



business outreach



International Competition Network (ICN)

Competition Policy Implementation Working Group: Sub group 2

Business Outreach by ICN members: Challenges and Case Studies

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Introduction

The Competition Policy Implementation subgroup on business outreach was tasked with helping International Competition Network (ICN) members reach out to businesses to promote a better understanding of the benefits of competition and build support for a competition authority's mission. The work of the subgroup involved exploring the messages and mechanisms used by competition authorities around the world for business outreach, sharing successes and challenges, and compiling practical tools and examples for ICN members to use.

The goal of the group is to illustrate that business outreach can be complementary to effective enforcement and can enhance the standing of competition authorities among business communities.

ICN members engage in outreach to their respective business communities in a number of ways including:

- encouraging corporate compliance programs
- giving bid-rigging presentations to procurement officials
- using special communications tools tailored to business demands and interests (speeches, Web sites and publications)
- working with business organisations to reach as many members of the business community as possible.

With respect to the group's work on compliance programs, the focus is on surveying methods used by agencies to ensure that businesses are aware of competition policy and the need for compliance, not on the content of their compliance programs.

This report presents a range of activities undertaken by ICN member agencies to reach out to and engage businesses and business representative organisations and explore some of the challenges they faced in delivering these activities.

The report is one of a number of tasks the subgroup has undertaken in preparation for the 2006 ICN Conference in Cape Town, South Africa. The subgroup has also organized a workshop on business outreach, produced an online toolkit of business outreach practices, with templates and examples to assist jurisdictions in their outreach to business, and developed a trivia tool for ICN members to download and use with stakeholder groups. The past year's work plan of the subgroup is at Appendix 1.

The examples provided in this report were submitted by ICN member agencies in response to a call letter to ICN member agencies. A copy of this letter appears at Appendix 2.

This report includes case studies from member agencies and explores a wide range of business outreach activities, together with members' views on some of the challenges they encountered.

Contributing agencies

This report is based on submissions provided by competition agencies. The subgroup is thankful to all the contributors who provided input for this report:

Australian Competition and Consumer Commission
Bundeskartellamt Bonn
Commerce Commission of New Zealand
Commission on Protection of Competition Bulgaria
Competition Authority of Spain
Competition Bureau Canada
European Commission Directorate-General for Competition
Fair Trade Commission of Japan
Irish Competition Authority
Jamaica Fair Trading Commission
Netherlands Competition Authority
Romanian Competition Council
South African Competition Commission
Turkish Competition Authority
United Kingdom Office of Fair Trading
United States Department of Justice
United States Federal Trade Commission
Zambia Competition Commission

Terminology

Competition: The terms ‘competition’ and anti-trust’ are used interchangeably throughout the report and are intended to have the same meaning.

Business: The word ‘business’ in this report denotes a small, medium or large sized organisation supplying services or products to consumers.

Outreach: The term outreach means an activity by a competition agency used for educating or building awareness of competition issues.

Business Outreach Activities

The submissions revealed that ICN members engage in outreach in many different ways, described in the table below. Some examples of outreach activities are included as case studies in this report; others are included in the business outreach toolkit available on the ICN Web site.

Some members felt that they had insufficient business outreach activities to provide input to the report.

Activity	Description
Consultation	A process of discussion between those proposing a course of action and those likely to be affected by those actions.
Direct mail	Direct mail may include a letter, or brochure delivered to a specific audience group or industry and can be sent by surface mail or electronically through email.
Direct: face to face	Interpersonal interaction/communication with a business such as a meeting.
Event	A specific function held on a specific date or period of time.
Guidance material	Material developed to guide an audience on an issue or action.
Indirect: through an intermediary	Indirect communication with businesses through a third party such as a business association or chamber of commerce.
Media relations	An activity used by agencies to generate media interest in and coverage of an issue.
Multimedia	A combination of various types of media, including sound, animation, video and graphics. Types of multimedia tools can include CD-ROMs, DVDs and videos.
Online	Information delivered via a computer with access to a network.
Publications	Print, electronic or Web-based material. Includes general information about competition issues or specific guidance information for a specific industry or business sector.
Publicity	A marketing tool, delivered through media such as newspapers, magazines, radio, television or internet.

Seminars/workshops	A form of accessing and discussing a specific topic using various communication means such as projectors, black boards, charts, or a speech. Seminars can be delivered as a form of teaching, in groups where participants can be encouraged to participate. This may include presenting a paper.
Speeches	An oral presentation by one person to a group of people and often presented by senior representatives.
Surveys	A method for collecting information or data from a number of people, this may include a poll, mailed questionnaires, telephone interviews, or face-to-face interviews.
Targeted outreach	Activities developed to reach a specific audience for example the health-care sector or real estate industry.

Strategies

The business outreach activities provided in the submissions for this report broadly fall into the following three categories:

- Building awareness—activities designed to increase general awareness of the rules and benefits of competition;
- Facilitating compliance—activities developed to promote compliance with the law; and
- Understanding business—activities designed to understand business realities and to use that knowledge when conducting law enforcement and outreach activities.

