

AGENCY EFFECTIVENESS WORKING GROUP

2018-2021 Work Plan

MISSION

The mission of the Agency Effectiveness Working Group (AEWG) is to identify key elements of a well-functioning competition agency and develop best practices for agency strategy, planning, operations, and procedures.

ORGANISATION

The Working Group comprises over 60 ICN members as well as legal, economic, and academic NGAs from around the world. The Working Group's leadership team for 2018-19 includes the Canadian Competition Bureau, the Swedish Competition Authority and the US Department of Justice. The Working Group holds periodic teleconferences and webinars, which are both open to all members and NGAs.

LONG TERM GOALS

In order to fulfill its mission, the AEWG will strive to:

- provide a forum for sharing agency operational experiences and practices;
- encourage agencies to evaluate their effectiveness and improve the quality of agency operation and procedures;
- develop operational guidance for an effective agency, including investigative process
- through the ICN Training on Demand project, develop online training modules on competition policy and enforcement issues that highlight ICN work product;
- promote implementation of the Group's work product; and
- provide a forum for economists to share their experiences.

2018-2021 STRATEGIC PLANS

Over the next three years, the AEWG will guide its work program based on the following considerations:

Goal: Build consensus and develop agency guidance.

The Working Group will pursue topics of relevance to the functioning of a competition agency, welcome widespread input from members and NGAs, identify and share agency experiences, and develop work product that provides useful guidance to member agencies. The AEWG has as its objective to provide competition agencies with ideas, tools, procedures and best practices that can help them enhance their effectiveness.

Goal: Create new work product that addresses the needs of ICN members.

Topics for possible consideration of new work over the next three years include:

- How agencies use public consultations: compare the many ways competition agencies use public consultations for new rules, policy issues, enforcement guidelines, public workshops, etc.
- Effective technical assistance: examine agency-to-agency technical assistance with particular emphasis on the views of experienced providers and recipient agencies about what is effective.
- Best Practices economics topics: examine cutting-edge antitrust economic topics either via teleconferences or webinars, as well as workshops.

Goal: Promote implementation of existing work product

The Working Group will continue to promote, encourage implementation of, assess the use of, and consider feedback on its existing work. Work product(s) that will be prioritized for implementation efforts includes the Investigative Process guidance. Formats for promotion and implementation will include Working Group calls and webinars, workshops, and efforts to solicit feedback on and gauge the use of the work product(s).

Goal: Strong member and NGA participation

The Working Group will continue to engage ICN members and NGAs through the development of new work product(s) of value to Working Group participants; implementation efforts for existing work product(s); teleseminars, webinars and discussion calls on timely topics of interest; workshops; and other interaction. NGAs will remain an integral part of the AEWG's work, with all members encouraged to invite and involve active NGA participation from their respective jurisdictions.

Agency Effectiveness Working Group

2018-2019 Annual Plan

The Agency Effectiveness Working Group will in the period 2018-2019 have three main pillars in its work to achieve its mission and strategic goals.

1. Organisational design
2. The role of chief/senior economists for effective enforcement
3. Efficient, effective, evidence based enforcement

Project 1 – Organisational Design.

Competition agencies make and have control over various organizational design features. Decisions in this regard can have a significant impact on agency effectiveness.

Generally, choices can involve:

- degree of centralization
- degree of formalization
- hierarchical structure
- type of departmentalization

More specifically, and focusing on departmentalization, the main structural forms found in agencies are:

- by professional training (functional, with separate units for lawyers, economists, forensic IT, investigation)
- by part of law being enforced (e.g. one unit for cartel, one for abuse/unilateral and one for mergers)
- by line of business (e.g. divisions responsible for one or more or less related markets)
- in hybrid forms (e.g. market divisions combined with specialized economic, legal, forensic, policy and international units)

The goal of this project is to present the range of internal organizational design options agencies have implemented and explore how design choices can improve agency effectiveness. Agencies that have experiences with a change in organizational design will be of particular interest (i.e. a natural experiment approach).

Criteria for assessment include:

- efficiency (internal processes are quick and organized)
- effectiveness (achieves the desired results, e.g. robust, high quality decisions respecting parties' rights)
- flexibility (resources can be moved, for example to reflect ad hoc changes in workload or changed priorities) in relation to the characteristics of the typical agency decision process, ie. from investigation/inquiry to analysis to recommendation to decision
- other important agency activities such as outreach, advocacy and communications.

This project will include an agency practices survey and a written final report.

