

USER GUIDE

- This presentation provides an introduction to the International Competition Network. The next 27 slides present a general overview of the ICN and all of its working groups, followed by detailed information about each of the current working groups, as follows:
 - Merger Working Group (slides 28-49)
 - Cartel Working Group (slides 50-61)
 - Unilateral Conduct Working Group (slides 62-71)
 - Advocacy Working Group (slides 72-80)
 - Agency Effectiveness Working Group (slides 80-86)
- Items underlined are hyperlinked to the document described.
- Since this presentation will usually be read and not presented orally, there is a significant amount of text on the slides.
- If reading the document in black and white hard copy, please choose “pure black and white” in color/grayscale print options.



International
Competition
Network

Introduction to the International Competition Network

www.internationalcompetitionnetwork.org

What is the ICN?

The International Competition Network

...is a project-oriented, consensus-based, informal network of antitrust agencies from developed and developing countries that will address antitrust enforcement and policy issues of common interest and formulate proposals for procedural and substantive convergence through a results-oriented agenda and structure.

- Memorandum on the Establishment and Operation of the ICN

For the Memorandum, see [here](#). For additional information, see [here](#) and [here](#).

Why was the ICN created?

- In the 1990s, economic globalization resulted in a significant increase in the number of mergers, cartels, and abuses of dominance cases that cross jurisdictional boundaries. At the same time, the number of competition authorities around the globe rapidly increased to nearly one hundred agencies.
- The International Competition Policy Advisory Committee, of 2000, recommended a “Global Competition Initiative” - a forum for governments and the private sector to consult on competition matters. While other multilateral organizations (e.g., OECD, UNCTAD) address competition issues, ICN members would be competition agencies, not States or Governments, and the ICN would focus only on competition (“all competition, all the time”).
- The ICN was formed in October 2001 by officials from 14 jurisdictions.

ICN Accomplishments

Membership

- Membership has increased from 16 agencies from 14 jurisdictions in 2001, to 112 agencies from 99 jurisdictions in 2010.

“Treasure trove” of work product

- Work product produced in the areas of anti-cartel enforcement, mergers, unilateral conduct, advocacy, agency effectiveness, capacity building, and regulated sectors; including best practices, case-handling manuals, reports, templates on laws and rules in member jurisdictions, databases and toolkits.
- Work product directly influencing member activity, many used in day-to-day practice as well as agency training programs.

Creation of common standards in merger review, analysis, and unilateral conduct

- Common standards leading to change, for example, more than half of ICN members have made changes to their merger control procedures to bring them into greater conformity with the ICN’s suggested best practice (“Recommended Practices”).
- In many instances, the ICN’s practices served as a catalyst for the changes (e.g., Australia, Brazil, Czech Republic, European Union, Korea, United States)

Greater cooperation

- Increased interaction has led to better case cooperation, additional exchanges of good practices, and a greater understanding of each other’s laws and policies.

For more information, see here. [link to achievements 2010 forthcoming]

The ICN Model

Purpose

- Promote procedural and substantive convergence around sound competition principles
- Forum for officials to have regular contacts
- Improved cooperation and coordination in enforcement policy
- Reduction of unnecessary or duplicative processes / requirements
- Dialogue on emerging issues
- Practical emphasis

Flexibility

- Voluntary participation
- No formalities
- Address all competition topics
- Aspirational approach – no rule-making authority; non-binding work product: convergence by persuasion, not requirement

Membership

- Open to competition authorities, see [here](#)
- Members work hand-in-hand with non-governmental advisors (NGAs)

Structure – virtual network

- Project-based: Working Groups/Special Projects
- Members and NGAs volunteer to participate in Working Groups
 - Create discrete, project-oriented work plans
 - Recommendations and papers are presented for adoption at annual conference
 - Communicate by conference calls, e-mail
 - Specific-topic teleseminars, webinars, and workshops
- ICN is Guided by a Steering Group (15 members + 3 ex officio members)
 - Chair selected by Steering Group, chair selects vice chairs
 - Steering Group guides ICN's vision and strategy

ICN Membership



- For a current list of all ICN members, click [here](#).

Non-Governmental Advisors (NGAs)

- ICN agency members work closely with non-governmental experts, including private practitioners, in-house counsel, representatives of international organizations, industry and consumer groups, and academics. 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.
- NGAs help identify projects; produce and offer important comments on work product; contribute to the policy dialogue at conferences and workshops; and help disseminate ICN work product and promote its use.
- For more information, click [here](#).

