

## **Advocacy Working Group January 2013 Update**

### **The Benefits Project**

The Benefits Project will culminate in a good practice manual for competition agencies in explaining the benefits of competition to a variety of stakeholder groups, building on the experience and know-how that was collected during the stocktaking exercise carried out in 2011-2012. In the 2012-2013 ICN year, the group will produce the chapter on Explaining the Benefits of Competition to Government and Legislators. Drafting teams have been assembled and preparation of the chapter is currently underway. This project aims to meet the strategic objective set out in the Vision Statement of the ICN Chair, namely that of supplementing efforts and initiatives of ICN members to place competition issues on the agenda of national and international (regional or global) organizations and fora as a priority area for ICN activity.

### **The Competition Culture Project**

The Competition Culture Project will culminate in the production of a report on institutions constituting competition culture at the ICN Annual Conference in 2014. It will seek to define competition culture, and learn how members interact with the constituent parts of a competition culture and what role each part plays or potentially could play. The Project was launched at the ICN Advocacy Working Group Workshop of the 26-27 Oct 2012 in Paris.

The working team for this project has already been formed and the participants to this project are currently working on the project. Four conference calls have already been scheduled starting in January running to a week before the ICN Annual Conference in April 2013. An outline of the substance discussed during the respective conference calls is expected to be presented at the ICN Annual Conference in 2013, which would be the basis for the production of the different chapters of the report on Competition Culture.

### **Project on competition assessment**

Following up on the Steering Group Chair's Vision Statement and the AWG Workshop plenary session in Paris on 27 October, the AWG will develop a work product on competition assessment of draft legislation, possibly best or good practices. The document will cover topics of substantive competition assessment of draft legislation or existing legislation, and methods for advocacy to Government or Parliament. A preliminary document will be presented to the Warsaw Annual Conference with a view to produce a final document for the Marrakech Annual Conference.

## **Agency Effectiveness Working Group January 2013 Update**

### **Agency Practice Manual**

Two different project groups are working on a chapter on knowledge management (KM) and a chapter on human resources (HR) for the Manual.

The KM draft was discussed within the project group in December. It is now under review and revision before wider circulation to the entire working group for evaluation, editing, and approval prior to the annual conference. The KM project anticipates presenting a draft for comment at the annual conference, with time for members to road test the chapter in 2013-14 before it is finalized.

A first draft of the HR chapter was circulated within the project group in November, built on the results of the 2012 survey of ICN members. The draft has been revised with the addition of practical examples of agency approaches. After revision within the project group, the draft will be circulated to the entire working group for evaluation. The HR project is planning a discussion call and teleseminar in January to discuss its work on the chapter.

### **Investigative Process project**

- **Seminar**

The Investigative Process project held a discussion call and webinar in December, attracting over 60 participants from approximately 25 jurisdictions. The call was led by presenters from the OECD, ACCC and UK OFT. The project plans more discussion calls on the investigative process topics of enforcement tools and agency transparency practices in the coming months.

- **Survey**

The project has received responses to its survey charts on investigative tools and transparency practices from 25 members. Approximately 10 additional members have indicated a response is forthcoming.

- **Expected work product**

The project will use the results of the survey charts and other stocktaking to draft work product for the WG to evaluate and discuss prior to the annual conference.

### **Curriculum Project**

Filming and video production has begun for modules on investigative techniques and the experience of agencies in developing jurisdictions. Modules on competition advocacy and an overview of cartel enforcement are in script development.

The next all-AEWG call is scheduled for January 22.

# ICN Working Group Updates January 2013

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## **Cartel Working Group Update January 2013 Update**

### **Working Group**

Major group-wide events and activities since the last update include the following:

- Since October 2012, SG 1 has held three conference calls as part of the leniency calls project.
- Several calls for SG 2 members are scheduled for the months leading up to the 2013 ICN Annual Conference.
- The host of the 2014 ICN Cartel Workshop, the Taiwan Fair Trade Commission, will be formally announced at the Steering Group meeting on January 16, 2013.

### **Project Updates**

Since October 2012, SG 1 has held three conference calls in the framework as part of the leniency calls project, including: October 16th 2012 on leniency fundamentals; November 13th 2012 on leniency considerations in multi-jurisdictional investigations; and December 12th 2012 on interaction between leniency programs and private enforcement.

The panels for the calls had 3 to 4 speakers coming from academia, private practice, and competition agencies. The calls were held in a webinar format, giving to participants the opportunity to follow the presentations in real time not only orally, but also visually on their computers. The quality of presentations as well as the visual support rendered the calls more interactive. The calls attracted on average 50 to 60 participants for each call.

Three further calls will be organized in 2013:

- January 23rd 2013: Application of leniency programs to individuals
- February 12th 2013: Problems, pitfalls and recurring issues (NGAs only)
- March 13th 2013: Problems, pitfalls and recurring issues (agencies only)

The JFTC, as the co-chair of the Cartel Working group in charge of SG1 will also organize two 'Asia/Pacific' friendly calls on leniency, one in January/February and another in March 2013. Given the time difference in the Asia – Pacific region and the willingness of the JFTC to reach and attract as many participants as possible, the two calls will be held at different times but cover the same topic: designing and implementing an effective leniency program.