Challenges

Responding agencies identified the challenges they encountered in undertaking business outreach. The challenges can be grouped under the following broad themes:

- educating small and medium sized businesses;
- a lack of understanding of competition laws and their relevance for business;
- understanding knowledge levels and attitudes to compliance;
- political challenges – building political support for competition law; and
- limited financial and human resources of competition agencies.

Many also identified their strategies and activities for addressing these challenges, which are outlined below.

Educating small and medium sized businesses

- Small and medium sized enterprises generally are less equipped and experienced than larger organisations to deal with complex issues relating to competition law.
- Small organisations may lack the resources of big business to educate staff about competition law requirements and compliance.
- Difficulties in reaching organisations located outside larger metropolitan centres where access to information resources and services may be harder to locate.
- Difficulties in getting business people, especially from small and medium-sized enterprises (SMEs) to attend seminar sessions as most may not be in a position to close down business or find a replacement while they attend.
- Not all SMEs are members of a representative trade organisation generally used to channel messages to businesses.
- Minority businesses and ethnic business groups may be particularly hard to reach through more mainstream strategies.

Commentary: Reaching out to smaller enterprises is important and mutually beneficial to businesses and competition agencies. By providing accessible information to a business, an agency can ensure that protections under competition law are fully understood and used. It also better informs business about what they can expect from a competition authority.

Agencies engage in a range of activities to overcome these challenges, including:

- using information intermediaries such as business associations to provide information to their members;
- providing information resources such as brochures and publications written in plain language;
- providing avenues for businesses to communicate their opinions and concerns such as a telephone inquiry line and email address, or through consultation and surveys;
- locating competition contact offices in local areas and enabling officers to travel to regional centres to provide personal contact; or
- building relations with key trade press and trade associations and national and local business organisations who can channel messages to their members and readers.

Lack of understanding by business of competition laws and their relevance

- Lack of support for a competition authority's mission.
- Difficulty engaging stakeholders or industry players who have been investigated or have been fined for contravention of the competition law.
- General lack of interest even when direct contact is made to stakeholders or firms identified as ones that stand to benefit the most from outreach efforts.
- Absence of a competition culture.

Commentary: Most agencies reported difficulty with stakeholders in this area including challenges in getting business associations to realise the importance of their role in the economy, and how competition affects or benefits them. One agency specifically identified that competition law was not generally regarded in their country as an important priority among business operators who tended to solve the issue arising from the application of competition law, rather than learning how to avoid breaching the law.

Another concern was the perception by some that the law did not lead to pro-active action or meaningful assistance, reporting that some people believed that the competition authority should champion protection of businesses and empowerment of the 'previously disadvantaged' rather than protect competition.

One member agency reported that attendance at their conferences, workshops and seminars had been consistently poor and proposed to take their meetings to already established forums within trade associations and service clubs including a legal education program to increase participation numbers. Some agencies found that they gained better awareness by clarifying the role of the competition agency and responsibility of a business through key messages in the media.

Most agencies engage in a range of activities to address this challenge and increase general awareness of the rules of competition, including:

- targeting specific sectors, particularly those that raise concerns either through their conduct or evidenced by repeated complaints from consumers;
- developing specific strategies to address industry non-compliant practice;
- communicating the agency's position through targeted articles, guidelines, advertorials and interviews that are covered by national newspapers, magazines, television and radio broadcasts;
- helping industry sectors develop a 'tailored' compliance programme, generally at the initiative of the industry;
- celebrating milestones of the agency, for example a media campaign to highlight an anniversary date and providing an opportunity to raise awareness of an agency's role and communicate achievements;
- releasing press statements on major cases or outcomes and action, and developing well-targeted messages—and linking them with cases affecting particular stakeholders; or
- seeking opportunities to make presentations including participation in events and road shows organised by other institutions, particularly if they involve business chambers, and funding institutions.

Understanding knowledge levels and attitudes to compliance

- Difficulty determining whether businesses are non-compliant because they are unaware of their obligations under the law, or if they are aware and are taking a calculated risk.

Commentary: Some competition agencies have found that consulting with businesses and their representatives on proposed approaches and guidelines can help with this problem. Consultation can include:

- an agency undertaking impact assessment surveys on their processes by enlisting the services of an independent company, the aim being to evaluate their outreach processes and improve them;
- seeking feedback on activities;
- conducting face-to-face, online or mail surveys, or phone interviews; or
- periodically holding consultative meetings to keep business informed of new developments or concerns.

Building political support for competition law

- A lack of political will to recognise that competition plays a vital role in the social and economic development of a nation.
- Hindrances to effective application of competition laws where there is a lack of political will by government in recognising the role of competition in the social and economic development of a nation.
- Existing legislation that permits anti-competitive conduct.

Commentary: The challenges here are more frequently beyond the control of competition agencies. However, competition advocacy to government agencies can help—one member agency described how their work in this area included initiating an advocacy role with parliament, government departments or institutions that has legislation that negatively affects competition in particular markets. Advocacy can take the form of lobbying, with an agency writing to alert those concerned of the effects or worries that the agency has about the legislation in question.