Working Groups

- Mergers (2001-present)
- Advocacy (2001-2003; 2008-present)
- Capacity Building / Competition Policy Implementation (2002-2009)
- Regulated Sectors (2003-2005)
- Cartels (2004-present)
- Telecom (2005-2006)
- Unilateral Conduct (2006-present)
- Agency Effectiveness (2009-present)

ICN Work Product

- Consensus-Based Recommended Practices, as well as best practices, good practices, guiding principles and other guidance documents
- Practical Enforcement Tools (handbooks, workbooks, manuals, templates, databases, and toolkits)
- Comparative Reports (comprehensive reviews of standards and practices)
- Workshops, Webinars, Teleseminars

Merger Working Group

Mission

- To promote the adoption of best practices in the design and operation of merger review regimes, in order to:
 - enhance the effectiveness of review mechanisms
 - facilitate convergence
 - reduce the time and cost of multijurisdictional merger reviews

Current projects

- New Recommended Practices on substantive merger analysis Self Assessment tool for procedural Recommended Practices

Upcoming projects

- Survey of members to evaluate utility of existing work and preferences for future work
- Policy-level workshop in November 2010

Merger WG: Selected Projects

- Recommended Practices
 - Notification & Review Procedures
 - Merger Analysis
- Merger Guidelines Workbook
- Handbook on Investigative Techniques
- Merger Remedies Report
- Notification and Procedure Reports
- Model Confidentiality Waiver
- Merger Templates
- Workshops

For more information about the Merger Working Group, see [here](#).

Cartel Working Group

Mission

- To address the challenges of anti-cartel enforcement, including the prevention, detection, investigation and punishment of cartel conduct, including understanding the necessity and benefits of the fight against cartels, and the enforcement tools needed

Current Projects

- Annual Enforcer Workshops
- Review & Update of Anti-cartel Enforcement Manual chapters on digital evidence gathering and case initiation
- Dialogue on hot topics: Transitioning to criminal penalties

Upcoming Projects

- 2010 cartel enforcer workshop
- New manual chapter on case resolution
- Discussion series on cartel awareness/outreach programs

Cartel WG: Selected Projects

- Annual cartel workshops
- Manual on anti-cartel enforcement techniques
 - Searches, Leniency, Digital Evidence, Case Initiation, Interviewing, and Investigative Strategy
- Discussion papers on basic legal framework issues
 - Obstruction of Justice, Negotiated Settlements, International Cooperation, Cartel Fines, and Interaction of Private and Public Enforcement
- Templates on anti-cartel enforcement

For more information about the Cartel Working Group, see [here](#).

Unilateral Conduct Working Group

Mission

- To examine the challenges involved in addressing unilateral conduct of dominant firms
- To facilitate greater understanding of the issues involved in analyzing unilateral conduct
- To promote convergence and sound enforcement of laws governing unilateral conduct

Current Projects

- Additional comparative work on specific types of unilateral conduct: refusal to deal with a rival & margin squeeze
- Webinars on “excessive” pricing and remedies

Upcoming Projects

- Unilateral Conduct Workbook
- Unilateral Conduct Workshop (December 2010)
- Further work on conduct
- Webinars

Unilateral Conduct WG: Selected Projects

- Recommended Practices
 - On the assessment of substantial market power and dominance under unilateral-conduct laws
 - On the application of unilateral-conduct rules to state-created monopolies
- Reports
 - On objectives of unilateral conduct laws and the assessment of dominance
 - On specific types of conduct by dominant firms: (1) predatory pricing, (2) exclusive dealing, (3) tying and bundled discounting, (4) single-product loyalty discounts and rebates, and (5) refusal to deal with rivals and margin squeeze
- Workshop & Webinars
 - Webcast of the March 2009 workshop on assessing dominance & evaluating unilateral conduct is available [here](#).
 - Recordings of the November 2010 webinar on “excessive pricing” and March 2010 webinar on remedies in unilateral conduct cases are available [here](#).

For more information about the Unilateral Conduct Working Group, see [here](#).

Advocacy Working Group

Mission

- To develop practical tools and guidance to improve the effectiveness of ICN members' advocacy activities, including in the area of market studies

Current Projects

- Market Studies Handbook
- Teleseminars on evaluating advocacy initiatives, advocacy and the financial crisis, etc.

Upcoming Projects

- Revise 2003 Advocacy Toolkit
- Beta test Market Studies Handbook
- Continue teleseminar series

Advocacy WG: Selected Projects

- Advocacy “toolkit” for agency officials and media
- Detailed reports on advocacy provisions and practices of ICN members
- Report on ICN member experience with market studies
- Agency Handbook on Market Studies

For more information about the Advocacy Working Group, see [here](#).

Agency Effectiveness Working Group

Mission

- To examine a variety of factors determining the ability of competition agencies to achieve their objectives in an efficient and effective way

Current projects

- Chapter on strategic planning and prioritization for Agency Practice Manual

Upcoming Projects

- Workshop for senior agency officials in July 2010
- Chapter on effective project delivery for Agency Practice Manual

For more information about the Agency Effectiveness Working Group, see [here](#).



