

## ICN FACTSHEET AND KEY MESSAGES

### ICN At A Glance

- The ICN is a specialized yet informal network of established and newer agencies, enriched by the participation of non-governmental advisors (representatives from business, consumer groups, academics, and the legal and economic professions), with the common aim of addressing practical antitrust enforcement and policy issues. By enhancing convergence and cooperation, the ICN promotes more efficient and effective antitrust enforcement worldwide to the benefit of consumers and businesses.
- The ICN is a results-based, project-oriented organization, which has grown from 16 to 104 competition agencies (from 92 jurisdictions) in 7 years. The ICN is exclusively concerned with competition law – “It is all competition, all the time”. The ICN operates by consensus and its work takes place in working groups, with members and non-governmental advisors (NGAs) conducting discussions, typically via teleconference or e-mail. In addition, members and experts convene annually to discuss working group projects and their implications for enforcement. The next annual conference will be hosted by the Swiss Competition Commission on 3-5 June 2009 in Zurich, Switzerland.
- With an increasing number of investigations that involve cross-border effects and concurrent reviews by multiple agencies, competition agencies need to collaborate with each other to reduce the risk of: (i) sub-optimal enforcement, and (ii) inconsistent outcomes. The ICN helps to facilitate cooperation and convergence, where appropriate.
- The ICN has produced a series of practical recommendations and other tools on best practices, investigative techniques and analytical frameworks, which have significantly contributed to cooperation efforts among competition agencies. Notable achievements have been made in the areas of merger review, anti-cartel enforcement, unilateral conduct, competition advocacy, and competition policy implementation, through a variety of practical outputs. These include recommended practices, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits, and workshops. Implementation of these work products, in so far as this leads to optimal enforcement and consistent outcomes, is good for competition agencies, governments, business and ultimately consumers. Importantly, the ICN has also helped to foster closer relations among agency leaders and staff, leading to improved cooperation on cases and a better understanding of each other's laws and policies.

---

## ICN – Frequently Asked Questions

### What is the ICN?

- The ICN is an informal network of established and newer agencies competition agencies with the common aim of addressing practical antitrust enforcement and policy issues. By enhancing convergence and cooperation, the ICN promotes more efficient and effective antitrust enforcement worldwide for the benefit of consumers and businesses.

### What are the ICN's goals and objectives?

- The ICN's main goal is to improve and advocate for sound competition policy and its enforcement across the global antitrust community.
- The ICN seeks to develop and promote sound and principled procedural and substantive benchmarks, and to foster pro-competitive, efficiency-enhancing conduct. These benchmarks can serve as a model for governments and competition agencies looking to develop new laws and policies, and to update current practices.

### How does the ICN work?

- The ICN is a results-based, project-oriented organisation, which has grown from 16 competition agencies to 104 competition agencies in 7 years. The ICN is exclusively concerned with competition law. ("It is all competition, all the time".) It operates by consensus. ICN work takes place in practical working groups, with members and non-governmental advisors (NGAs) developing materials and conducting discussions, typically via teleconference or e-mail. Members and experts convene at an annual conference to discuss group projects and the implications for competition policy and enforcement. In addition, ICN working groups organize periodic workshops on specific enforcement and policy topics. ICN is not used as a forum to cooperate on specific cases.

### Why have the ICN?

- Economic globalisation has resulted in an increasing number of investigations and reviews of mergers, cartels and unilateral conduct that transcend jurisdictional boundaries. Agencies need to cooperate with each other on cross-border cases in order to reduce the risk of: (i) sub-optimal enforcement if an agency only has a partial picture of the situation; and (ii) inconsistent outcomes if different jurisdictions reach different conclusions about the same practice. The ICN helps facilitate cooperation and convergence, where appropriate. This is good for competition agencies, governments, businesses, and ultimately consumers.

### **What is the value of the ICN for competition agencies?**

- The ICN encourages dissemination of antitrust experience and best practices on topical issues to promote convergence toward sound competition policies and practices, cooperation and better understanding among agencies. It is therefore of value to both established and newer competition agencies.

