

**COMPETITION POLICY IMPLEMENTATION WG**  
**A REVISED MANDATE AND A WORK PROGRAMME FOR 2009-2012**  
**DETAILED PROPOSAL FOR THE 2009-2010 PERIOD**

**1. Background**

- (1) The ICN Steering Group decided on 13 May 2009 to "refine the mandate" of the CPI Working Group, focusing on agency effectiveness. It also suggested that the CPI Working Group would attempt to develop innovative ways of working and to find ways to exploit complementarities with other Working Groups and the Vice Chairs. At the same time the Steering Group invited all ICN Working Groups (including the CPI Working Group) to submit a work programme for the next year, identifying only a very limited number of priority projects, listed in order of priority.
- (2) The present note attempts to follow up on these decisions. It formulates a proposal for a "more focused mandate" for the CPI Working Group and for a concrete work programme for the coming year. In addition, an attempt is made to clarify relations and complementarities between the CPI WG and other Working Groups and Vice Chairs.

**2. Proposal for a new mandate for the CPI WG**

- (3) In line with the decision taken by the ICN Steering Group on 13 May, it is proposed to focus the activity of the CPI Working Group on a variety of factors determining the ability of competition agencies to achieve their objectives in an efficient and effective manner.
- (4) The new mandate of the CPI WG could be reflected in changing the title of the WG to "Agency Effectiveness Working Group".
- (5) Agency effectiveness is determined by a wide range of institutional and organisational factors. Based on work carried out in the past<sup>1</sup>, these factors can be grouped under six main themes:
  - Strategic planning and prioritisation (including internal planning mechanisms and priority setting)
  - Effective project delivery (including the use of performance indicators in the management of a competition agency, tools and procedures used for optimal case management, quality control, enforcement and monitoring of compliance with agency decisions);
  - Effective knowledge management (how agencies should invest in knowledge, what kind of research activity they should undertake, how to ensure that knowledge is retained)

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<sup>1</sup> See in this respect the reports prepared by the CPI WG in 2008 and 2009, the summary report on the effectiveness seminar held in Brussels in January 2009 and the results of the FTC at 100 exercise.

- Ex-post evaluation (including project-specific and macro-evaluation, estimating the impact of agency action)
  - Human resource management (what HR strategy should agencies develop, including the recruitment, retention and motivation of agency staff)
  - Communication and accountability (including the role of communications in ensuring effectiveness)
- (6) In the future, the Agency Effectiveness Working Group will examine ways to improve the effectiveness of competition agencies, focussing on the six themes identified above. The Working Group will do so by exchanging experiences of ICN members and other organisations or experts.
- (7) It is proposed that the ICN Steering Group mandates the Agency Effectiveness Working Group to develop a comprehensive "Competition Agency Practice Manual" (Manual) covering the six main themes set out above by 2012 on a gradual basis. The Work Plan will be approved by the Steering Group for 2009-2010 working year as the initial phase of a three year project. After the finalization of the first year, this Work Plan will continue as it is or carry on based on a refined or enlarged Work Plan according to the Steering Group's decision for the coming period. This Manual will serve as a guiding set of principles for all ICN members. It will be a "living document" in that it will be revised and updated on a regular basis.
- (8) The Working Group would prepare and deliver chapter(s) for the Manual covering two of the six themes each year starting in 2009 as part of the whole project. The methodology that will be applied will vary depending on the relevant themes concerned (e.g. survey of a sample of agencies, focus-groups, ICN-wide questionnaires, (tele-) seminars, blogs, hearings, expert-panels, workshops and/or conferences). The precise methodology that will be applied in a given year for the preparation of the Chapter(s) will be decided by the members of the Working Group before the start of the project. In any event, the end-output of each working year will be a written product serving as the chapters in the form of tip sheets to be used in the Manual.

### **3. Organisation of the Working Group**

- (9) In response to the comments made during the meeting of the Steering Group on 13 May, it is proposed to restructure the CPI Working Group and to concentrate its activities in one single group (i.e. without subgroups).
- (10) To maximise the active involvement of ICN members, it is proposed to launch a new "call for expression of interest" among the ICN members once the work programme has been defined and agreed by the Steering Group.

### **4. Work programme 2009-2010**

- (11) The medium-term objective for the Agency Effectiveness Working Group is to establish a first version of a comprehensive "Competition Agency Practice Manual" by 2012 (see above).
- (12) To achieve this, the Working Group proposes an "indicative" three year work programme that will allow it to cover in a gradual manner each of the six themes identified above. At this stage, the Working Group proposes to deal with each theme in

two (successive) phases in a given year as a basis of Chapter(s), namely:

- In a first phase of that year, the Working Group will establish an overview of existing practices in ICN member agencies for a given theme, possibly complemented with existing practices in other organisations ("stock-taking phase");
- On the basis of a review of the existing practices with the chosen methodology, the Working Group will then, in a second phase in the same year, identify "practical guidance" for competition agencies in a repository nature.

(13) It is proposed to cover each of the six themes identified above and come up with the first edition of the Manual in the next three years.

	Stock taking phase	Practical Guidance phase
2009-2010	Strategic planning and prioritisation Effective project delivery	Strategic planning and prioritisation Effective project delivery
2010-2011	Knowledge management Human resource management	Knowledge management Human resource management
2011-2012	Ex post evaluation Communication & accountability	Ex post evaluation Communication & accountability

(14) In 2009-2010, the Working Group would initially carry out the stock-taking exercise for the first two themes, namely "Strategic planning and prioritisation" and "Effective project delivery".