Limited financial and human resources

- Lack of adequate funding from government handicapping their ability to implement all the activities falling under their outreach and advocacy program
- Limited staff numbers and high turnover—in one competition agency the professional staff comprises three lawyers and three economists
- Staff training occurring on the job because the educational system does not address competition law and policy at any level.

Commentary: Some agencies stated they had plenty of ideas but no funds to initiate nation-wide activities, which meant slow progress on outreach efforts. Where possible, agencies stretched for resourcing and training benefited from international activities such as the training opportunities provided by international donor agencies and from attending overseas seminars and workshops. When attendees return to their country they conducted in-house seminars and shared their experience and learning. Attending meetings overseas also provided the opportunity to make alliances and gain experience from other competition agencies. The Internet also provides a supplementary source of information.

Some further suggestions for overcoming these challenges included:

- increased capacity building; or
- cost recovery for assessment services provided by the competition agency such as legal fees for merger and takeover notification or written opinions. Considerable caution, however, is necessary in determining if and under what circumstances fees will be charged, as conflicts of interest can arise if fees are charged for discretionary matters.

Case studies

The case studies presented in this section are provided as examples of how specific issues have been addressed by competition agencies. The case studies are provided to assist ICN members to develop their own outreach efforts should they choose to do so and are not necessarily recommended as best practices.

Competition agency	Issue
(1) Australian Competition and Consumer Commission	Real estate industry outreach
(2) Commerce Commission of New Zealand	Immigrant business strategy
(3) Competition Bureau Canada	Bid-rigging outreach program
(4) Directorate-General for Competition European Commission	Educating decision makers
(5) Fair Trade Commission of Japan	Stop the DANGO video
(6) Netherlands Competition Authority	Agenda consultation
(7) Republic of Bulgaria Commission for Protection of Competition	Glossary of competition terms Publications
(8) Romanian Competition Council	Protocols for cooperation with business associations
(9) South African Competition Commission	Franchising guideline
(10) Turkish Competition Authority	Competition law and policy CD ROM
(11) United Kingdom's Office of Fair Trading	Championing competition campaign
(12) United Kingdom's Office of Fair Trading	Annual tracking research
(13) United States Federal Trade Commission and Department of Justice Antitrust Division	Promoting compliance with antitrust legislation in the health- care sector
(14) Zambia Competition Commission	The World Wide Web

(1) Australian Competition and Consumer Commission — Targeted outreach: real estate industry

In September 2003 the ACCC launched a campaign to combat misleading and deceptive conduct in various sectors of the real estate and property investment industry. This campaign combined both education and enforcement action.

The Chairman announced the campaign to the public and indicated that the ACCC would be targeting a range of practices by property ‘scammers’, including property investment seminar promotion, two-tier marketing and associated conduct, and misleading conduct by real estate agents and auctioneers— including misleading price range advertising and ‘dummy bidding’.

This campaign used a multi-pronged strategy to tackle misleading and deceptive conduct in the industry, by:

- targeting enforcement action in key areas of non-compliance by giving selected matters elevated priority and resourcing as necessary, so as to obtain early results followed progressively by a (limited) number of further actions ideally to give an impression of a constant barrage
- the strategic use of the media (including influential commentators) and public speaking engagements to reinforce the ACCC’s message
- direct representations to the relevant industry body and/or other influential bodies seeking for them to support and reinforce the ACCC’s message.

Components of the campaign included:

- 16 press statements issued throughout the campaign and associated cases instituted by the ACCC
- the establishment of a taskforce to identify property-related matters for investigation
- monitoring complaints received through the ACCC’s Infocentre hot line.

The ACCC consulted with the Real Estate Institute of Australia (REIA) on misleading and deceptive practices observed in the real estate industry nationally, and helped the REIA develop a guide to the Trade Practices Act for the real estate industry. The guide is written in an easily understood style and uses relevant examples to illustrate familiar market situations under which the Trade Practices Act applies to real estate agents.

The consultation process through this campaign process was challenging as it required some operators to change their current practice in the real estate sector to avoid misleading and deceptive conduct such as: conduct at auctions, property descriptions, price ranges, price offerings, advertising rebates, photographic representations, and two-tier marketing.

The campaign was successful in addressing non-compliant conduct in the industry. A key indicator was the drop in the number of complaints and inquiries to the ACCC from high levels early in the campaign to very low levels in 2004.

The campaign was also effective in discouraging non-compliant conduct by investment seminar operators, and in stopping the advertising of property seminars.

(2) Commerce Commission of New Zealand — Immigrant business strategy

One challenge the Commerce Commission of New Zealand has met in recent years is the need to target immigrant communities. New immigrants to New Zealand can be unaware of the legislation and regulations that govern their business activities. They often trade with consumers who are also new immigrants, and who may have little understanding of the protections offered to them in New Zealand law.

As part of an immigrant business strategy the Commission is developing a Chinese language product safety and consumer information standards brochure which will encourage immigrant traders to comply with the standards. The Commission has published a Chinese language version of the Fair Trading Act Guide and a Korean language Fair Trading Act guide is currently being produced.

When prosecutions of immigrant business people have been successful and it is thought the immigrant business community would benefit from knowledge of the prosecution, the Commission has translated media releases and targeted immigrant media.