### **What is the value of the ICN for governments?**

- The ICN's goal of improving competition policy and enforcement, and the ICN's advocacy of competition principles, facilitate open and competitive markets for the benefit of businesses and consumers. The ICN promotes cooperation and convergence, encouraging the exchange of best practices among ICN members. In addition, the ICN's work products are useful to governments that are introducing competition law for the first time or are revising their rules, for example in order to enhance pro-competitive regulation more generally.

### **What is the value of the ICN for business?**

- Poorly conceived competition policy and its enforcement can impose unnecessary costs and uncertainty on the business community and marketplace. The ICN works to promote sound and principled procedural and substantive standards that minimise these costs and burdens, allowing pro-competitive conduct to flourish.

### **What is the value of the ICN for consumers?**

- The ICN works to facilitate improved enforcement and advocacy of competition law, which fosters vibrant competition in open and well-functioning markets and optimizes consumer welfare. This should create conditions that promote lower prices and wider consumer choice.

### **What has the ICN achieved?**

- The ICN has produced a series of practical recommendations and other tools on best practices, investigative techniques and analytical frameworks, which have significantly contributed to cooperation efforts among competition agencies. Notable achievements have been made in the areas of mergers, cartels, unilateral conduct, advocacy, and competition policy implementation, through a variety of practical products and outputs. These include recommended practices, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits, and workshops.

- According to a recent outreach survey<sup>1</sup>, 96% of competition agencies surveyed make use of ICN work products and materials, and 94% distribute them inside the agency. 77% use ICN materials for reference purposes, 46% for staff training and 40% for outreach. 69% of all agencies say they are pro-actively working towards applying ICN Recommended Practices (71% of newer and 65% of established agencies).

### **Who are the ICN's stakeholders?**

- The ICN has a wide range of stakeholders in addition to its member competition agencies. These include the business community, legal and economic professions, consumer representatives, academics, and policy makers.

### **How does the ICN engage with its stakeholders?**

- The ICN engages with its stakeholders by way of informal collaboration, which is consistent with an informal network. NGAs volunteer to participate in the ICN by contacting their respective member agencies. They may contribute to the work carried out by the ICN including for example:
  - making available their expertise and actively being involved in the draft work product of the ICN, including recommended best practices and guidelines;
  - identifying issues and factors to be considered by the Steering Group, and other Groups of the ICN;
  - identifying potential projects.

NGAs also actively participate in the annual conference.

### **Why is the ICN not an inter-governmental organisation?**

- The ICN is organised by and for competition agencies. It provides a forum for both established and newer competition agencies to have equal and direct input to practical discussions on competition enforcement issues. The ICN's work products are not legally binding instruments.

### **What are the ICN's next objectives?**

- Increased emphasis on outreach and implementation. Promoting exchanges on practical experience will be particularly important in this regard, for example through the use of teleconferences, web-based tools, and workshops.

---

<sup>1</sup>[http://www.internationalcompetitionnetwork.org/media/library/mergers/Vice\\_Chair\\_1.pdf?bcsi\\_scan\\_A2018E0826464712=0&bcsi\\_scan\\_filename=Vice\\_Chair\\_1.pdf](http://www.internationalcompetitionnetwork.org/media/library/mergers/Vice_Chair_1.pdf?bcsi_scan_A2018E0826464712=0&bcsi_scan_filename=Vice_Chair_1.pdf)

- Continued progress towards consensus building, cooperation and convergence toward sound competition policy and practice, as well as better understanding of each other's laws and policies.

---

## ICN In-Depth

### What is the ICN?

- The ICN is a network of established and newer competition agencies, with the common aim of addressing practical antitrust enforcement and policy issues. The ICN facilitates consensus building and convergence toward sound competition policy and practice across the global antitrust community.
- The ICN provides competition agencies with a focused multilateral forum where colleagues can meet and discuss competition law and ways of improving competition advocacy. These project-oriented discussions are enriched through the participation of non-governmental advisors (NGAs) who represent business and consumer groups, academia and the legal and economic professions.
- The ICN is a voluntary, consensus-based organisation, and members are national or multinational competition agencies or a competition agency of a customs territory entrusted with the enforcement of competition law throughout the customs territory<sup>2</sup>.
- The ICN is not a rule-making organisation and its work products are not legally binding instruments. When ICN members reach consensus on recommendations or recommended practices arising from its projects, individual competition agencies decide whether and how to implement the recommendations.
- The ICN was established in October 2001 by top antitrust officials from 16 competition agencies from around the world.
- The ICN's membership currently includes 104 competition agencies from 92 jurisdictions.