- The "Strategic planning and prioritisation" project would consist of the collation of strategic objectives or mission documents of ICN member agencies, exchange of experiences on drawing up work programmes and criteria used by agencies of case prioritisation and the exchange of good practices on how to balance discretionary and non-discretionary workload. The CPI past work will provide solid grounds for this phase.
- The "Effective project delivery" project would consist of the examination of tools and techniques for optimal case management (e.g. performance indicators, criteria taken into account during the formation of teams who will be in charge of cases), exchange of good practices on internal quality control mechanisms and on institutional and organisational solutions ensuring compliance with agency decisions.

The stock-taking work carried out on these two themes during the first half of the working year. The results of this work should be prepared in a written format for the practical guidance chapters that will be prepared for "Strategic planning and prioritisation" and "Effective project delivery".

(15) For 2009-2010, the Working Group proposes to proceed in the following manner upon approval by the Steering Group:

06/2009	Annual ICN Conference approves work programme of the Agency Effectiveness WG
06/2009	The WG Chair and Co-Chairs elaborate on a more detailed project plan for each of the two themes ("Strategic planning and prioritisation" and "Effective project delivery"), identifying methodology and events to be

	organised in the course of the year.
07/2009	The WG Chair circulates the detailed project plans to all ICN member agencies inviting them to become a member of the Agency Effectiveness WG and to participate actively in one of the two projects. Interested agencies are invited to comment on the plans and to indicate in what way they would like to be involved in the project.
09/2009	On the basis of the reactions received, one project team is set up
10-11/2009	The selected project team defines the methodology for its project (e.g. surveys, programme for workshop, etc).
12/2009	The selected project team drafts its "written output" for circulation among the WG

## 5. **Proposal for a decision**

(16) In accordance with the decision by the ICN Steering Group of 13 May 2009, the Working Group proposes the Steering Group to make the following recommendation to the Annual Conference in Zürich:

- The Competition Policy Implementation Working Group will be renamed as "Agency Effectiveness Working Group". The Working Group is given the mandate to examine a variety of factors determining the ability of competition agencies to achieve their objectives in an efficient and effective way in a repository manner.
- The medium-term objective for the Agency Effectiveness Working Group is to establish a first version of a comprehensive "Competition Agency Practice Manual" by 2012. This manual will cover the following six main themes:
  - Strategic planning and prioritisation;
  - Effective project delivery;
  - Effective knowledge management;
  - Ex-post evaluation;
  - Human resource management;
  - Communication and accountability.
- The manual will provide "practical guidance" for agencies on each of the above themes. This guidance will be established gradually over the next three years on the basis of a review of existing practices in competition agencies and other relevant organisations. The Group will use a wide range of working methods in a flexible manner (questionnaires, surveys, blogs, workshops, ...).
- In 2009-2010, the Working Group will undertake a stock-taking exercise covering two themes namely "Strategic planning and prioritisation" and "Effective project delivery" The results of stock-taking exercise should be prepared in a written format for the practical guidance chapters of the manual focuses on the aforementioned themes "Strategic planning and prioritisation" and "Effective project delivery".

- The Work Plan will be approved by the Steering Group for 2009-2010 working year as the initial phase of a three year project. After the finalization of the first year, this Work Plan will continue as it is or carry on based on a refined or enlarged Work Plan according to the Steering Group's decision for the coming period.

## **CPI WORKING GROUP**

### **ACTIVITY IN RECENT YEARS**

- (1) The mission of the Competition Policy Implementation (CPI) working group is to identify key elements that contribute to successful capacity building and competition policy implementation in developing and transition economies. For the year 2008-2009, the group consists of two subgroups focused on 1) agency effectiveness and compliance and 2) experience sharing among ICN members. The co-chairs of CPI are Brazil's Council for Economic Defence and the Turkish Competition Authority.
- (2) The Working Group carried out the second phase of its agency effectiveness work in 2008-2009 via its Sub group 1, analyzing (1) the relation between agency priorities and resource allocation; and (2) agency effectiveness as measured by compliance with agency decisions. The work examined, *inter alia*, authorities' institutional powers to obtain compliance with decisions imposing remedies and sanctions as well as long term effects of compliance. In addition, the project studied ways agencies engage in self-assessment to review the effectiveness of their decisions. To collect this information, the group prepared a questionnaire, which was sent to all ICN members. The questionnaire focused on decision-making procedures and on the monitoring and implementation stages of agency decisions.
- (3) The increase in the number of ICN members that responded to the questionnaire, from 20 agencies in 2007-2008 to 37 agencies from 36 jurisdictions in 2008-2009, may reflect a growing recognition of the importance of this subject. While survey responses diverged considerably on many questions, responses to some questions showed considerable agreement.
- (4) The SG 1 also organized a high-level seminar on effectiveness of competition law enforcement, for competition agency heads and senior officials who are directly responsible for the strategic planning at their agency. The seminar, hosted by the European Commission, took place in Brussels on 22nd and 23rd January 2009. At the seminar, many ideas were exchanged and agency officials discussed the relative merits of different organizational and planning tools used in their respective agencies.
- (5) For the past several years, the CPI WG, through its Subgroup 2 on Effective Technical Assistance, has searched for a mix of tools that would allow for the effective sharing of experience between competition agencies. In accord with this' it carried out conference calls that intended to bring case handlers together to discuss problems and share solutions in real time. To date, calls have been conducted on mergers, abuse of dominance, cartels, competition advocacy, and building a competition culture in government processes. Additional calls have been conducted on a regional basis, one in Spanish in Latin America, and one in East Asia (both on competition advocacy). Those conference calls are started to be named as "competition dialogues" during the 2008-2009 working year. In addition to the ongoing efforts to improve effective experience sharing to the benefit of the ICN membership, a proposal regarding the initiation of an online blog as a pilot project within the Subgroup was recently introduced.