

EU contribution to a collection of texts commemorating ICN's 20th anniversary

As we are celebrating ICN's 20th anniversary, it is hard to imagine today's landscape of international competition dialogue without the „essential facility“ of the ICN. The network allows us to spread sound competition policy across the world. As a founding member, the EU – represented by DG Competition of the European Commission - is pleased to have witnessed a tenfold growth in ICN membership. Yet, as the network only turns 20, it is still full of youthful energy, and about to unfold its full potential.

For the EU, the ICN has always been the place where to meet and exchange views with expert colleagues from competition agencies – and with ICN non-governmental agents (NGAs) - from all around the world, working together towards deeper policy convergence and towards the emergence of best practices. Over the 20 years, we have hosted a number of ICN events, regularly contributed speakers to annual conferences and workshops, interacted with ICN NGAs, thus in various forms engaged in – and enjoyed – the sharing of experience and expertise within the network.

The EU is currently co-chairing the Unilateral Conduct Working Group (UCWG). In this role, we have led a multi-annual project on Dominance in the Digital Era, expanding international discussion on one of the central challenges competition agencies are currently facing. Following a survey report on dominance and substantial market power in digital markets, published in 2020, we have had the pleasure of collaborating with experts from numerous competition agencies in the process of developing a paper on market shares and barriers to entry and expansion in digital markets. Over the many years, the EU engaged in a multitude of UCWG projects and work products, including the ICN Recommended Practices for the Assessment of Dominance and of Substantial Market Power, or the Unilateral Conduct Workbook. We also contributed the EU's unique perspective and experience to the UCWG work on vertical restraints. In 2010, we had the pleasure of hosting an UCWG Workshop on Dominance, Tying and Bundled Discounting, welcoming the world in Brussels.

Prior to co-chairing the UCWG, the EU spent years co-chairing the Cartel Working Group (CWG). It has been our experience that the CWG is an invaluable forum for cartel enforcers to come together, exchange ideas and adopt best practices. The range and depth of topics addressed has been remarkable and has led to a comprehensive and sophisticated understanding of the issues at play in cartel enforcement. Perhaps the greatest achievement of the CWG is the close and personal links that have been forged between cartel enforcers, which have facilitated cooperation in actual investigations. Such cooperation needs to be built upon and enhanced as together we face the challenges of cartel enforcement going forward.

The EU also had the experience of acting as a co-chair of the Merger Working Group (MWG). It is a fact that we benefit from the MWG work on a daily basis across the agencies, for example thanks to the ICN Guide on international enforcement cooperation in mergers, or the ICN model waiver. These work products immensely facilitate our cooperation with partner agencies on mergers spanning multiple jurisdictions, and help us to gain valuable insights from practice elsewhere. Looking ahead, as we emerge from the crisis induced by the global pandemic, the MWG work will be of massive importance – we will need to learn from each other concerning the best ways of tackling non-horizontal mergers, addressing issues in mergers in the truly global digital sector, engaging on remedies with a global reach, or working together to resist pressures for protectionism in the times of crisis.

To name just one example of horizontal work beyond the traditional ICN working groups, one could highlight the enriching experience gained in the process of discussing and shaping the ICN Framework on Competition Agency Procedures (ICN CAP). The EU has become a founding member of this framework, which builds on fundamental principles of procedural fairness in applying competition rules, and promotes a growing international consensus on these fundamentals within the global competition community. The EU shares with other ICN agencies the belief that promoting global procedural convergence is important to ensure that competition authorities across the world can work together effectively on issues that affect consumers and markets, and to provide assurances regarding due process and legal certainty for the market players concerned.

The 20th anniversary is a great milestone for the ICN and for the international competition community, which benefits from the network's activities. As the world economy grows ever more interconnected, and as the competition-relevant transactions and market strategies become ever more global, the ICN's value for competition agencies across the world is set to increase even further. The EU embraces this future and looks forward to working together with its partner agencies within the ICN.