### What are the ICN's goals and objectives?

- The ICN is 'all competition, all the time'.
- The ICN's main goal is to improve competition law enforcement and competition advocacy across the global antitrust community, for the benefit of business and consumers.

---

<sup>2</sup> See <http://www.internationalcompetitionnetwork.org/index.php/en/about-icn/operational-framework>

- The ICN encourages the dissemination of antitrust experience and recommended practices, promotes an advocacy role for antitrust agencies, and seeks to facilitate international cooperation and convergence.
- The ICN encourages all of its members, both established and newer agencies, to not only develop consensus around recommended practices and other recommendations, but to implement these practices.
- The ICN also seeks to support newer agencies in their efforts to enforce their antitrust laws and to build a competition culture in their jurisdictions.

### **How does the ICN work?**

- The ICN is a results-based, project-oriented organisation. It operates by consensus. Work products and proposals for new work streams are put before the members at the annual conference for approval.
- The ICN is a virtual network. It has no formal Secretariat or premises. The ICN's operational workings and processes are supported by a member agency which provides a centralized secretarial support service (currently the Canadian Competition Bureau).
- ICN work takes place in project-oriented working groups, with members and non-governmental advisors (NGAs) conducting discussions, typically via teleconference or e-mail, and by holding interactive workshops.
- There are currently working groups devoted to: mergers, cartels, unilateral conduct, advocacy, competition policy implementation, and membership and operational matters.
- ICN working groups produce a variety of work products, including recommended practices and other guidance documents, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits, specialized workshops, panel discussions and breakout sessions at the annual conference.
- The ICN is currently chaired by David Lewis, Chairperson of the South African Competition Tribunal.
- The Chair is supported by a Steering Group of 15 members, including three Vice Chairs who are responsible for projects on outreach, international coordination, and advocacy and implementation. In addition, there are up to three ex officio Steering Group members comprising the annual conference hosts from the past year, the

current year, and the following year. The Chair is chosen by the Steering Group from among its members. The Steering Group is elected by the ICN membership every two years.

- Members volunteer to host the annual conference.
- The most recent conference was hosted by the Japan Fair Trade Commission and the next conference will be hosted by the Swiss Competition Commission on 3-5 June 2009 in Zurich, Switzerland.

### **What is the value of the ICN for competition agencies?**

- The ICN encourages the dissemination of antitrust experience and exchanges of recommended practices with other ICN members on topical issues. It is of value to both established and newer competition agencies.
- The ICN facilitates convergence and international cooperation between competition agencies. ICN is not used as a forum to cooperate on specific cases. Rather, ICN's work helps to promote the convergence of agency enforcement policies, analytical approaches, and investigative techniques. In particular, ICN has developed specific tools to facilitate cooperation, for example it has developed a model waiver of confidentiality form, and agency staff contact lists.
- The various ICN work products can influence and bring about change in member agencies' jurisdictions. For example: a change to an element of the competition law or procedures in an ICN member jurisdiction, influenced by an ICN recommended practice or other work product; better detection or sanctioning of restrictions of competition by a member agency through sharing of experiences of other agencies; improved cooperation between agencies through sharing of experiences; facilitation of the work of case-handlers and of undertakings and their representatives through convergence of practices inspired by the ICN; better targeted and more effective capacity building measures.
- The adoption of ICN benchmarks encourages agencies to align themselves with these agreed benchmarks, which in turn promotes convergence.
- The ICN provides a forum for newer agencies to draw on the experiences and support of more established agencies, for example as they seek to advocate a competition culture in their jurisdiction, where there may face vested local interest groups.