Capacity Building / Competition Policy Implementation Working Group: Selected Projects 2002-2009

- Findings on the effectiveness of technical assistance
- Comprehensive examination of past technical assistance projects
- Electronic toolkit compiling business outreach practices from around the world
- Advocacy reports
 - Business outreach, regulators, and judiciary
- Agency effectiveness reports

For specific work product, see [here](#).

Regulated Sectors Working Groups: 2003-2006

Antitrust Enforcement in Regulated Sectors Working Group: 2003-2005

- Explored the legal and practical aspects of the relations between competition agencies and sectoral regulators in two comparison reports
- Produced “Best practices for the role of competition in banking regulation”

Telecommunications Working Group: 2005-2006

- Examined how technology affects competition, and the challenges that technological innovation presents for competition authorities
- Produced “Suggested best practices for promoting and maintaining competition in the telecommunications sector”

For more information about these working groups, see [here](#).

Advocacy and Implementation Network

- To promote the implementation of ICN recommendations and the use of ICN work products and experience in general, ICN launched the Advocacy and Implementation Network Support Program ([AISUP](#)) in 2008.
- AISUP complements the project-oriented nature of the network's activity.
 - Members request assistance through AISUP, and the Vice Chair for Advocacy and Implementation pairs the requesting agency with expert staff from other ICN member agencies.
 - The supporting agencies provide the requesting agency with a thorough explanation of relevant ICN work product and advice on implementation, as appropriate.

To participate in AISUP, click [here](#).

ICN Blog

- The ICN Blog aims to enhance communication, increase participation in ICN projects, promote the use of ICN work product, and facilitate contact among members by:
 - Providing information about upcoming ICN events
 - Profiling ICN work product
 - Noting key developments in ICN member jurisdictions
- The ICN Blog is available [here](#).

Visit: www.icnblog.org

Get Involved: Agencies

Members

- Working Groups benefit from broad participation of members from different geographic regions and in various stages of development. If your agency would like to get more involved in an ICN working group, please visit the home page of the Working Group or Groups that interest you and e-mail or call the listed contacts. Alternatively, you may [contact the ICN Secretariat](#) for suggestions about where your agency might best contribute.

Non-Members

- If you are a national or multinational competition agency or a competition agency of a customs territory entrusted with the enforcement of competition law(s) that has not yet joined the ICN, we encourage you to do so. Click [here](#) for membership information and an [application](#) to join the ICN.

Becoming an NGA

- If you are interested in becoming an NGA, you can contact the member agency in your jurisdiction. Contact information is available [here](#). 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, [here](#).
- 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 biweekly or monthly conference calls.



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A dark red silhouette of a world map is centered on the slide, serving as a background for the title text.

Introduction to the Merger Working Group International Competition Network

Merger Working Group: Mission

- To promote the adoption of best practices in the design and operation of merger review regimes, in order to:
 - enhance the effectiveness of review mechanisms
 - facilitate convergence
 - reduce the time and cost of multijurisdictional merger reviews

Merger Working Group: Selected Projects

- Recommended Practices
 - Merger Notification & Review Procedures
 - Merger Analysis
- Merger Guidelines Workbook
- Handbook on Investigative Techniques
- Merger Remedies Report
- Notification Reports
 - Model Confidentiality Waiver; Setting Notification Thresholds; Defining Merger Transactions; Notification Information Requirements
- Merger Templates
- Workshops

Guiding Principles for Merger Notification and Review Procedures

- Sovereignty
 - Transparency
 - Nondiscrimination on the basis of nationality
 - Procedural Fairness
 - Efficient, timely, and effective review
 - Coordination
 - Convergence
 - Protection of confidential information
-
- The *Guiding Principles* and *Recommended Practices* are non-binding aspirational statements. After the ICN reaches consensus on Recommended Practices, it is left to the individual competition authorities to decide whether, how, and when to implement the recommendations.
 - Agencies implement the practices through efforts such as legislative change, rulemaking, internal practice, and speeches, as appropriate.

Guiding Principles for Merger Notification and Review

1. **Sovereignty.** Jurisdictions are sovereign with respect to the application of their own laws to mergers.
2. **Transparency.** In order to foster consistency, predictability, and fairness, the merger review process should be transparent with respect to the policies, practices, and procedures involved in the review, the identity of the decision-maker(s), the substantive standard of review, and the bases of any adverse enforcement decisions on the merits.
3. **Non-discrimination on the basis of nationality.** In the merger review process, jurisdictions should not discriminate in the application of competition laws and regulations on the basis of nationality.
4. **Procedural fairness.** Prior to a final adverse decision on the merits, merging parties should be informed of the competitive concerns that form the basis for the proposed adverse decision and the factual basis upon which such concerns are based, and should have an opportunity to express their views in relation to those concerns. Reviewing jurisdictions should provide an opportunity for review of such decisions before a separate adjudicative body. Third parties that believe they would be harmed by potential anticompetitive effects of a proposed transaction should be allowed to express their views in the course of the merger review process.
5. **Efficient, timely, and effective review.** The merger review process should provide enforcement agencies with information needed to review the competitive effects of transactions and should not impose unnecessary costs on transactions. The review of transactions should be conducted, and any resulting enforcement decision should be made, within a reasonable and determinable time frame.
6. **Coordination.** Jurisdictions reviewing the same transaction should engage in such coordination as would, without compromising enforcement of domestic laws, enhance the efficiency and effectiveness of the review process and reduce transaction costs.
7. **Convergence.** Jurisdictions should seek convergence of merger review processes toward agreed best practices.
8. **Protection of confidential information.** The merger review process should provide for the protection of confidential information.

