

## **Member Questionnaire – ICN Roundtable on Enforcement Cooperation**

In preparation for the ICN’s Roundtable on Enforcement Cooperation, we would appreciate your agency responding to the following short questionnaire. Responses should be submitted to the ICN secretariat at to [icn.secretariat@cb-bc.gc.ca](mailto:icn.secretariat@cb-bc.gc.ca). We would appreciate your response by March 14<sup>th</sup>. The responses will be used to prepare a short summary paper that will aggregate experience and data and will NOT individually identify respondent agencies. The summary will be provided to roundtable participants, and, ultimately, may be made more broadly available within the ICN.

**Agency Name:**

### **Case Cooperation**

1. In what ways does your competition authority cooperate with competition agencies from other jurisdictions on enforcement matters? Please check all factors, in the following chart, that apply, and describe generally, below, including the benefits your agency obtains from cooperation, and noting whether there are any differences as between cartel, merger and unilateral conduct matters.

<b>Factors</b>	<b>Cartel</b>	<b>Merger</b>	<b>Unilateral Conduct</b>
Informal contact with another agency			
Sharing with another agency information regarding the status of your agency’s investigation			
Sharing with another agency the substantive theories of violation and harm your agency is investigating			
Obtaining appropriate waivers and sharing business information and documents with another agency			
Coordinating with another agency on the timing of review and decision			
Coordinating with another agency on dawn raids/searches			
Coordinating other aspects of investigations (e.g., joint interviews)			
Remedy coordination			
Other (please explain below)			

2. In the past year, please estimate, if possible, the percentage of cases or investigations in which your agency has cooperated with an agency from another jurisdiction (defined for purposes of this question as a case in which your agency has had at least one substantive contact with one or more competition authorities outside your jurisdiction) in:
  - a. Cartel investigations?
  - b. Merger investigations?
  - c. Unilateral conduct investigations?

For a number of agencies, this information may be confidential, not tracked formally, or not easily compiled by the due date for the questionnaire. In such circumstances, please indicate, if possible, and separately for cartels, mergers, and unilateral conduct, whether such cooperation has occurred “frequently,” to a “moderate degree,” “seldom,” or “never.”

3. Please estimate the average number of foreign agencies with which your agency cooperates in a case or investigation. Please note whether this experience differs significantly as between cartel, merger and unilateral conduct matters.

### **Authority**

4. Please describe the terms of your agency’s legal authority to cooperate with foreign agencies, *e.g.*, inherent in domestic legislation, none needed as not prohibited, or powers and limitations provided by statute. As relevant, please identify the extent to which the basis differs as between cartels, mergers, and unilateral conduct investigations, if any. Do bilateral or multilateral agreements or arrangements provide additional opportunities for your agency to cooperate? If so, please explain.
5. What types of information is your agency authorized to share with another foreign competition agency? Does this differ as between cartels, mergers, and unilateral conduct)? If so, please explain.

### **Process**

6. How does your agency typically learn about potential opportunities to cooperate with another foreign agency? For example, does your merger notification regime require or request that the parties identify other interested competition authorities?
7. What factors does your agency consider in evaluating whether to contact another foreign agency or accept another agency’s request for cooperation on a given matter?

8. At what stage of the investigation does your agency typically contact other foreign agencies (or receive contact from other agencies) about cooperating on an individual case? Does your answer vary depending on the type of investigation or the agency? Please explain.

### **Waivers**

9. Is your agency permitted to rely on waivers from parties and third parties to use their confidential information in discussions with agency staff from cooperating foreign agencies? Is this required?
10. Under what circumstances does your agency request waivers?
11. Describe generally how frequent your agency is able to obtain waivers from parties and third-parties, and any reasons identified by parties for not granting waivers and/or for which your agency rejected waivers. If the response differs as between the mergers and unilateral conduct contexts, please explain.

### **Additional Tools**

12. Has your agency developed any specific tools, including approaches to review timetables, to assist in case-enforcement cooperation, including for use with foreign agencies with which it has a special bilateral relation? If so, please explain.
13. Has your agency developed written guidance on case enforcement cooperation? Please provide a copy of any such guidance.

### **Obstacles**

14. From your agency's perspective, are there any legal or practical obstacles that impede effective cooperation? If so, what are they? Please explain. If your agency has faced an obstacle to cooperation in the past but has been able to overcome it, please elaborate.

### **Possible Future Work**

Please come to the cooperation roundtable prepared to discuss whether the ICN should address cooperation issues as part of its future work and any suggested topics or projects for possible future work in this area. If your agency would like to provide thoughts as part of this response, please feel free to do so.