### **What is the value of the ICN for governments?**

- The ICN's goal of improving the enforcement of competition law and advocacy of competition principles facilitates open and competitive markets for the benefit of

businesses and consumers. This can contribute to general economic development through increased productivity and efficiency, helping to drive national and regional competitiveness.

- The globalisation of markets requires multilateral dialogue and cooperation. The ICN's promotion of international cooperation and convergence on sound principles of competition law and policy assists policy makers in responding to the pressures and opportunities of increasing economic globalisation, for example, through reducing barriers to entry and improving economic efficiency.
- The ICN provides a unique source of international best practice and benchmarks for governments looking to introduce reforms and/or strengthen their competition enforcement regime.

### **What is the value of the ICN for business?**

- Competition enforcement may, at times, impose unnecessary costs and uncertainty on the business community and marketplace. The ICN works to promote sound and principled procedural and substantive standards that minimize such burdens and leave pro-competitive, efficiency enhancing conduct to flourish.
- The ICN provides a forum for constructive dialogue between competition agencies and the private sector. The active involvement of the private sector is reflected in the ICN's practical outputs which are of benefit to agencies and business alike. For example, the merger notification and procedures work has proved very successful for both business and agencies. The ICN's work on cartels has proved influential in shaping the development or revision of leniency programmes around the world.

### **What is the value of the ICN for consumers?**

- The ICN works to facilitate improved enforcement and advocacy of competition law which fosters vibrant competition in open and well-functioning markets and optimises consumer welfare.
- Effective competition enforcement ensures that consumers benefit from competitive and innovative markets that are not constrained by anti-competitive behaviour, by overly burdensome regulations or anti-competitive mergers.

### **What has the ICN achieved?**

- Notable achievements have been made in the areas of mergers, cartels, unilateral conduct, advocacy, competition policy implementation and regulated sectors through a



variety of practical products and outputs. These include recommended practices, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits and workshops.

- According to a recent outreach survey<sup>3</sup>, 96% of competition agencies surveyed make use of ICN work products and materials, and 94% distribute them inside the agency. 77% use ICN materials for reference purposes, 46% for staff training and 40% for outreach. 69% of all agencies say they are pro-actively working towards applying ICN Recommended Practices (71% of emerging and 65% of established agencies).

*Merger review:*

- The ICN has worked to reduce unnecessary delays in multi-jurisdictional merger review by developing benchmarks for merger notification and review procedures and merger analysis.
- **Guiding Principles and Recommended Practices for Merger Notification and Review Procedures.** The ICN has adopted eight Guiding Principles and thirteen Recommended Practices for merger notification and review procedures.<sup>4</sup> The practical but flexible orientation of these principles and practices helps to facilitate convergence of merger review laws to reduce unnecessary burdens on reviewing agencies and businesses while protecting consumers from potentially anti-competitive mergers. The Practices address a variety of issues, including:
  - Notification thresholds: one of the major contributions made by the Recommended Practices has been to provide practical guidance on jurisdictional nexus and notification thresholds for the purposes of identifying transactions that are properly subject to merger notification requirements and review. According to the Recommended Practices, competition agencies should not assert jurisdiction over a merger unless the transaction would have an appreciable impact on that jurisdiction. Moreover, according to the Recommended Practices, the thresholds should be based on objectively quantifiable criteria, such as local sales or assets. These Recommended Practices have been supplemented by a report on setting notification thresholds for merger review, which among other things identifies approaches and methods that 21 surveyed ICN members found worked well in adjusting their notification thresholds.
  - Appropriate review periods: The Recommended Practices recommend that merger reviews should be completed within a reasonable timeframe. According to the Recommended Practices, a reasonable period for review

---

<sup>3</sup>[http://www.internationalcompetitionnetwork.org/media/library/mergers/Vice\\_Chair\\_1.pdf?bcsi\\_scan\\_A2018E0826464712=0&bcsi\\_scan\\_filename=Vice\\_Chair\\_1.pdf](http://www.internationalcompetitionnetwork.org/media/library/mergers/Vice_Chair_1.pdf?bcsi_scan_A2018E0826464712=0&bcsi_scan_filename=Vice_Chair_1.pdf)

<sup>4</sup><http://www.internationalcompetitionnetwork.org/index.php/en/publication/294>

should take into account, *inter alia*, the complexity of the transaction and possible competition issues, the availability and difficulty of obtaining information, and the timeliness of responses by the merging parties to information requests. As a baseline, the recommended practices state that initial reviews should be conducted in six weeks or less and in-depth reviews should be completed or be capable of completion in six months or less following notification.