Recommended Practices for Merger Notification & Review Procedures (N&P RPs)

The Recommended Practices address:

1. nexus between the merger's effects and the reviewing jurisdiction;
2. clear and objective notification thresholds;
3. timing of merger notification;
4. merger review periods;
5. requirements for initial notification;
6. conduct of merger investigations;
7. procedural fairness;
8. transparency;
9. confidentiality;
10. interagency coordination;
11. remedies;
12. competition agency powers; and
13. review of merger control provisions.

Recommended Practices are available in [English](#), [French](#), and [Spanish](#).

N&P RPs: Reducing Burdens

- *Nexus to Reviewing Jurisdiction*
 - Screens out mergers lacking appreciable effects
- *Notification Thresholds*
 - Reduces uncertainty as to when to file
 - Bases thresholds on objective measures
- *Timing of Notification*
 - Eliminates filing deadlines for suspensive regimes
- *Initial Notification Requirements*
 - Minimizes information required in a filing to that necessary for review

N&P RPs: Agency Process

- *Transparency*
 - Transparency in application of merger laws; criteria for review
- *Interagency Coordination*
 - Seek to coordinate reviews that may raise competitive issues of common concern
 - Avoid inconsistent remedies
- *Review of Merger Provisions*
- *Agency Powers*

N&P RPs: Agency Process

- *Review Periods*
 - Reasonable time period (6 weeks or less for phase 1, capable of completion in 6 months or less for phase 2); determinable periods
- *Procedural Fairness*
 - agencies should provide merging parties with sufficient and timely information on competitive concerns
 - parties should be given the opportunity to respond to such concerns
- *Confidentiality*
- *Conduct of Investigations*
- *Procedural Aspects of Remedies*

Notification & Procedures RPs I and II

- *Nexus to Reviewing Jurisdiction.* Agencies should not assert jurisdiction over a merger unless the transaction would have an appreciable impact on the jurisdiction. Jurisdiction should be asserted only over transactions that have a nexus with the jurisdiction concerned that meets an appropriate standard of materiality, based on activity within that jurisdiction.
- *Objective Notification Thresholds.* Notification thresholds should be clear and understandable, based on objectively quantifiable criteria (such as sales or assets, rather than market share), and based on information that is readily accessible to the merging parties.

Notification & Procedures RPs III and IV

- *Timing of Notification.* Parties should be permitted to notify proposed mergers upon certification of a good faith intent to consummate the proposed transaction. Jurisdictions that prohibit closing while the competition agency reviews the transaction should not impose deadlines for notification. Jurisdictions that do not prohibit closing pending review should allow parties a reasonable time in which to notify following a clearly defined triggering event.
- *Review Periods.* Reviews should be completed within a reasonable time period, taking into account such factors as the complexity of the transaction, the availability of information, and the timeliness of responses. To avoid uncertainty, the practice calls for specified periods for initial waiting periods or reviews and a determinable time frame for extended waiting periods or reviews. Initial review periods should expire in six weeks or less, while extended reviews should be capable of completion in six months or less.

Selected Notification Reports

- Model Confidentiality Waiver, [here](#)
- Setting Notification Thresholds, [here](#)
- Defining Merger Transactions, [here](#)
- Notification Information Requests, [here](#)

Merger Guidelines Workbook

- Concepts and core principles of merger analysis
- Addresses analytical framework common to member merger guidelines and explains why those topics have value in merger assessment
 - Market Definition
 - Market structure and concentration
 - Unilateral Effects
 - Coordinated Effects
 - Market Entry and expansion
 - Efficiencies
 - Failing Firm

The Merger Guidelines Workbook is available [here](#).

Recommended Practices For Merger Analysis

- The Legal Framework for Competition Merger Analysis
- The Use of Market Shares: Thresholds & Presumptions
- Entry & Expansion
- Overview of Competitive Effects Analysis in Horizontal Merger Review
- Unilateral Effects
- Coordinated Effects

These Recommended Practices are available [here](#).

