

AN INCREASING ROLE FOR COMPETITION IN THE REGULATION OF BANKS
Best practices by the International Competition Network

1. The Antitrust Enforcement in Regulated Sectors Working Group report on “An increasing Role for Competition in the Regulation of Banks” reviews regulations governing banks in the light of established principles for good regulation. The Report concludes that some problems (i.e. protection of smallest depositors, proper regulation of bank settlements, risk adjusted stability concerns) need appropriately designed regulations to overcome them. Furthermore the existence of switching costs increases the market power of each single bank and market oriented regulatory solutions are needed to reduce their importance. Finally the report sees the development of microcredit as a market driven and market oriented phenomenon. Of course regulation should be designed so as to favor its development. For the rest the sector can be efficiently disciplined by market mechanisms and by the application of antitrust laws.
2. On the basis of the Report, the ICN Annual Conference of Bonn recommends the following best practices aimed at achieving a more competitive and more efficient banking industry through more extensive liberalization, appropriately designed regulatory institutions, a rigorous application of antitrust rules and advocacy interventions to be adopted when necessary.
3. In particular, jurisdictions should:
 - 1 *promote an open, competitive, banking environment without unjustified restrictions on entry, ownership or exit, resulting either from the rules to be applied or from enforcement practices;*
 - 2 *ensure that there is a proper separation between the enforcement of prudential regulation and of the general competition rules.*
4. In addition agencies should:
 - 3 *whatever the institutional setting, build good working relationships with the regulatory agencies and coordinate their efforts in reviewing particular matters;*
 - 4 *apply in enforcement the usual tools of antitrust analysis, including market definition, market power/dominance, remedies.*
5. Finally, agencies in their competition advocacy functions should consider, as appropriate when competition concerns are raised, to advocate for:
 - 5 *the elimination of exclusions from competition law for financial institutions;*
 - 6 *an environment where banks are informed in a timely and complete manner on the debt exposure of potential borrowers (in integrated financial markets also on an international basis), making sure to identify ways and precautions such that information sharing does not lead to restrictions of competition;*
 - 7 *a legal environment where the taking possession of collateral is possible without delay;*

- 8 *a reduction of switching costs by depositors, when possible to be achieved by asking for disclosure rules, for example on the costs associated with the closing of an account or paying off a mortgage;*
- 9 *in countries with a common currency, a reduction of transaction costs on cross border payments, including the creation of larger than national payment systems, so as to favor the development of larger markets and greater choices for consumers;*
- 10 *especially in developing countries and consistent with maintaining a competitive market, the creation of a legal environment where financial institutions can reduce their risk by joint liability lending.*