(3) Competition Bureau Canada — Bid-rigging outreach program

The Competition Bureau considers the detection and prevention of cartels as one of its highest priorities. The Bureau's role is to promote and maintain fair competition so that Canadians can enjoy the benefits of competitive prices, product choice and quality service. Bid-rigging, or collusive tendering, on public and private contracts poses a significant threat to such fair competition and can ultimately lead to higher costs for consumers, businesses and taxpayers.

As Sheridan Scott, Commissioner of Competition, outlined in her speech to the Fordham Corporate Law Institute Conference on International Antitrust Law & Policy, October, 2004:

In the cartel area, education can be as important as prosecutions in detecting and deterring cartel activity. For example, the Bureau has had significant success with its outreach program for bid-rigging which has been in place for the last ten years and which serves as a tool for education about and prevention and detection of bid-rigging.

The bid-rigging outreach program is based on the Bureau's strong belief that bid-rigging can be thwarted by educating purchasers on how to detect and prevent the crime. The program began in 1991 and targets private and public

sector procurement professionals through procurement associations, and government purchasing agencies at the federal, provincial and municipal levels. The Bureau also targets other law enforcement agencies, forensic accounting firms and associations involved in commercial crime and fraud investigations, since consumers often direct their bid-rigging and cartel complaints to those agencies first. Educating these agencies on the Bureau's responsibilities helps to ensure complaints are re-directed to the Bureau.

The Bureau delivers an average of 10 seminars each year to procurement officials across Canada, with audiences ranging in size from 50 to 175 attendees. The presentations often take place at a requestor's annual conference as part of an education component for all employees. The Bureau follows up each seminar with a letter to the company.

Through the seminars, Bureau officers explain what bid-rigging is and how purchasers can protect themselves against the crime. The sessions enable officers to directly answer questions raised by the participants. They also give the opportunity for the Bureau and the various groups to establish a working relationship for preventing bid-rigging in Canada. The discussions are guided by an animated multimedia presentation that helps advise purchasers of the warning signs of bid-rigging, to provide information about what they can do if they suspect they have been victimized by the crime, and to provide suggestions to help prevent bid-rigging from occurring. It is available in CD-ROM format and is also posted on the Bureau's Web site in the Business portal.
(<http://mmprodnt.ic.gc.ca/mmpub/competitionbureau/bidrigging/index.html>)

In 2003–04 the Bureau's regional offices took on greater responsibility for criminal competition investigations, particularly those related to bid-rigging. The Bureau's regional offices are active in this outreach program since it's important to have 'feet on the street' throughout the country. A local presence increases the visibility of the Bureau and opportunities to detect cartel activities.

As a result of the seminars, the vast majority of the procurement agencies undertake a comprehensive review of their tendering practices. The most frequently adopted change following review is the addition of a certificate of independent bid determination to the tendering process. The Bureau developed this document to assist persons calling for bids, tenders or quotations. The certificate can deter bid-rigging by requiring bidders to disclose to the person calling for the bids all material facts about any communications and arrangements they have entered into with competitors regarding the tender call.

Even more encouraging is the fact that bid-rigging cases are often reported to Bureau officials immediately following these seminars. Furthermore, the Bureau has also been asked by various groups to help improve their tendering processes as a result of this program. The public response to the program suggests that it has been very successful in educating the Canadian public on this serious economic crime. Each year, the number of requests for the Bureau's seminar increases.

A complementary media strategy is also an effective vehicle for raising awareness of bid-rigging cartels. News releases that emphasize the penalties handed down to companies and executives involved in bid-rigging cartels provide strong messages deterring such behaviour. The Bureau also uses quotes in its news releases to deliver messages warning industries that the agency will actively pursue anyone who breaches the *Competition Act*.

News releases and media interviews are often used as opportunities to highlight the Bureau's Immunity Program. Under the Immunity Program, persons implicated in activity that might have violated the *Competition Act* may offer to cooperate with the Bureau and request immunity from prosecution. The program has proven to be a valuable tool to the Bureau and has greatly enhanced both cartel detection and compliance with the Act. The media strategy also encourages Bureau spokespersons to explain bid-rigging to reporters who call looking for information on this activity. As a result of these interviews, Bureau messages regularly appear in the news media as well as in trade and industry publications.

(4) Directorate-General for Competition European Commission — Educating decision makers

The European Commission publishes numerous and detailed guidelines, notices and communications, which reflect its interpretation of EC competition law and explain their current enforcement practices. These guidelines (although sometimes technical) are helpful for users inside and outside the Commission because they contain practical examples and scenarios demonstrating the Commission's approach.

Notices relating to EC merger control are available on its Web site. (http://europa.eu.int/comm/competition/mergers/legislation/index_new.html, for antitrust <http://europa.eu.int/comm/competition/antitrust/legislation/>)

The content of these documents ranges from the calculation of turnover in merger cases to the issue of how to grant access to file. Many notices contain directions on practical issues and procedures (how to bring in a notification of a merger transaction, how to submit a formal complaint, when in the procedure parties can meet with case teams, how deadlines are calculated, etc.).