Recommended Practices for Merger Analysis

- *Legal Framework for Competition Merger Analysis.* The purpose of merger analysis is to identify and prevent or remedy only those mergers that are likely to harm competition significantly.
- *Use of Market Shares.* Market shares and measures of market concentration play an important role in merger analysis but are not determinative of possible competition concerns.
- *Entry.* 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.

Recommended Practices for Merger Analysis

- *Overview of Competitive Effects Analysis.* The goal of competitive effects analysis is to assess whether a merger is likely to harm competition significantly by creating or enhancing the merged firm's ability or incentives to exercise market power, either unilaterally or in coordination with rivals.
- *Unilateral Effects.* In analyzing the potential for unilateral effects, agencies should assess whether the merger is likely to harm competition significantly by creating or enhancing the merged firm's ability or incentives to exercise market power independently.
- *Coordinated Effects.* In analyzing the potential for coordinated effects, agencies should assess whether the merger increases the likelihood that firms in the market will successfully coordinate their behavior or strengthen existing coordination in a manner that harms competition significantly.

Handbook on Investigative Techniques for Merger Review

- Designed to inform ICN members of the various tools and techniques used in merger review.
- Chapter 1 summarizes the findings of a survey of ICN members carried out in 2003.
- Additional chapters discuss: (i) how to plan a merger investigation; (ii) developing reliable evidence in merger cases; (iii) economic and econometric analyses; (iv) the benefits of including economists in merger review; and (v) a private sector perspective on merger review.

The Handbook is available [here](#).

Merger Remedies Report

Report based on merger remedy practices in a variety of jurisdictions, covering the principles, design, & implementation of merger remedies

- Practical guidance
- Range of tools for remedies
- Examples

The Remedies Report is available [here](#).



Merger Templates

The screenshot shows a web browser window displaying the International Competition Network (ICN) website. The page is titled "Templates - Windows Internet Explorer" and the address bar shows the URL: <http://internationalcompetitionnetwork.org/working-groups/current/merger/templates.aspx>. The website header includes the ICN logo and navigation links: ABOUT, MEMBERS, DOCUMENT LIBRARY, WORKING GROUPS, NEWS & EVENTS, and CONTACT. A search bar is located in the top right corner.

The main content area is titled "Templates Merger Review Laws, Related Materials, and Templates". It includes a sub-header: "Memorandum on the Establishment and Operation of the International Competition Network". The page is divided into several sections:

- Working Groups:** A sidebar menu listing various working groups, with "Templates" highlighted under "Current Working Groups".
- Text:** A paragraph explaining the purpose of the templates: "To assist the Working Group in its efforts and to promote access to information on ICN members' merger review systems, the Merger Working Group has established links to merger-related materials on ICN members' websites. On these linked pages, members have posted materials that may include their current merger legislation, implementing rules and regulations, guidelines, and related materials. Members have also posted responses to a set of questions addressed to all member agencies (the 'template') designed to highlight important features of their merger review systems, such as notification thresholds and review periods." Another paragraph states: "The ICN is posting the competition legislation and/or templates of members that do not currently have agency websites. The ICN vouches neither for the accuracy nor completeness of the information on any of these linked pages but has asked each member to be responsible for maintaining accurate and up-to-date information. Additional links will be posted as members make the information available."
- Participating Jurisdictions:** A list of countries with links to their respective "Merger Page" and "Template":

Country	Merger Page	Template
Albania	Merger Page	Template
Argentina	Merger Page	Template
Armenia	Merger Page	Template
Australia	Merger Page	Template
Bahrain	Merger Page	Template
Belgium	Merger Page	Template
Brazil	Merger Page	Template
Canada	Merger Page	Template
Chile	Merger Page	Template
China	Merger Page	Template
Colombia	Merger Page	Template
Costa Rica	Merger Page	Template
Czechia	Merger Page	Template
Denmark	Merger Page	Template
Egypt	Merger Page	Template
Ecuador	Merger Page	Template
Egypt	Merger Page	Template
France	Merger Page	Template
Germany	Merger Page	Template
Ghana	Merger Page	Template
Guatemala	Merger Page	Template
Hong Kong	Merger Page	Template
India	Merger Page	Template
Indonesia	Merger Page	Template
Israel	Merger Page	Template
Italy	Merger Page	Template
Japan	Merger Page	Template
Jordan	Merger Page	Template
Korea	Merger Page	Template
Latvia	Merger Page	Template
Lithuania	Merger Page	Template
Mexico	Merger Page	Template
Morocco	Merger Page	Template
Netherlands	Merger Page	Template
Nigeria	Merger Page	Template
Poland	Merger Page	Template
Portugal	Merger Page	Template
Romania	Merger Page	Template
Russia	Merger Page	Template
Saudi Arabia	Merger Page	Template
South Africa	Merger Page	Template
South Korea	Merger Page	Template
Sri Lanka	Merger Page	Template
Sudan	Merger Page	Template
Switzerland	Merger Page	Template
Taiwan	Merger Page	Template
Tanzania	Merger Page	Template
Turkey	Merger Page	Template
Ukraine	Merger Page	Template
United Kingdom	Merger Page	Template
United States	Merger Page	Template
Vietnam	Merger Page	Template
Zimbabwe	Merger Page	Template
- Related Content:** A sidebar section titled "Related Content" listing contact information for Ms. Cynthia Lewis Lagdameo, US Federal Trade Commission, with email clagdameo@ftc.gov.

