. The workshop will include topics such as: the effective planning of a merger investigation, methods for gathering reliable evidence and its interpretation, the use of economists and the evaluation of economic evidence. The panels will be organized using a hypothetical case exercise to encourage active participation by all those in attendance, with the objective of learning from one another through the sharing of our respective experiences. Participation is limited to ICN members; in order to facilitate candid discussion of working methods and enforcement issues the workshop will not be open to the public.

ICN members may send one or two officials; we would encourage participation by senior staff level lawyers and economists who are personally actively involved in merger review. There will be no charge for participation in the program. Unfortunately, we are unable to offer transportation or lodging expenses for participants, although we have arranged the availability of hotel rooms at the conference site in Washington, D.C., at favorable rates.

Enclosed is an agenda for the workshop and information on the location of the conference and how to reserve hotel rooms. In order to obtain favorable rates, reservations must be made by November 6, 2002. To help in our planning, I would be grateful if you could let me know preliminarily by the end of August whether you and/or other officials of your agency might attend. I have enclosed a fax form to facilitate your response.

If you or your colleagues have any questions or suggestions about the program now or as we move nearer to the date of the workshop, please feel free to contact Cynthia Lewis Lagdameo at 1-202-305-1210 or cynthia.lewis@usdoj.gov.

I hope to see you or your colleagues at the workshop.

Sincerely,

William J. Kolasky
Chair of the ICN Merger Working Group
Deputy Assistant Attorney General
U.S. Department of Justice, Antitrust Division

Investigative Techniques Subgroup of the Merger Working Group

International Merger Workshop on Investigative Techniques for Merger Review

Thursday, November 21, 2002

08:30-09:00 *Registration*

09:00-09:15 *Welcome and Introduction*

Opening Remarks by Mr. Charles A. James, Assistant Attorney General of the U.S. Department of Justice, Mr. Timothy J. Muris, Chairman of the U.S. Federal Trade Commission, and Mr. Dror Strum, General Director of the Israel Antitrust Authority

09:15-09:30 *Merger Enforcement Activity in the Past Year*

Presentation of papers submitted by participating ICN jurisdictions summarizing major activities and achievements in the merger area

09:30-10:00 *Presentation of Hypothetical*

Presentation of the hypothetical (including hypothetical submissions by merging and third parties) circulated to participants in advance of the conference. The hypothetical will serve as a springboard to facilitate the following discussions

10:00-11:30 *Merger Enforcement Laws, the Merger Review Process and Enforcement Tools*

Discussion of the objectives and basic analytical framework of merger review, the primary investigative tools applied in merger investigations, and the relationship between a country's merger law and review procedures and the approach of enforcement agencies toward merger review

11:30-12:00 *Coffee Break*

12:00-13:00 *Developing an Effective Merger Review Plan*

Initial Reviews – presentations on initial review issues, including techniques employed to clear trouble-free transactions expeditiously and to narrow the legal and factual issues as early as possible in the process. Variations on the hypothetical will be used to present a trouble-free transaction. EU pre-filing consultations and Canada's Advance Ruling Certificates also will be presented and discussed

13:00-14:30 *Lunch*

14:30-15:30 *Developing an Effective Merger Review Plan (continued)*

Full Investigations – presentations on developing the investigation plan and strategies and techniques for keeping decision-makers informed. A

group discussion on issue spotting and on preparing an investigation plan based on the hypothetical will follow

15:30-15:50 *Coffee Break*

15:50-17:00 *Dialogue with the Private Sector*

Private sector perspectives (e.g., merging parties, competitors, and customers) on merger review processes, procedures, and substance, presented by practitioners and corporate executives. Suggestions on how to minimize the burden imposed by the process on merging parties will be discussed, as well as the importance of transparency and confidentiality issues

17:00-18:00 *Questions and Answers with chairs and participants of the day's panels*

Friday, November 22, 2002

09:00-11:00 *Developing Reliable Evidence*

Panelists will discuss what constitutes relevant, probative evidence in their merger review systems and how they assess evidence and test it for veracity, accuracy, and reliability. Using the hypothetical and materials from real cases, panelists will compare and contrast how their systems use different types of evidence such as live witness testimony, documents from merging parties and third parties, and econometric analyses

11:00-11:30 *Coffee Break*

11:30-13:00 *The Role of Economists and Economic Evidence in Merger Investigations*

Discussion of techniques employed by economists in the antitrust agencies to define markets and gauge competitive effects. Included will be a discussion of practical issues such as "what data to look for," where to get them," and "which proxies to use if you can't get the data you want." In addition, there will be case study presentations describing the use of economic evidence in actual agency investigations, and a description of one "look back" evaluation of a consummated merger

13:00-14:30 *Lunch*

14:30-15:30 *International Cooperation in Merger Review Cases*

Discussion of information exchange in multiple-filing cases, the impact of existing cooperation agreements on exchange of information and assistance, the form and content of waivers executed by parties to merger transactions, and an analysis of the experience gained to date with this type of cooperation

15:30-15:50 *Coffee Break*

15:50-16:45 *Conclusion*

Investigative tools and techniques: summary and evaluation

16:45-17:45 *Questions and Answers with chairs and participants of the day's panels*

Renaissance Mayflower Hotel

1127 Connecticut Avenue, NW

Washington, DC 20530

1-202-347-3000

FAX MESSAGE

Please fax to 1-202-466-9082

Reservations must be received on or before Wednesday, November 6, 2002

Re: ICN International Merger Workshop in Washington, D.C., November 21-22, 2002

Room Rate: \$150.00 per night

\$30 Additional person

\$139.00 for Saturday night, November 23, 2002

From:

(Name)

(Address)

(Country)

(Phone Number)

(Fax Number)

(Credit Card Number)

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MasterCard

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I will stay in the Mayflower Hotel the nights of:

- November 20 Yes _____ No _____
- November 21 Yes _____ No _____
- November 22 Yes _____ No _____
- November 23 Yes _____ No _____

Number of rooms _____

Smoking _____ Non-Smoking _____

Queen Bed _____ King Bed _____ Double Beds _____

Other comments:
