

## **Non-Governmental Advisors to the International Competition Network**

The International Competition Network (ICN) provides antitrust agencies from developed and developing countries with a focused network for addressing practical antitrust enforcement and policy issues of common concern. The network's virtual nature provides flexible working arrangements, *e.g.*, informal working groups communicating via conference calls and email discussion groups, in which participants discuss and conduct projects. ICN agency members work closely with non-governmental experts, including private practitioners, representatives of international organizations, industry and consumer groups, and academics ("non-governmental advisors" or "NGAs"). This structure promotes the interplay of public and private sector participation and expertise in the development of the ICN's projects, resulting in a work product that benefits from the input of a wide spectrum of stakeholders.

### **Role of NGAs**

NGAs play an essential and valuable role in the ICN's work. NGAs generally participate in one of two ways. In some working groups, NGAs participate directly in projects, alongside member agencies (*e.g.*, the subgroup on merger notification and procedures). In other working groups, NGAs work through their member agencies. In the latter case, member agencies participate in member-only calls but consult regularly with their NGAs; some of these groups (*e.g.*, the unilateral conduct working group) also hold periodic conference calls for both members and NGAs.

NGAs help identify projects. NGAs have been helpful in bringing relevant issues to the attention of enforcement authorities. For example, NGAs were very supportive of the ICN pursuing prescriptive work on merger procedures, identifying areas particularly burdensome to business that did not appear to produce benefits for the reviewing agency, such as notification thresholds with no local nexus.

NGAs offer important comments on work product. By offering their views on draft ICN work product, NGAs help ensure that the document reflects and addresses the practical issues faced by consumers, business and the private bar. NGA comments helped shape the Unilateral Conduct Working Group's Recommended Practices on the Assessment of Dominance/Substantial Market Power by providing perspectives on presumptions, the value of safe harbors, and the real-world impact of a finding of dominance. Also, NGAs from the academic community are often familiar with comparative, theoretical, and critical research, and can help ensure that ICN work considers current thinking, and that ICN work product is accessible for academic research. For example, NGAs who participated in the ICN's examination of technical assistance used the survey data in academic papers.

NGAs produce work product. NGAs also participate as drafters and produce work, such as the comparative initial merger guidelines papers that laid the foundation for work done in the Merger Working Group, and the NGA chapter in the Merger Investigative Techniques Handbook, that provided an important complement to the agency contributions. NGAs also

have done the initial drafting of some of the ICN's Recommended Practices, and first drafts of several ICN reports. More recently, NGAs have prepared responses to surveys about initial merger notification information requirements, how member jurisdictions address a particular unilateral practice, and international coordination in cartel investigations.

NGAs contribute to the policy dialogue at conferences and workshops. NGAs have an important voice in the policy dialogue that occurs at the ICN's annual conference and at workshops. In recent years, the plenary and breakout sessions almost always include NGAs. NGAs also participate in workshop planning teams with agency officials.

NGAs help disseminate ICN work product and promote its use. NGAs engage in outreach and advocacy efforts using ICN work product. For example, NGAs promote ICN Recommended Practices as international benchmarks for appropriate law and policy, citing them in formal comments on proposed laws and regulations.

In addition to these substantive contributions, NGA participation in the ICN supports the development of cooperative relationships between member agencies and the private bar, academia, consumer groups, and business. NGA participation also promotes relationships and exchange among NGAs. These relationships further promote cooperation and policy convergence.

### **Becoming an NGA**

If you are interested in becoming an NGA, you can contact the member agency in your jurisdiction. Contact information is available at: [http://www.internationalcompetitionnetwork.org/pdf/ICN\\_Contact\\_List.pdf](http://www.internationalcompetitionnetwork.org/pdf/ICN_Contact_List.pdf). You may also contact the ICN's NGA liaison, Bruno Lasserre, President of the French Autorité de la concurrence, via Stéphanie Yon, adviser for international affairs in the Office of the President, at [ICN.NGALiaison@autoritedelaconcurrence.fr](mailto:ICN.NGALiaison@autoritedelaconcurrence.fr), or [stephanie.yon@autoritedelaconcurrence.fr](mailto:stephanie.yon@autoritedelaconcurrence.fr), if you have questions.

In contacting your member agency, it is helpful to identify the particular project(s) of interest to you. Details of current projects are available on the ICN's website. Commitment to a particular project varies, but typically involves a minimum of two hours per month, in addition to participation in a biweekly or monthly conference call.