- Interagency co-ordination: The Recommended Practices encourage competition agencies to coordinate the review of mergers that may raise competitive issues of common concern. Convergence toward recognized best practices in merger review and the Recommended Practices note can help to facilitate effective interagency coordination, for example, through more consistent timetables and procedural rules. These recommendations are particularly important as global business transactions have increased in number, and multi-jurisdictional merger filings are commonplace.
- Remedies: The Recommended Practices make it clear that a remedy should address the identified competitive harm arising from the proposed transaction. According to the Recommended Practices, information on the jurisdiction's procedures for proposing, discussing, and adopting remedies should be readily available to those involved in merger review proceedings. The Practices encourage that procedures and practices relating to remedies be effective and easily administrable.
- **Recommended Practices for Merger Analysis.** To date, the ICN has adopted three Recommended Practices for merger analysis, containing consensus recommendations on the substantive analysis of mergers. These address:
  - The Legal Framework for Merger Analysis: The Recommended Practices state that the purpose of merger analysis is to identify and prevent or remedy only those mergers that are likely to harm competition significantly. The Recommended Practices recommend that merger review laws and agencies' merger review analysis provide a comprehensive framework for assessing mergers, and for effectively addressing those mergers that are likely to harm competition significantly.
  - The Use of Market Shares- Thresholds & Presumptions: The Recommended Practices advise that while market shares and measures of market concentration provide useful initial guidance in merger analysis, they generally are not conclusive indicators that a merger is likely to harm competition significantly.
  - Entry and Expansion: The Recommended Practices recommend that the assessment of firm entry and/or expansion by existing competitors should be an integral part of the analysis of whether a merger is likely to harm competition significantly.

The Merger Working Group will present three more recommendations on competitive, unilateral, and coordinated effects for adoption at the 2009 Zurich conference. The recommendations build on the ICN's Merger Guidelines Workbook. The Workbook includes a checklist of topics based upon the analytical framework common to member merger guidelines that should be considered in preparing guidelines, with an explanation as to why those topics have value in merger assessment and suggestions as to how those topics might be assessed in practice.<sup>5</sup>

- **Handbook on Investigative Techniques for Merger Review.** The Handbook is designed to inform ICN members of the various tools and techniques used in merger investigation, to help members organize and use their tools more efficiently, and to provide an effective process for the evaluation of evidence. The first chapter summarizes the findings of a survey of members. The remaining chapters discuss how to plan a merger investigation, developing reliable evidence in merger cases, economic and econometric analyses, the benefits of including economists in merger review, and a private sector perspective on merger review.<sup>6</sup>
- **Merger Remedies Review Report.** This report provides practical guidance by outlining key principles and the range of tools used in merger remedies. The report is based on and illustrated by merger remedy practice in a variety of jurisdictions.<sup>7</sup>
- Members have completed templates on their merger enforcement that are available on the ICN website.<sup>8</sup> These templates provide public access to information about ICN members' merger notification and enforcement regimes.
- ICN has created a series of interactive workshops for agency merger staff focusing on investigative techniques, notification and review procedures, and substantive merger analysis, and continues to plan more merger-related workshops and training tools.
- Since 2002, nearly half of the ICN member jurisdictions with merger laws have made changes to their merger review framework to bring their systems into greater conformity with the Recommended Practices.
- Other work product from the Mergers Working Group has proven pertinent to enforcement and education efforts. For example, a number of competition agencies have used the remedies study in crafting their agency guidelines on the topic, and agencies and universities have used the Merger Workbook for staff training purposes.

