

## **Advocacy: the role of international organisations**

### **An example from the OECD**

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#### **What is the OECD and the OECD Competition Committee?**

The OECD consists of the governments of 30 member nations from Europe, North America and the Asia/Pacific region. Founded in 1961, it provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practices and work to coordinate domestic and international policies. These governments work together to address the economic, social and environmental challenges of globalisation. Reflecting the importance placed on the OECD's leadership, expertise and impartiality, each member country sends an ambassador to the organisation's Paris-based headquarters. These ambassadors form the OECD's governing Council.

Its goal is global economic policy reform, the OECD uses "peer pressure", voluntary best practices and non-binding Recommendations, and where necessary, binding agreements to influence governments' policies. It combines the analytical rigour of its experts with the active involvement of senior government policy makers.

The Competition Committee brings together the leaders of world's major competition authorities. It is the most well-established of the international policy organisations – promoting regular exchanges of views and analysis on important competition policy issues. It provides a forum for members and non-members (some of whom are associated more closely to the Committee as Observers) to discuss competition policy at a senior level.

It is supported in its mission by a specialist Competition Division, within the OECD's Directorate for Financial and Enterprise Affairs. Other divisions within the Directorate cover areas such as investment, anti-corruption, financial markets and corporate governance.

The role of the Competition Division is to provide the Competition Committee with analytical support to promote its platform around the world. So we prepare analytical papers, sector studies and policy recommendations, as well as offer hands on support to governments seeking to strengthen their national competition frameworks.

#### **Advocacy**

We all have a good idea of what advocacy is: making the voice of competition heard outside the world of competition specialists. Competition advocacy has been the subject of considerable discussion at the national and international levels: here at the OECD and at the ICN. There is general agreement that it is an important function of competition authorities. But it is not the preserve of

competition authorities. Other governmental and non-governmental actors can and do carry out competition advocacy.

International organisations play an important role in competition advocacy. And they do so at different levels.

### ***Advocating international best practices***

First they provide a forum for norm diffusion and sharing of experiences. This enables competition agencies and indeed governments to approach issues from a common basis of understanding. By working together, this reduces the chances of divergence and the risk of inconsistent outcomes.

They define and shape international best practices. In turn international best practices influence domestic processes. International organisations therefore have a role in transforming domestic competition policy.

International organisations are an avenue to develop and agree network commitments. The OECD uses its inter-governmental status to influence governments through a combination of recommendations and best practices. The weight of a product with an OECD badge can be significant when competition authorities or policy makers are looking to strengthening domestic competition frameworks – particularly for developing countries.

The Competition Committee has been responsible for several important OECD Council Recommendations as well as Best Practices. While Council Recommendations are not legally binding they entail the political commitment of members to implement them. Agreement at Council level is regarded as a commitment on the part of governments to implement them at the national level.

The 1998 Recommendation on Hard Core Cartels successfully focused the attention of antitrust agencies on the need to combat cartels and to cooperate in doing so. It triggered a new era for cartel enforcement. It has helped make cartel deterrence a top priority for all OECD competition agencies.

In 2005 the Competition Committee produced best practices for the sharing of confidential information in cartel investigations, which strengthened international consensus on the value of meaningful law enforcement co-operation against cartels.

The 1995 Recommendation on International Cooperation has provided the basis of many bilateral agreements.

The 2005 Recommendation on Merger Review seeks to advance the development of merger review procedures in line with internationally recognised best practices. As such it buttressed the ICN's important work in this area: officialising the best practices at an inter-governmental level.

A follow-up report to the 1998 Recommendation on hard core cartels indicated that competition authorities needed to work other parts of government. And so the OECD developed Guidelines for Fighting Bid Rigging in Public Procurement, which were adopted earlier this year. They provide governments with a highly useful tool to save government resources, given that public procurement accounts for about 15% of total GDP in many countries, and it can be higher in developing countries.

The OECD Guidelines help officials design procurement tenders and identify possible cases of bid rigging early on, so that the follow-up investigation by competition agencies can be facilitated.

The Competition Committee has also developed best practices to help governments advocate pro-competitive reform, which has become an increasingly important priority of governments in the OECD. The Competition Committee's Working Party on Competition and Regulation has undertaken serious and substantive work assessing the competitive impact of policies. This culminated in the adoption last month of a Recommendation on Competition Assessment. This urges member countries to identify regulations with excessive restrictions on market activity and adopt more pro-competitive policies that still achieve the government's policy goals. The Recommendation grew out of previous OECD work in the area, including the 2005 OECD Guiding Principles on Regulatory Quality and Performance and the 2007 OECD Competition Assessment Toolkit.

This is the OECD advocating competition advocacy. And it has been successful. A number of governments have developed toolkits of their own, at times building on the work of the OECD. The toolkit's approach to reviewing regulation is gaining traction in many countries, with the use of the toolkit in at least 20 countries since its release in 2007. There is a joint project between Mexico and the OECD on competition assessment.