The bottom of the screenshot shows the Windows taskbar with several open applications: Start, Inbox - Microsoft Outlook, Aa CL To Do - Microsoft..., Templates - Windows..., and Document20 - Microsoft... The system tray shows the Internet icon and a 100% zoom level.

Workshops

- The Merger Working Group has sponsored a series of workshops covering the notification, investigation and analysis of mergers, attended by member agencies and NGAs. The workshops:
 - promote existing ICN merger work
 - include training-style exercises based on a hypothetical merger
 - include merger policy discussions
- Past workshops were held in Washington, DC, Brussels, Dublin, Brno, Pretoria, and Taipei. The next MWG workshop is scheduled for November 2010 in Rome.

Merger Working Group: Current and Future Work

- Recommended Practices for Analysis on:
 - Market Definition
 - Failing Firm
- Implementation of Recommended Practices
- Survey of members to evaluate utility of existing work and preferences for future work
- Policy-level workshop in November 2010



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Find Merger Working Group at:

<https://www.internationalcompetitionnetwork.org/working-groups/current/merger.aspx>



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Introduction to the Cartel Working Group International Competition Network

Cartel Working Group: Mission

- To address the challenges of anti-cartel enforcement, including the prevention, detection, investigation and punishment of cartel conduct, both domestically and internationally, across the entire range of ICN members with differing levels of experience and resources

Cartel Working Group: Structure

Legal Framework subgroup

- Addresses legal and policy challenges of anti-cartel enforcement

Enforcement Techniques subgroup

- Aims to identify and share effective investigative techniques and develop the International Cartel Workshops

Cartel WG: Selected Projects

- Manual on Anti-Cartel Enforcement Techniques
- Reports on:
 - Building Blocks for Effective Anti-Cartel Regimes
 - Interaction of Public and Private Enforcement in Cartel Cases
 - Cooperation Between Competition Agencies in Cartel Investigations
 - Obstruction of Justice in Cartel Investigations
 - Cartel Settlements
 - Setting Fines
- Anti-Cartel Enforcement Templates, [here](#)

Annual ICN Cartel Workshops

- A continuation of the successful series of agency-led International Cartel Conferences that were initiated in 1999 by the US DOJ
- This year: October 4-7, 2010 in Yokohama, Japan
- Discussions focus on:
 - Existing ICN Cartel Work Product
 - Investigative Techniques (often using hypothetical cases)
 - Current trends and hot topics in anti-cartel enforcement

Manual on Anti-Cartel Enforcement Techniques

The Manual includes chapters on

- Searches, Raids, and Inspections
- Drafting and Implementing an Effective Leniency Program
- Digital Evidence Gathering
- Cartel Case Initiation
- Interviewing
- Investigative Strategy

The Manual is available [here](#).

Building Blocks for Effective Anti-Cartel Regimes

- Draws upon experience from member jurisdictions on:
 - Defining hard core cartel conduct,
 - Sample organizational arrangements that agencies make to prosecute cartels, and
 - Effective penalties applied to cartel conduct.

The Report is available [here](#).

Interaction of Public and Private Enforcement

- Compiled information provided by competition authorities and NGAs on the extent to which private enforcement currently exists and may complement or conflict with public enforcement.

The Report is available [here](#).

Additional Reports

Cooperation Between Competition Agencies in Cartel Investigations

- Provides a stocktaking of the various forms of cooperation and coordination among agencies in cartel investigations, including cooperation mechanisms contained in existing statutes, agreements, and treaties, and barriers to greater cooperation.
 - Explores potential ways to enhance or promote cooperation in anti-cartel enforcement.
- The Report is available [here](#).

Obstruction of Justice in Cartel Investigations

- Explains why identifying and pursuing obstruction is critical to anti-cartel enforcement and highlights what enforcers are doing to prevent obstruction during cartel investigations.
- The Report is available [here](#).

Additional Reports

Cartel Settlements Report

- Explores the role that negotiated settlements play in anti-cartel enforcement, addressing the underlying principles and benefits of settlements and practical aspects of achieving them.

This Report is available [here](#).

Setting Cartel Fines

- Reviews how corporate fines for hardcore cartels are determined in member jurisdictions, addressing practical issues that jurisdictions face in setting fines.

This Report is available [here](#).