---

<sup>5</sup> [http://www.internationalcompetitionnetwork.org/media/library/conference\\_5th\\_capeto\\_wn\\_2006/ICNMergerGuidelinesWorkbook.pdf](http://www.internationalcompetitionnetwork.org/media/library/conference_5th_capeto_wn_2006/ICNMergerGuidelinesWorkbook.pdf)

<sup>6</sup> [http://www.internationalcompetitionnetwork.org/media/library/conference\\_4th\\_bonn\\_2005/Investigative\\_Techniques\\_Handbook.pdf](http://www.internationalcompetitionnetwork.org/media/library/conference_4th_bonn_2005/Investigative_Techniques_Handbook.pdf)

<sup>7</sup> [http://www.internationalcompetitionnetwork.org/media/library/conference\\_4th\\_bonn\\_2005/Remedies\\_Study.pdf](http://www.internationalcompetitionnetwork.org/media/library/conference_4th_bonn_2005/Remedies_Study.pdf)

<sup>8</sup> <http://www.internationalcompetitionnetwork.org/index.php/en/publication/293>

### *Cartel work:*

The ICN's work on cartels has focused on assisting agencies in honing their operational and practical skills.

- The highly successful series of annual ICN cartel workshops provides a venue for agencies' cartel staff to share their experiences and best practices, as well as a forum to discuss ways of strengthening international cooperation and coordination in the fight against cartels. Member agencies in Australia, Korea, The Netherlands, El Salvador, and Portugal have hosted ICN Cartel Workshops.
- The Cartel Working Group members have contributed to an **Anti-cartel Enforcement Techniques Manual** that presents specific investigative tools, techniques, procedures and practices. The Manual chapters focus on (1) the organisation of searches, raids and inspections to gather evidence; (2) drafting and implementing effective leniency programs; (3) digital evidence gathering; (4) cartel case initiation; (5) effective interviewing techniques; and (6) cartel case strategy. The chapters are available on the ICN website.
- The Cartel Working Group has also developed reports on important legal and policy topics in anti-cartel enforcement with the aim of providing practical ideas for members to improve their anti-cartel strategy and enforcement. Topics include: effective institutional frameworks for anti-cartel enforcement, the importance of dealing with obstruction in cartel investigations, inter-agency cooperation in cartel investigations, private enforcement of cartel rules, how jurisdictions set fines for cartel conduct and member experiences with crafting effective settlements in cartel cases. All reports are available on the ICN website.
- Many ICN members have completed a working group template on anti-cartel enforcement information in their jurisdiction. These templates provide basic public information about ICN members' anti-cartel enforcement regimes and are available on the ICN website.
- Many of the materials developed by the Cartel Working Group have been used to develop or enhance member enforcement programs and anti-cartel legislation. For example, a number of competition agencies have cited the ICN materials on leniency as instrumental in developing or revising their leniency programs.

### *Unilateral Conduct:*

The primary objectives of the Unilateral Conduct Working Group are to examine the challenges involved in addressing anticompetitive unilateral conduct of dominant firms and firms with market power, and to promote greater convergence and sound enforcement of

laws governing unilateral conduct. The group's key work product includes:

- **Recommended Practices on the Assessment of Dominance/Substantial Market Power.** A major piece of work with respect to unilateral conduct is the Unilateral Conduct Working Group's Recommended Practices on assessment of dominance.<sup>9</sup> The Recommended Practices suggest practical steps for the assessment of dominance, which help to ensure that firms with substantial market power will be subject to appropriate scrutiny, while aiming to minimize the risk that businesses lacking a high degree of market power will be considered dominant. The Recommended Practices underscore that most jurisdictions find that a rigorous assessment of whether a firm possesses dominance/substantial market power, going well beyond a calculation of market shares, is highly desirable. According to the Recommended Practices, in jurisdictions with a more formalistic definition of dominance based on market shares, it is recommended that agencies be particularly rigorous in their analysis of the conduct at issue.
- **Recommended Practices on the Application of Unilateral Conduct Rules to State-Created Monopolies.** These Recommended Practices address the enforcement role of the competition authority with respect to anticompetitive unilateral conduct by state-created monopolies, the authority's advocacy role before government entities that oversee the liberalization and privatization process of state-created monopolies, and effective advocacy instruments.<sup>10</sup>
- **Reports.** The Unilateral Conduct Working Group has also completed reports on a number of important issues in unilateral conduct, including a report on the objectives of unilateral conduct laws, assessment of dominance/substantial market power, and state-created monopoly,<sup>11</sup> as well as conduct-specific reports on predatory pricing<sup>12</sup> and single-branding/exclusive dealing.<sup>13</sup>
- **Workshop.** The Unilateral Conduct Working Group held a workshop on March 23-24 in Washington, DC. This interactive workshop focused on assessing dominance/substantial market power and evaluating unilateral conduct and was aimed at furthering understanding of these issues raised in the Unilateral Conduct Working Group's report and guidance documents.
- The Unilateral Conduct Working Group continues its work on the analysis of unilateral conduct by examining further types of conduct, specifically tying and bundled discounting and single-product loyalty discounts and rebates.