Title	Organisational design
Description and output	Comparative overview of agencies' internal organizational design choices via written output. Project update call(s) optional.
Output achieved	Final report on the ways agencies are organized, the reasoning behind different structures and the experiences with various organizational choices.
Assessment of timing	See table of milestones below
Entities/Persons Responsible	Swedish Competition Authority
Implementation	Promoted via written product and topic for annual conference 2018 and -19
Evaluation	New project, which aims to attract broad participation.
Key success factors	Member engagement in webinar and feedback on experiences in survey

Milestones	Activity
March 2018	BOS at ICN Annual Conference
June-August	Developing survey with feedback from AEWG members
August/September	Survey to members
October 2018	Webinar exploring key issues; focus on presentations with experiences with <i>changed</i> design
December 2018	Preparation of draft report drawing on survey and webinar materials for circulation to membership and NGAs
January 2019	Circulation of draft report to membership and NGAs
March 2019	Presentation of final report to Working Group
April 2019	Presentation of work product to Steering Group
May 2019	Annual Meeting - presentation of work product

Project 2 – The role of Chief/Senior Economists for Effective Enforcement

This project is focused on increasing the involvement of Chief/Senior Economists and NGAs within the ICN to further develop and emphasize the importance of economics in competition analysis. In 2016-2017, we conducted a survey of agencies to determine how economists participate within agencies and what economics-focused subject areas are of most interest and value to participants. In 2018-2019, we will build off the results of that survey and feedback received from the AEWG to organize an Economist Workshop and hold a series of teleseminars on relevant topics.

Title	ICN Economist Workshop
Description and output	Hold the AEWG's second Economist Workshop in partnership with the OECD's Korea Policy Centre in Seoul, Korea. Broaden the audience base by encouraging agencies to send Senior Economists (along with Chief Economists) and by encouraging developing agencies to attend. As with the previous workshop, sessions will combine teaching from world-renown academics in economics, case presentations by agencies, and discussions amongst audience. In addition, certain sessions will be targeted to the needs of developing jurisdictions. OECD will invite/fund Economists from developing jurisdictions to participate at the Workshop
Output achieved	Hold an informative workshop in which information and best practices are shared, case examples are discussed, and economists from agencies around the world can network to support the importance of economics in competition analysis.

Assessment of Timing	Workshop will take place on May 2-4, 2018 over 2.5 days.
Entities/Persons Responsible	Canadian Competition Bureau
Implementation	A Workshop report will be developed to retain important information and inform lessons-learned. Workshop discussions may also lead to upcoming teleseminar topics.
Evaluation	New project.
Other comment(s)	Workshop being hosted in partnership with the OECD's Korea Policy Centre in Seoul; additional funding is being provided by Competition and Policy Initiative (Penn University); help organizing speakers is being provided by CRESSE.

Project 3 – Efficient, Effective, Evidence Based Enforcement

This project is focused on agency practice beginning with the initiation of an investigation through enforcement. In 2018-2019, the project will examine agency practice in handling complaints, identifying cases, testing early case theories, and initiating formal investigations. Later years of the project will focus on best practices in investigations and in challenging the conduct through an enforcement action.

December 2018	Preparation of draft document on identifying cases and initiating formal investigations..
January 2019	Webinar exploring key issues; focusing on strategies for identifying cases, testing theories, and initiating formal investigations.
January 2019	Circulation of draft report to membership and NGAs
April 2019	Presentation of work product to Steering Group
May 2019	Annual Meeting – BOS

Project 4 – Investigative Process

In 2018-19, the AEWG will continue the investigative process project to develop the 2018 ICN Guidance on Investigative Process into ICN Recommended Practices. The process will include discussion and reevaluation of the existing Guidance text for improvements in line with consensus and aspirational goals of ICN Recommended Practices.

Dissemination, implementation and outreach

1. Promotion and Implementation of AEWG work

The AEWG will pursue opportunities to include webinar material in existing work products, promote its existing work, solicit and consider feedback, and gauge its use by and usefulness to members.

The AEWG will also use opportunities at ICN events, such as workshops and annual conferences as well as periodic teleseminars/webinars to highlight its existing body of work, notably the topics addressed in the ICN Agency Practice Manual.

Title	Promotion & Implementation
Description and output	Includes outreach to members, workshops, and promotion and implementation of existing AEWG work.
Output achieved	Promotion of AEWG work via teleseminars and ICN events highlighting AEWG work-related themes

Revised 2018-09-20

Assessment of Timing	Ongoing efforts.
Entities/Persons Responsible	
Implementation	Implementation project: TBC
Evaluation	Feedback from users and workshop participants.
Other learning	n/a