Anti-Cartel Templates



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[CONTACT](#)

ICN will encourage the dissemination of antitrust experience and best practices, promote the advocacy role of antitrust agencies and seek to facilitate international cooperation.

Memorandum on the Establishment and Operation of the International Competition Network

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Working Groups

Current Working Groups

[Advocacy](#)
[Agency Effectiveness](#)
[Cartel](#)
[Anti-Cartel Templates](#)
[Anti-Cartel Enforcement Manual](#)
[Merger](#)
[Unilateral Conduct](#)
[Vice Chairs](#)

Former Working Groups

Operational Working Groups

[ICN Discussion Forum](#)
[ICN Bulletin Board & Blog](#)
[AISUP](#)
[Get Involved](#)

SEARCH DOCUMENTS

[All Working Groups](#)
[All Document Types](#)
[All Conference / Workshop](#)

Anti-Cartel Templates

Anti-Cartel Templates, Laws and Related Materials

To assist the Cartel Working Group in its efforts to promote access to information about ICN Members' anti-cartel enforcement regimes, Subgroup 2 on Enforcement Techniques has established links* to Anti-Cartel Enforcement Templates designed to highlight important features of members' anti-cartel systems. Some ICN Members have also provided links to related materials on their websites, including relevant legislation, implementing rules and regulations, guidelines and information about cases.

The ICN vouches neither for the accuracy nor completeness of the information on any of these linked pages but has asked each member to be responsible for maintaining accurate and up-to-date information. Additional links will be posted as members make the information available.

Competition agencies from the following jurisdictions provided:

- * [Australia](#)
- * [Austria](#)
- * [Barbados](#)
- * Belgium
- * [Bosnia & Herzegovina](#)
- * [Brazil](#)
- * Bulgaria
- * Canada
- * [Costa Rica](#)
- * [Croatia](#)
- * Cyprus
- * Czech Republic
- * [Denmark](#)
- * EFTA
- * [Estonia](#)
- * [European Union](#)
- * [Finland](#)
- * France
- * [Germany](#)
- * [Greece](#)
- * [Hungary](#)
- * [Ireland](#)
- * [Italy](#)

Cartel Working Group: Current and Future Work

- Annual Workshops
- ICN Anti-Cartel Enforcement Manual
 - Searches and Leniency
 - Digital evidence and Case Initiation
 - New chapter on Case Resolution
- Hot topic Roundtable Discussions
 - 2009-2010 on transitioning to criminal sanctions
 - 2010-2011 on cartel awareness/outreach efforts




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Find Cartel Working Group at:

<https://www.internationalcompetitionnetwork.org/working-groups/current/cartel.aspx>



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Introduction to the Unilateral Conduct Working Group International Competition Network

Unilateral Conduct Working Group: Mission

- To examine the challenges involved in addressing unilateral conduct of dominant firms
- To facilitate greater understanding of the issues involved in analyzing unilateral conduct
- To promote convergence and sound enforcement of laws governing unilateral conduct

Unilateral Conduct WG: Selected Projects

- Recommended Practices
 - Assessment of substantial market power (SMP) and dominance under unilateral-conduct laws
 - Application of unilateral-conduct rules to state-created monopolies
- Reports
 - Objectives of Unilateral Conduct Laws and the Assessment of Dominance
 - Specific types of conduct by dominant firms: (1) predatory pricing, (2) exclusive dealing, (3) tying and bundled discounting, (4) loyalty discounts and rebates, (5) refusal to deal with a rival and margin squeeze
- Workshop & Teleseminars

Recommended Practices for the Assessment of Dominance/SMP

General Framework:

- Agencies should use a sound analytical framework firmly grounded in economic principles in determining whether dominance / SMP exists.
- A firm should not be found to possess dominance / SMP without a comprehensive consideration of factors affecting competitive conditions in the market under investigation.

Assessment Criteria:

- Market Shares (“indication or starting point” for analysis)
- Entry (“integral part of the analysis”)
- Other Criteria (“as appropriate” to the case)

These Practices are available in [English](#), [French](#), and [Spanish](#).

Recommended Practices for State Created Monopolies Pursuant to Unilateral Conduct Laws

- Enforcement role of competition authority
 - “protect and promote competition” by taking appropriate enforcement action against anticompetitive unilateral conduct by state-created monopolies
 - Apply sound competition analysis
- Advocacy role of competition authority
 - Advocate for competition considerations during liberalization and privatization
- Effective advocacy instruments in the liberalization/privatization process
 - Reports, opinions, briefings

These Practices are available in [English](#), [French](#), and [Spanish](#).