The Directorate-General for Competition (DG COMP) is also reaching out to business through extensive consultations (usually announced publicly in the Official Journal and on its Web site) on important horizontal policy issues. Recently, DG COMP published documents reflecting its opinion on sectoral regulation and competition aspects related to the implementation of Community law. An example is its statement on the implementation of the EC waste directives.

(5) Fair Trade Commission of Japan — Stop the DANGO video

The Fair Trade Commission of Japan (FTCJ) has produced a video titled 'Stop the DANGO' as a tool to promote understanding of the benefits of competition in the business society. 'Dango' means bid-rigging and is prohibited under the Antimonopoly Act. The video aims to educate the business community of the law, explaining why bid-rigging is prohibited and how it can be prevented through enforcement of the Act.

The video is a two-part production. The first portrays the fictional drama of Mr. Shimada, the CEO of a construction company. Mr. Shimada commits his company to the dango system through a series of meetings with other construction company executives. The dango is detected and Mr. Shimada is summoned to an interview with an investigator of the JFTC. In the course of the interview Mr. Shimada learns about the damaging effects of bid-rigging on society and comes to regret his participation in the dango, saying he was not aware 'until this moment' that his conduct was illegal.

The second part of the video features comments in response to the drama by Mr. Akira Kaneko, professor in the Faculty of Law, Keio University, Tokyo.

Distribution of the video has targeted local and central government public procurement agencies and umbrella business associations, for example the Chamber of Commerce and Industry.

(6) Netherlands Competition Authority — NMa Agenda consultation

The Netherlands Competition Authority (NMa) consults each year with stakeholder groups to identify the most effective way to direct its resources. As well as consultation, the NMa undertakes research, which is then used in the development of the annual agenda.

The consultation process preceding publication of the agenda document provides the NMa with the opportunity to test ideas against those of interested parties, politicians, academics and other regulators. The agenda provides as much transparency as possible about how the NMa uses its capacity to maximise its effect on the operation of market forces.

The consultation document for 2006 emphasises markets in transition and sectors where improvement in the operation of market forces could result in considerable increases in prosperity. The first category includes the energy and health-care sectors, the transport markets and the media and communication markets. In the second category, the construction and financial sectors and the liberal professions are given high priority.

The consultation document for 2006 sets out proposed areas of attention and plans to use various instruments. The following questions were asked:

- In which sectors, in your opinion, is monitoring/market research necessary?

- In which sectors can or should compliance programmes be introduced and why?
- To what extent, in your opinion, is NMa's leniency programme attractive to companies? How would you like to see the leniency programme changed?
- What is your opinion of the sectors selected as areas of attention? In your opinion, which sectors are missing and which sectors can NMa leave out in the light of its limited capacity?
- Are there issues within the sectors mentioned, in your opinion, to which NMa should pay special attention?
- Beyond the areas of attention mentioned, what are the most important problems and risks which NMa will encounter, in your opinion? What would be the best way for NMa to deal with these?

The NMa encourages respondents to provide reasons for their answers and unless asked not to, posts the responses on its Web site.

(www.nmanet.nl/engels/home/Index.asp)

The consultation process and agenda development contribute greatly to NMa planning. For example, it emerged from the consultations for 2006 that:

- companies expect more information from NMa about the criteria that it applies to compliance programs
- while most respondents recognise the usefulness and importance of NMa's leniency programme some would like to see changes made—the NMa will include these points in the evaluation of the leniency guidelines
- there was concern about undertakings being confronted by various leniency regimes within Europe—therefore, with the European Commission and other member states, the NMa will aim to provide greater clarity and achieve better harmonisation of national leniency programs within the European Union.

(7) Republic of Bulgaria Commission for Protection of Competition — Glossary of competition terms

The Bulgarian Competition Authority Commission on Protection of Competition (CPC) places a high priority on informing the community—individuals, businesses and the media—about the concepts of competition law, relevant clauses of the legislation and the enforcement powers of the commission. Moreover the CPC identifies a particular need to educate the business community about the fundamental competition principle of full transparency in trade practices.

To ensure a well-informed business sector, the CPC has produced a glossary of competition terms, that was developed with the help of experts from across the European Union. The glossary is supplemented by case studies that illustrate how the competition authority deals with competition matters and how the matters relate to various provisions of the Acts. The document is a useful resource and guide to best practice by Bulgarian economic operators.

The glossary is available in both electronic and printed form. It is published on the CPC Web site. (<http://www.cpc.bg/public/index.php?id=49&letter=a>)

Printed copies of the glossary have been distributed to members of the Bulgarian Business Association and the Bulgarian Chamber of Trade and Economy. The glossary was also promoted in specialist business and economic newspapers.

(8) Romanian Competition Council — Protocols for cooperation with business associations

The Romanian Competition Council has established protocols of cooperation with various public institutions and organisations for the development of bilateral cooperation and exchange of information, to ensure the promotion and enforcement of the competition policy.

One of the most important of the cooperation protocols, meant to extend the advocacy activity within the business community, was the one concluded with the Chamber of Commerce and Industry of Romania and Bucharest and has as a main objective the joint organisation of seminars and debates on current competition and State-aid topics.