Establishing the international best practices is only part of the story. International organisations need to actively disseminate these best practices. The OECD does this through work with both member and non-member countries. I have already mentioned the example of Mexico. We also work with other international organisations, such as the Asian Development Bank, ASEAN, the Inter-American Development Bank and others to reach out to governments and competition authorities across the world. We hold an annual Global Forum on Competition, which brings together some 90 countries, and is an important mechanism for the promotion of competition policy in developing and transition economies. We have two Regional Centres on Competition in Budapest and Seoul in partnership with the competition authorities in each of the host countries. The aim is to help competition authorities in the region develop and implement effective law and policy.

Our outreach and capacity building also includes in-country projects. We have worked closely with Brazil and Chile over the last two years as part of a project to reduce bid rigging in Latin America. These projects are designed to assist local competition and procurement agencies to detect and prevent bid rigging in public procurement and to develop the necessary enforcement tools to assist the competition authority in its anti-bid rigging efforts.

International organisations have a role in defining best practices. The intergovernmental nature of the OECD means that governments are committed to the recommendations and practices they adopt. But these products are equally useful for non-member countries who can use them to advocate for change to their own domestic frameworks or who wish to align themselves with the practices as defined by the world's leading competition authorities through the OECD.

### ***Advocacy to governments***

The OECD provides a mechanism for direct advocacy to governments through Peer Reviews of national competition policies. They incorporate recommendations for changes in government

policy. Peer reviews play an important signalling role for competition agencies. Peer Review recommendations encourage agencies to go to their national legislatures and push for change. The process can also transform the agency itself as other agency heads with similar experiences have an opportunity to weigh in during the Peer Review discussions to offer contextualised comments about similar institutional successes or malfunctions in their own countries and the way in which other agencies have addressed similar issues. Peer Reviews quickly become part of national public debate as they are closely analysed by governments, the media and other influential commentators.

### ***Advocacy within international organisations***

The OECD is obviously much broader than just competition. The work of the Competition Division and the Competition Committee and the best practices it advocates must relate to the core mission of the organisation. And it is this linking back of competition principles to wider policy objectives that makes for successful advocacy. By virtue of active working with other parts of the OECD, we are able to make the case for competition policy being reflected in the wider goals of the organisation and therefore the governments it is addressing.

In our work on bid rigging, we have developed close relationships with other OECD Committees, in particular the Public Governance Committee and the Working Group on Bribery, to ensure that sound competition principles are taken into account when developing other public procurement policies.

There are horizontal projects on innovation, climate change and the environment. The Competition Division is involved in these. This provides us with a channel and network into other government policy areas, to ensure that the competition message is heard and to highlight its importance in relation to other policy considerations. This may not be a route that many competition authorities have available to them. Furthermore, as competition agencies become more independent, there may be less of a direct interest/involvement in competition on the part of the executive arm of government.

### ***Advocacy on the international stage***

The OECD itself is plugged into international debates and discussions on issues that could potentially have an impact on competition policy and enforcement, but where competition agencies may not necessarily have a direct say. The work of the OECD feeds into discussions in other international organisations and groupings. The current discussions in the G20 and the G8 on the financial crisis are an excellent example of this.

The OECD Competition Committee conducted a series of roundtables on competition and the financial crisis in February this year, aimed at examining safeguards to protect competition as emergency measures are implemented for financial stability purposes. This work fed into the OECD's strategic response to the crisis. This in turn was fed into G20 and G8 work, as part of the OECD's working with the world's governments and other organisations to get economies moving again.

The OECD was able to provide messages both to competition agencies through its discussions in the Competition Committee, as well as to governments at the highest level. We are well placed to have these discussions and to disseminate these messages across government networks on an

international scale. Governments are hearing messages from their own competition agencies as well as from broader international organisations as they discuss strengthened co-operation on macroeconomic policies. It is a useful and dynamic complement.

The OECD will be doing more of this, as the international debate turns to exit strategies. The work that we do in the Competition Committee looking at the structural conditions for successful exit, will again feed into OECD contributions to the G20 and other discussions.

And not only can international organisations such as the OECD help get the competition policy view into the G20 etc, but we provide a forum for other international organisations to disseminate their views. For example, the key note speech by the Managing Director of the IMF at the Global Forum in February 2009, alongside the OECD's Secretary General was an opportunity to convey IMF messages to a broad high level international audience of policy makers and competition authorities.

### **Conclusion**

International organisations carry out a number of different competition advocacy roles, and the OECD's advocacy work can be categorised as follows:

- Developing and disseminating international best practices
- Advocating for pro-competitive reforms
- Bringing competition issues or concerns to the heart of national governments through its wider policy dialogues.
- Using its international status to help get the competition view into broader international governmental discussions.

Some of this work complements and supports the competition advocacy undertaken by competition authorities. Some of it is takes place at a broader level to a wider audience. There are different roles for different institutions. Each should play to its strengths.