---

<sup>9</sup> [http://www.internationalcompetitionnetwork.org/media/library/unilateral\\_conduct/Unilateral\\_WG\\_1.pdf](http://www.internationalcompetitionnetwork.org/media/library/unilateral_conduct/Unilateral_WG_1.pdf)

<sup>10</sup> [http://www.internationalcompetitionnetwork.org/media/library/unilateral\\_conduct/Unilateral\\_WG\\_2.pdf](http://www.internationalcompetitionnetwork.org/media/library/unilateral_conduct/Unilateral_WG_2.pdf)

<sup>11</sup> [http://www.internationalcompetitionnetwork.org/media/library/unilateral\\_conduct/Objectives%20of%20Unilateral%20Conduct%20May%2007.pdf](http://www.internationalcompetitionnetwork.org/media/library/unilateral_conduct/Objectives%20of%20Unilateral%20Conduct%20May%2007.pdf)

<sup>12</sup> [http://www.internationalcompetitionnetwork.org/media/library/unilateral\\_conduct/FINALPredatoryPricingPDF.pdf](http://www.internationalcompetitionnetwork.org/media/library/unilateral_conduct/FINALPredatoryPricingPDF.pdf)

<sup>13</sup> [http://www.internationalcompetitionnetwork.org/media/library/unilateral\\_conduct/Unilateral\\_WG\\_4.pdf](http://www.internationalcompetitionnetwork.org/media/library/unilateral_conduct/Unilateral_WG_4.pdf)

*Advocacy:*

- The ICN's work on advocacy is targeted towards both experienced and less experienced competition agencies where the competition and regulatory framework is relatively young.
- An advocacy toolkit has been produced which includes information on promotion mechanisms, educating decision-makers, media relations, plain language, internal communications, developing user-friendly websites, and conducting research and consultations.<sup>14</sup>
- The Advocacy Working Group is currently working on a report on market studies, which aims to survey and gather best practices relating to market studies from ICN member agencies. The Advocacy Working Group's other ongoing project is a review and update of competition advocacy work done earlier by ICN, with recommendations and a report to the Steering Group being prepared.

*Competition Policy Implementation:*

- The ICN assists competition agencies to enhance their capacity to investigate and enforce competition laws. It does this through interactive workshops on ICN tools, techniques and recommended practices. In addition, it has developed projects related to technical assistance and to the challenges facing newer agencies.
- The ICN has developed partnership programs and consultation programs that offer less experienced agencies access to the expertise of those that are more experienced, and a forum to discuss the ICN's work products. The ICN conducts regular conference calls among members so that agency staff at different levels of development can share experiences.
- The ICN provides the competition agencies' heads and senior officers with a forum to discuss the operational mechanisms of competition agencies, recognizing that operational and organizational details can affect substantive outcomes. The ICN launched an Agency Effectiveness Project in 2007-2008, the aim of which is to analyze the relation between the definition of priorities, resource allocation and the effectiveness of the agency decisions with an agency's overall effectiveness.<sup>15</sup> At a high-level seminar on the effectiveness of competition law enforcement on 22- 23

---

<sup>14</sup> [http://www.internationalcompetitionnetwork.org/media/archive0611/toolkit\\_intro.html](http://www.internationalcompetitionnetwork.org/media/archive0611/toolkit_intro.html)

<sup>15</sup> The Report to the first phase of this project is published on the ICN website. A further report will be published at the 2009 ICN Annual Conference in Zurich.