A concrete result of the protocol is the setting up of an information and consultancy desk at all the major trade fairs organised in Romania by ROMEXPO, either specialised or general, for information dissemination on competition and State-aid issues.

(9) South African Competition Commission — Franchising guideline

The South African Competition Commission noted an increase in the number of inquiries from the franchising sector expressing concerns about the conduct of franchisors. In response, the commission initiated contact with the franchise association with a proposal to conduct information outreach sessions clarifying the concept of competition and fair trade, the role of the commission and other issues specific to the franchisor/franchisee relationship.

(10) Turkish Competition Authority — Competition law and policy CD-ROM

The Turkish *Competition Act* was adopted in 1994 and the Turkish Competition Authority (TCA) began operations in 1997. Since its inception the TCA has engaged in business outreach activities to promote awareness of competition law and foster a culture of market competition in an economy traditionally coloured by business collusion and agreements.

Competition law is only taught in a few of the country's law faculties at the undergraduate level. Recently courses have been introduced at the post-graduate level, but they are not regarded as sufficient. Therefore, the TCA targets lawyers and academics as priority audiences alongside businesses and consumers.

The TCA uses different channels and methods to reach business—through seminars and meetings with intermediary agencies such as chambers of commerce and industry or, indirectly, via academic events and panels. The TCA understands that a 'best practice' understanding of competition law is not a high priority for businesses. Business operators are more likely to address individual issues arising from infringement of the law, rather than learning how to avoid breaches of law. Consequently, voluntary participation by businesses in face-to-face events is limited.

The TCA published many documents on competition law and policy,¹ including a quarterly journal entitled "Competition Journal." It is firmly believed that the TCA's publications have become an important source of information for businesses, academics and lawyers.

In order to educate and inform more people about the law and the benefits of competition, the TCA produced a CD-ROM targeting a range of audiences.

The CD-ROM's sections and corresponding target audiences include:

- frequently asked questions—all target groups;
- a short film on competition law and the TCA—all target groups;
- the structure of the TCA—all target groups;
- the legislation—lawyers and business administrators;
- competition law decisions reached by the courts—lawyers; and
- publications—lawyers and academics.

The TCA Web site (www.rekabet.gov.tr) is also identified as one of the most important tools for outreach to the community at large and it recently redesigned the structure and content of the site to enhance access by users from different backgrounds.

¹ In this regard, it has published the thesis prepared by the competition experts, select thesis prepared to complete post graduate programs, books which contain the documents produced for panels, conferences and symposiums organized by the TCA and in cooperation with the TCA. Importantly, the TCA has published the decisions of the Competition Board.

(11) United Kingdom's Office of Fair Trading — Championing Competition Campaign

Business outreach activities implemented by the UK Office of Fair Trading (OFT) are designed to either promote compliance with competition law or an understanding the benefits of competition. This area of work is given great importance in ensuring a level playing field for businesses in the UK.

In April 2005, the OFT launched a year long 'Championing Competition Campaign.' This is an extension of the agency's long-term agenda to promote competition. Previous campaigns have focused on consumers—encouraging them to act in a way that stimulates business to behave competitively. A notable example in that strategy is the 'It's your call' campaign conducted two years ago.

The 'Championing Competition Campaign' is designed to have broad appeal, however, key sectors are being targeted including pharmaceuticals, health-care and construction.

The Championing Competition Campaign strategy aims to influence business via the media. The campaign includes a run of underlying proactive activities supplemented by various high-profile 'spike' events scheduled throughout the year. The objective is to provide a sustained and coordinated programme to bring the issue of SME competitiveness into the consciousness of the media, and thereby increase SME awareness of competition.

To help implement the campaign the OFT commissioned a public relations company which coordinated the distribution of press releases and took calls generated by the campaign (other non-campaign related inquiries are referred to the OFT press office).

'Are you fit to compete?' is the first strategy of the campaign. The focus here is to encourage businesses to evaluate how competitive they are compared to other operators in their sector. This plank of the campaign is designed to promote awareness of competition as a relevant issue to business.

Campaign elements include:

- press notices announcing the campaign;
- an omnibus survey of business attitudes to competition noting omnibus research findings combined with OFT tracking research;
- production and placement of by-lined articles in the trade press;
- reactive public relations activity in response to relevant news and trade body announcements;
- launch of a commissioned 'think piece' by Professor David Storey (Wavick Business School) focussing on what makes a company competitive and how competition benefits them;

- round table discussions between SMEs, OFT specialists, journalists and trade body representatives about Professor Storey's piece; and
- competition leniency hotline—a month-long campaign encouraging companies involved in cartel activity to call the OFT's (temporarily re-branded) cartels hotline. The aim of this is to highlight leniency as well as wider competition issues conduct.

It is anticipated the campaign will result in a measurable increase in awareness of business responsibilities under the legislation, as well as a better understanding of the benefits of competitive markets to the economy.

Beyond the campaign, the OFT will continue to build relations with key trade press and trade associations and national and local business organisations who can channel its messages to their members and readers.

The OFT will also continue its program of identifying and working in partnership with local business groups and trading standards in reaching out to SMEs in the regions.