Over 130 participants from at approximately 40 jurisdictions attended the 2012 ICN Cartel Workshop in Panama City from October 2-4, 2012. Participants were asked to fill out feedback forms, including suggestions for future SG 2 work products. Breakout session moderators provided written summaries of their sessions. The SG 2 Co-Chairs are currently in the process of collecting and compiling the summaries and feedback forms, and will make these available to CWG members in early 2013.

## ICN Working Group Updates January 2013

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SG 2 members were reminded in 2012 to complete/update their Anti-Cartel Enforcement Templates, and several were received by SG 2 Co-Chairs throughout the year. SG 2 members will be reminded during the next SG 2 call to complete or update their templates for this ongoing project.

The first draft of the new Anti-Cartel Enforcement Manual chapter on International Cooperation and Information Sharing was circulated to SG 2 members for comments on December 28th, 2012, with a request for comments by February 1, 2013. The second draft will be circulated for comments in mid-February, and the chapter will be finalized in time for the 2013 ICN Annual Conference.

Following a call of interest, SG 2 was pleased to announce that the Taiwan Fair Trade Commission was selected to host the 2014 Cartel Workshop

The Co-Chairs have requested SG 2 members provide input for the SG 2 2013-2014 work plan by January 18, 2013. Once comments are received, the Co-Chairs will create a draft work plan, which will be finalized at the end of January 2013.

# ICN Working Group Updates January 2013

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## **Merger Working Group Update January 2013**

### **Working Group events and activities**

Major group-wide events and activities since the annual conference include:

- The group successfully held a Workshop on "the Role of Economic Evidence in Merger Analysis", hosted by the Colombian Superintendencia de Industria y Comercio on 8 and 9 November in Bogotá, Colombia. There were 105 participants from 39 jurisdictions, and 30 NGAs attended the event.
- The group held the first MWG teleseminar on the 29th November 2012 on "Issues on updating merger guidelines", with presentations from representatives of the competition authorities from Brazil, Chile, and Germany.
- A second teleseminar is scheduled for the 24th of January 2013, on "Issues in updating merger laws", with contributions of the agencies from Brazil, Japan and Portugal.

### **Project Updates**

**Project on Economic Analysis in Merger Review:** A first draft of the revised chapter 4 of the ICN Investigative Handbook has been shared with the group on 17th December and discussed during the 20th December call with members. A second draft will be released in advance of the January 17th call, taking in account the comments received by MWG members. The UK OFT, the German Bundeskartellamt, the Taiwan FTC, the Italian Antitrust Authority, and the South Africa Competition Commission have volunteered to be part of the drafting team.

**International Merger Enforcement Cooperation:** The MWG co-chairs are reviewing the existing MWG work product to take stock of what already exists with regards to merger enforcement cooperation and will integrate it with the outcomes of the OECD/ICN survey when they become available. The group will review carefully the initial feedback on the OECD/ICN Joint International Enforcement Cooperation Survey, discuss it during a call with members to identify and develop proposals to further enhance international merger cooperation.

**ICN Framework for Merger Review Cooperation:** the Japan FTC is collecting and maintaining a contact list of liaison officers for participating agencies in this Framework. Approximately 30 agencies have joined the Framework. The JFTC and the MWG co-chairs submitted on 7th January a short survey to the participating agencies to gather any feedback, issues, or suggestions on how to improve it. The initial deadline to reply is 25th January. A report on this survey will be generated by mid-March and presented at the ICN Annual Conference.

**Work to Promote Familiarity, Use, and Implementation of Working Group Work Product:** The US FTC and the Australian Competition Authority are finalizing a self-assessment tool for members to use to analyse their merger analysis practices, based on the Merger Analysis Recommended Practices and Merger Guidelines Workbook. The group aims to discuss their first draft during a teleseminar. The group also plans to hold another teleseminar on issues in updating merger procedures. Finally, the MWG co-chairs are in process of reaching out new MWG members who attended the Bogotá workshop to introduce them to the MWG activities and work product.

## **Unilateral Conduct Working Group Update January 2013**

### **Working Group**

Major group-wide events and activities since the last update include:

- The Group began producing a workbook chapter on Exclusive Dealing to be completed in time for the next Annual Conference.
- In November, the Working Group held a teleseminar on 'Enforcement Cooperation in Unilateral Conduct'. The seminar included presentations from the Swedish Competition Authority, the US FTC and General Electric Company and was chaired by Jim Rill of Baker Botts LLP. The teleseminar covered case handlers' and practitioners' perspectives on formal and informal enforcement cooperation in unilateral conduct cases, including the opportunities and challenges which currently exist. Over 35 callers dialed in to the teleseminar.
- The Working Group will hold a further teleseminar in February. The provisional topic is 'The Role of Intent'.
- Monthly Member and NGA calls were held.
- New members and NGAs
  - More than half a dozen new members joined the Working Group, including NGAs and new contact persons for member agencies.

### **Project Updates**

Exclusive Dealing chapter: A first draft of the chapter has been compiled by the OFT based on the expanded outlines drafted by the drafting teams. This has been circulated round the drafting groups for comments during January 2013. In February an updated draft will be circulated to members for further comments.

## **Operational Framework Working Group Update January 2013**

### **Project Update**

The Operational Framework Working Group (“OFWG”) has been working on a proposal to establish clear criteria and/or processes for the selection of ICN Chair and hosts of ICN events since September 2012. As a result of the discussions at the working group level, the OFWG co-chairs will submit a draft proposal to the Steering Group for discussion on January 16, 2013 SG meeting. The OFWG co-chairs also gathered general views from the SG members in December 2012.