January 2009, ICN members discussed different approaches and methods to organizational planning and their relative merits.

- The ICN has conducted a detailed study on the attributes of effective programs of technical assistance for newer competition agencies, and adopted key findings that newer competition agencies, providers and donors of technical assistance should take into account when implementing a technical assistance program.<sup>16</sup>
- The ICN has examined techniques for competition agencies to effectively reach out to the media, to consumers and to business stakeholders.
- A report has been produced highlighting the need for a closer relationship between competition agencies and the judiciary.<sup>17</sup>

#### *Regulated Sectors:*

- The ICN produced suggested best practices for competition agencies to follow in the banking industry.
- The ICN produced a report on the interrelationship between competition agencies and regulatory agencies.
- The ICN produced a report and suggested Recommended Practices to provide guidance to competition agencies with respect to establishing a more competitive telecommunications services sector.

#### *Special Projects:*

- In addition to the work conducted by its permanent working groups, each year the competition agency hosting the annual ICN meeting leads a special project to explore a specific area of competition law. The special project for the 8<sup>th</sup> annual conference focuses on competition law in small economies.

#### **Who are the ICN's stakeholders?**

- The ICN has a wide range of stakeholders, including the private sector, legal and economic professions, consumer representatives, academics, as well as law and policy makers, who stand to benefit from the ICN's work.

---

<sup>16</sup>[http://www.internationalcompetitionnetwork.org/media/library/conference\\_4th\\_bonn\\_2005/assessing\\_technical\\_assistance.pdf](http://www.internationalcompetitionnetwork.org/media/library/conference_4th_bonn_2005/assessing_technical_assistance.pdf)

<sup>17</sup>[http://www.internationalcompetitionnetwork.org/media/library/conference\\_6th\\_moscow\\_2007/12ReportontheCompetitionandtheJudiciary.pdf](http://www.internationalcompetitionnetwork.org/media/library/conference_6th_moscow_2007/12ReportontheCompetitionandtheJudiciary.pdf)

- ICN stakeholders include consumers and business, who benefit from the work products and the objective of sound competition policy and enforcement.
- Other stakeholders include those whose work products the ICN seeks to influence, i.e. the competition agencies themselves, law and policy makers, as well as business and consumer representatives.
- Other stakeholders include NGAs from the legal, economic, consumer, business and academic communities, who increasingly are invited to participate in the development of the ICN's work products and take part in discussions at annual conferences and workshops.

### **How does the ICN engage with its stakeholders?**

#### *NGA engagement:*

- The ICN engages NGAs through informal collaboration, which is consistent with an informal network. NGAs volunteer to participate mainly by contacting member agencies.
- The ICN recognises the value of NGA involvement in the development of its work products, both in terms of productivity and insightful commentary, which contributes to the development of valuable and practical principles, recommendations and materials.
- The ICN provides a unique process of enabling agencies and NGAs to work together to discuss and improve competition policy and its enforcement.
- NGAs increasingly are actively involved in the ICN and the development of its work, and participate in the range of ICN discussions and programs.

### **Why is the ICN not an inter-governmental organisation?**

- The ICN is organised by and for competition agencies. It provides a forum for both new and well-established agencies to have equal and direct input to practical discussions on competition enforcement and competition advocacy issues.
- The ICN's member-driven approach avoids top-down, lowest-common denominator harmonisation of competition law and policies across the world.
- The ICN complements international governmental organisations that cover competition issues (e.g. OECD and UNCTAD).



- Unlike other international organisations, the ICN specializes only in competition.
- The ICN's informal nature and virtual approach avoids the administrative trappings and obligations associated with a formal inter-governmental setting.
- The ICN's work products are not legally binding instruments.

**What are the ICN's next objectives?**

- Increased emphasis on outreach and implementation. Promoting exchanges on practical experience will be particularly important in this regard, for example through the use of teleconferences, web-based tools and workshops.
  - Continued progress towards consensus building, cooperation and convergence toward sound competition policy and practice, as well as better understanding of each other's laws and policies.
-