Specific Conduct Reports

- Predatory Pricing, [here](#)
- Exclusive Dealing, [here](#)
- Tying and Bundled Discounting, [here](#)
- Single-Product Loyalty Discounts and Rebates, [here](#)
- Refusal To Deal with Rivals & Margin Squeeze (forthcoming)

- Washington (April 2009)
 - Panels & Breakout Sessions
 - Assessing Dominance/Substantial Market Power
 - Criteria Used to Assess the Durability of Market Power
 - Assessing Anticompetitive Effects and Foreclosure
 - Predatory Pricing
 - Webcast available online, [here](#)
- Brussels (December 2010)

Teleseminars

- “Excessive” Pricing (November 2010), recording available [here](#)
- Unilateral Conduct Remedies (March 2010), recording available [here](#)

Unilateral Conduct Working Group: Current and Future Work

- Unilateral Conduct Workbook
- More comparison of specific types of unilateral conduct
- Dialogue on possible recommended practices or other guidance
- Webinars and December 2010 workshop




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Find Unilateral Conduct Working Group at:

<http://www.internationalcompetitionnetwork.org/working-groups/current/unilateral.aspx>



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Introduction to the Advocacy Working Group International Competition Network

Advocacy Working Group: Mission

- To develop practical tools and guidance to improve the effectiveness of ICN members' advocacy activities

Advocacy Working Group: Selected Projects 2001-2003

- Advocacy “toolkit” for agency officials and media
- Advocacy information center
- Advocacy overview report
- Detailed reports on advocacy provisions and practices of ICN members
 - Model advocacy provisions
 - Sectoral studies

Advocacy Working Group: Toolkit

Toolkit for Effective Advocacy, description [here](#) and [here](#)

- Promotion Mechanisms
- Educating Decision Makers
- Media Relations
- Plain Language
- Internal Communications
- Web Sites
- Research and Consultation



ICN - Toolkit for Effective Advocacy - Promotion Mechanisms - Educating Decision Makers - Microsoft Internet Explorer

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Address <http://www.internationalcompetitionnetwork.org/media/archive0611/education.html> Go Links

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Home > Information Library > Working Group Documents > Advocacy Materials > Toolkit for Effective Advocacy > Educating Decision Makers

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Working Groups

Annual Conferences

News and Events

Related Sites

Toolkit for Effective Advocacy

Promotion Mechanisms Educating Decision Makers Media Relations Plain Language Internal Communications Web Sites Research and Consultation

Educating Decision Makers

Work with policy-makers in other governmental bodies

- Promote competition when other government agencies consider amendments to their laws, practices and procedures
- Provide written briefs and/or attend international meetings with government officials
- Provide formal input to Memoranda to Cabinet and other formal government decision making documents
- Offer technical briefings to elected officials and their staff in order to enhance their understanding of the important role competition plays in the economy, including one-on-one meetings with Ministers
- Invite participation/attendance of government officials and other leaders in competition agency workshops/roundtables
- Notify government officials of competition agency actions and news releases
- Develop and ensure close liaison with other national government departments and international bodies on strategies and plans

Work with stakeholders

- Identify stakeholders, including business groups, consumer organizations, and industry associations
- Stay in regular contact with these groups and plan meetings with their executive committees

Internet

Advocacy Reports

- 2002 Report on Advocacy, [here](#)
 - Conceptual framework for competition advocacy
 - Member experiences with advocacy activities
- Advocacy Case Studies, [here](#)
 - Describes member advocacy efforts in four regulated sectors
- Model Advocacy Provisions (link forthcoming)

Advocacy Working Group: 2008-present

- Market Studies Project
 - Report examining members' experiences conducting market studies as part of their advocacy efforts, [here](#)
 - Handbook on Conducting Market Studies (forthcoming)
 - Market Studies Information Store (forthcoming)
- Review & Update of Member Advocacy Needs, report [here](#)
- Dialogue: Experience-sharing teleseminars

Advocacy Working Group: Current and Future Work

- Revise 2003 Advocacy Toolkit
- Road-test Market Studies Handbook
- Continue teleseminars series



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Find Advocacy Working Group at:
<http://www.internationalcompetitionnetwork.org/working-groups/current/advocacy.aspx>



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Introduction to the Agency Effectiveness Working Groups International Competition Network

Mission

- To examine a variety of factors determining the ability of competition agencies to achieve their objectives in an efficient and effective way

Agency Effectiveness WG: Selected Projects

- Reports on:
 - Operational and organization characteristics of agencies
 - Defining objectives and setting priorities
 - Agency resource allocation
 - Compliance with agency decisions

Reports are available [here](#) and [here](#).

- Seminar on Agency Effectiveness (January 2009), [here](#)

Current Work

- Developing an “Agency Practice Manual”
- Preparing Chapter on strategic planning and prioritization for Agency Practice Manual

Future Work

- Agency heads workshop in July 2010 on culture, leadership and succession, and knowledge management
- Additional chapters for the Agency Practice Handbook on:
 - Effective Project Delivery, and
 - TBD



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Find Agency Effectiveness Working Group at:

<http://www.internationalcompetitionnetwork.org/working-groups/current/agency-effectiveness.aspx>