(12) United Kingdom's Office of Fair Trading — Annual tracking research

Since 2003, the United Kingdom's Office of Fair Trading has conducted research to measure business awareness of competition legislation and, more specifically, to measure awareness of the Competition and Enterprise Acts.

The research looks at business awareness of primary legislation, together with its understanding of the purpose of the legislation and available sanctions. The latest research was conducted in March 2005 and revealed:

- 44 per cent of all companies claimed an awareness of the *Competition Act 1998*. This represents a significant 7 per cent increase above the 2004 figure of 37 per cent
- awareness levels were higher in larger companies
- for companies with 10 to 499 employees, awareness levels were 55 per cent—a statistically insignificant increase on the 2004 figure of 50 per cent
- 55 per cent of those who claimed awareness of the *Competition Act* unprompted also claimed not to know the purpose of the Act.

Results of the tracking research is available on its Web site.
<http://www.offt.gov.uk/News/Research+reports/default.htm>

(13) United States Federal Trade Commission and Department of Justice — Promoting compliance with antitrust law in the health-care sector

The Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ) provide a great deal of guidance to the health-care industry. In 1996 the FTC and DOJ published the latest version of their industry specific *Statements of Antitrust Enforcement Policy in Health Care* (originally issued in 1993).

Health care is a \$1.6 trillion industry in the United States and in 2002 it accounted for 14 per cent of GDP. New arrangements and variations on existing arrangements involving joint activity by health care providers continue to emerge to meet consumers', purchasers', and payers' desire for more efficient delivery of high quality health care services.

The FTC and DOJ are committed to informing consumers, businesses and policy makers on the application of antitrust law to the health-care sector.

The FTC and DOJ have issued numerous advisory opinions and business-review letters on this evolving industry—more than for any other industry sector in the USA.

To make this material freely available to all interested parties, the FTC and DOJ have created comprehensive health-care industry specific portals on their Web sites: www.ftc.gov/bc/bchealthcare.htm and www.usdoj.gov/atr/public/health_care/health_care.htm

The range of materials publicly available on the FTC and DOJ Web sites includes the following guidelines:

- *Statement of Antitrust Enforcement Policy in Health Care* (1996)
- *Antitrust Guidelines for Collaborations Among Competitors* (2000)
- *Horizontal Merger Guidelines of the Department of Justice and Federal Trade Commission* (1992, revised 1997)
- *Antitrust Guidelines for the Licensing of Intellectual Property* (1995)
- *Improving Health Care: A Dose of Competition: A Report by the Federal Trade Commission and the Department of Justice* (2004).

The FTC health-care industry portal includes summaries of FTC antitrust actions in health-care services and products; transcripts of speeches by commission personnel; staff letters to other government bodies; and advisory opinions.

The FTC and DOJ recognise the importance of antitrust guidance in evolving health care contexts and continue their commitment to issue additional guidance as warranted.

In addition to the written material available online and in printed formats, the health care division of the FTC and DOJ provide guidance and business outreach through public speaking engagements and informal responses to telephone inquiries.

(14) Zambia Competition Commission — The World Wide Web

The Zambian Competition Commission (ZCC) is a statutory body established under chapter 417 of the Laws of Zambia. The ZCC mission statement is 'Promoting a culture of free and fair competition for the benefits of business and the consumer'. The ZCC pursues this mission through the department of Consumer Welfare and Education which implements all the business outreach activities of the commission.

Although the regulator agency was established in 1997, very few Zambians are acquainted with competition law and the role of the ZCC. Consequently, a majority of Zambian business people, especially those in the informal sector, are uninformed about the functions and activities of the ZCC.

The development of the a Web site was identified as a cost effective, accessible and flexible outreach and advocacy tool. With funding assistance from the United Nations Conference on Trade and Development (UNCTAD)in 2001, the ZCC's Web site was established to enable business and consumers to lodge complaints and queries via the internet, and at the same time gain access to information and news update on the activities of ZCC. Visit the Web site at www.zcc.com.zm.

Conclusion

- Most ICN members engage in outreach to their respective business communities.
- There is a significant advantage for competition authorities in working with business, industry associations and legal bodies to reach as many members of the business community as possible.
- Business outreach can be complementary to effective enforcement and enhance the standing of competition authorities.
- The examples of outreach practices in this report demonstrate that different business communities can best be reached through different outreach tactics. These include big business, small and medium sized enterprises, as well as multinational companies.

About CPI Subgroup 2 – Business Outreach

The Business Outreach subgroup forms part of the Competition Policy Implementation Working Group. The mission of this working group is to identify key elements that contribute to successful capacity building and competition policy implementation in developing and transition economies. CPI consists of three subgroups:

- Subgroup 1 – The Effectiveness of Technical Assistance;
- Subgroup 2 – Enhancing the Standing of Competition Authorities with Business and Experiences of Young Agencies; and
- Subgroup 3 – Competition and the Judiciary.

Subgroup 2 – Business Outreach was chaired by Sally Southey, Competition Bureau Canada. Its members are listed below.

Competition authorities:

- Administrative Council for Economic Defense (Brazil)
- Agency for Protection of Market Competition (Croatia)
- Antitrust Division, Department of Justice (United States)
- Australian Competition and Consumer Commission (Australia)
- Bureau of Competition, U.S. Federal Trade Commission (United States)
- Canada Competition Bureau (Canada)
- Commission on Protection of Competition (Bulgaria)
- Directorate-General for Competition (European Commission)
- Fair Trade Commission (Jamaica)
- Korea Fair Trade Commission (Korea)
- National Institute for the Defense of Competition and the Protection of Intellectual Property (Peru)
- Netherlands Competition Authority (Netherlands)
- Romanian Competition Council (Romania)
- South African Competition Commission (South Africa)
- State Commission for The Protection of Economic Competition of The Republic of Armenia (Armenia)
- Turkish Competition Authority (Turkey)

- Unfair Competition Regulatory Authority (Mongolia)
- United Kingdom Office of Fair Trading (United Kingdom)

Non-governmental advisors:

- Eleanor Fox, New York University (USA)
- Kasturi Moodaliyar, School of Law, University of Witwatersrand (South Africa)
- Paul Crampton, Partner, Competition & Antitrust Practice Group Osler, Hoskin & Harcourt LLP (Canada)

**SUBGROUP ON BUSINESS OUTREACH
FINAL WORK PLAN**

The Subgroup on business outreach has been tasked with helping ICN members reach out to businesses to promote a better understanding of the benefits of competition and build support for a competition authority's mission. The work of the subgroup involves exploring the messages and mechanisms used by competition authorities around the world for business outreach, sharing successes and challenges, and compiling practical tools and examples for ICN members to use. The goal of the group is to illustrate that business outreach can be complementary to effective enforcement and can enhance the standing of competition authorities among business communities.

Approach:

ICN members engage in outreach to their respective business communities in a number of ways including: encouraging corporate compliance programs, bid-rigging presentations to procurement officials, special communications tools tailored to business demands and interests (speeches, Web sites and publications) and partnering with business organizations to reach as many members of the business community as possible. With respect to the group's work on compliance programs, the focus would be on surveying methods used by agencies to ensure that businesses are aware of competition policy and the need for compliance, not on the content of their compliance programs.

Subgroup members will send via email a call-out to all ICN members to submit information and example of their business outreach practices. At the same time, subgroup members will review ICN members' Web sites for business outreach elements.

Deliverables:

- A report on the mechanisms used by ICN members to reach out to businesses.
- An online toolkit of business outreach practices, with templates and examples. Content will serve as a 'how to' guide, which would assist jurisdictions in improving their outreach to business.

Time	Task
September 2005	Approval of work plan Assignment of responsibilities Consider workshop on margins of the OECD meetings in February

October – November 2005	Send call-out for business outreach practices with deadline of Nov. 31 Survey ICN members' Web sites for business outreach elements
December 2005	Draft outline for report Draft outline for toolkit
January – March 2006	Compilation of report Development of toolkit
February 2006	Workshop at OECD
March 2006	Finalize plan for presentation in Cape Town Finalize report Finalize toolkit mock-up
April 2006	Submit report and toolkit mock-up to Steering Group
May 2006	Presentation at Cape Town ICN Annual Conference Publish report and toolkit to Web

ICN CPI SG2 - CALL LETTER FOR INPUT ON BUSINESS OUTREACH PRACTICES

27 September 2005

Dear Colleagues,

The CPI Subgroup 2 focusing on business outreach has been tasked with helping ICN members reach out to businesses to promote a better understanding of the benefits of competition and build support for a competition authority's mission. The work of the subgroup involves exploring the messages and mechanisms used by competition authorities around the world for business outreach, sharing successes and challenges, and compiling practical tools and examples for ICN members to use. The goal of the group is to illustrate that business outreach can be complementary to effective enforcement and can enhance the standing of competition authorities among business communities.

We would like your agency to contribute to this work by providing the following information for a written report that will be compiled:

- examples of your agency's activities in business outreach within the last five years. These could include research, business surveys, campaigns, messaging, communication materials (publications, video, Internet), media and advertising;
- details of educational and other face-to-face business outreach activities such as conferences, trade association meetings, workshops, presentations and speeches;
- identification of any challenges that your agency faces in undertaking business outreach:
 - how these challenges were dealt with;
 - business outreach activities that could be identified as a case study;
 - methods of consultation with business groups/representatives;
 - effective ways used to encourage compliance; and
 - any other information relating to business outreach activities that should be considered in the preparation of the report.

It would be helpful if you could distinguish between activities designed to promote compliance with the domestic competition law and activities designed to promote a greater understanding of the benefits of competition, as well as greater support for your agency's work and mandate.

In addition, please identify in your submissions examples of particularly successful initiatives, whether it be a section of a Web site, a speech, a consultative meeting or a multimedia tool. We will compile these examples of

various business outreach activities in an online toolkit. This will serve as a guide to assist agencies in how to engage business, such as communications techniques to meet specific local circumstances and needs. For this reason, electronic examples are preferred.

If you wish to submit printed material, please mail it to the address provided below. If your examples are not in English, please send us a description of the key messages and target audience associated with each example.