

# THE ICN'S VISION FOR ITS SECOND DECADE

Presented at the 10<sup>th</sup> annual conference of the ICN<sup>1</sup>

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## Introduction

The International Competition Network (ICN) was founded by 15 competition agencies on 25 October 2001, with the objective of addressing antitrust enforcement and policy issues of common interest and formulating proposals for procedural and substantive convergence through a results-oriented agenda and structure. Its membership has since grown to 117 competition agencies from 103 jurisdictions<sup>2</sup>. The ICN benefits from the participation of non-governmental advisers (NGAs), representatives from the legal, economic, business, academic, and consumer communities, who bring experience, expertise and diverse perspectives to the ICN's work.

As a practical, results-oriented and project-based network, the ICN has developed a tremendous body of work including recommended practices, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits, workshops, teleseminars and webinars, and discussions at annual conferences. In 2010, members from 87 jurisdictions attended an ICN workshop or the Annual Conference. The personal links forged through this programme of work have been cited as a key benefit of the network.

Over the past decade, ICN work products have influenced agency practice of many ICN members, and have also influenced legal and policy reforms

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<sup>1</sup> This paper was prepared by members of the ICN Steering Group, comprising at the time the Australian Competition and Consumer Commission, Brazil's Council for Economic Defence (CADE), Competition Bureau Canada, European Commission DG Competition, Autorité de la concurrence (France), Bundeskartellamt (Germany), Autorità Garante della Concorrenza e del Mercato (Italy), Korea Fair Trade Commission, Nederlandse Mededingingsautoriteit (Netherlands), Turkish Competition Authority, Japan Fair Trade Commission, Comisión Federal de Competencia (Mexico), Russian Federal Antimonopoly Service, South African Competition Commission, Office of Fair Trading (UK), US Department of Justice, and US Federal Trade Commission; and by the co-chairs of the ICN Advocacy, Agency Effectiveness, Cartel, Merger, Operational Framework, and Unilateral Conduct Working Groups.

<sup>2</sup> As at May 2011.

in many ICN member jurisdictions. For example, 39 ICN members have reported using the Anti-Cartel Enforcement Manual to advance their cartel enforcement programmes. Two-thirds of ICN members that made changes to their merger control regimes cited the ICN Recommended Practices for Merger Notification and Review Procedures as having influenced their reforms. More than a dozen agencies have reported using the ICN's Recommended Practices on Dominance / Substantial Market Power Analysis Under Unilateral Conduct Laws in their casework or staff training.

Despite these impressive achievements, as the ICN looks ahead to the next decade, the network must work harder to address challenges of international competition policy, reconciling a 'patchwork' of national competition regimes, as contrasted with markets that are increasingly internationalised. Without more cooperation and convergence, international competition policy risks failing to address four key sources of consumer harm:

- i. Private anti-competitive behaviour
- ii. Unwarranted public restrictions on competition
- iii. Potential chilling effects from differing substantive standards and policies
- iv. Unnecessary costs and burdens caused by inconsistent and duplicative procedures.<sup>3</sup>

This risk is heightened by the challenges posed by the recent financial crisis, which has resulted in budget constraints for many competition agencies, with a corresponding need to 'do more with less'; and with the continuing growth in the number of national competition regimes.

It was in this context that, at the ninth ICN annual conference in 2010, John Fingleton, the Chair of the ICN Steering Group, called upon members to 'take stock of what we have done, where we are going, and how we are getting there'. In response, the ICN Steering Group launched a consultation to evaluate the ICN's strengths and improvements needed in order to maintain the network's exceptional momentum. All ICN

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<sup>3</sup> See John Fingleton, *Competition agencies and global markets: the challenges ahead*, 5 June 2009, available at [www.ofc.gov.uk/shared\\_ofc/speeches/2009/spe0909paper.pdf](http://www.ofc.gov.uk/shared_ofc/speeches/2009/spe0909paper.pdf).

members were asked to participate and NGAs were also consulted. A summary of the feedback is provided in **Annex 1**.

The comments addressed two main topics: what the ICN does (including its high level goals and future work); and how it does it (including issues such as the ICN's level of inclusiveness, means of governance, transparency and continuity).

The purpose of this document is to build on the results of the consultation, as well as subsequent discussion and debates within the Network, by setting out an overarching vision for the ICN to guide its work over the next ten years.

## **Our vision**

The ICN will help its members achieve four principal outcomes:

- i. better addressing private anti-competitive behaviour
- ii. better addressing unwarranted public restrictions on competition
- iii. minimising incompatible outcomes across jurisdictions
- iv. reducing unnecessary cost and burdens from duplicative or inconsistent procedures.

The ICN's work in its second decade will be guided by an overarching mission and a set of agreed goals. These are discussed below.

### **I. What the ICN does**

#### **The ICN's mission**

Consistent with the Memorandum on the Establishment and Operation of the ICN<sup>4</sup>, the ICN's work has consisted of four main elements to date, namely: convergence; experience-sharing; supporting competition advocacy; and seeking to facilitate international cooperation.

Feedback from members and NGAs suggests that the ICN should also seek to improve and advocate for sound competition policy and its enforcement across the global antitrust community. There is also considerable demand for the ICN to continue to provide training opportunities for agency staff through fora such as workshops and teleseminars, as well as pursuing initiatives such as the new ICN Curriculum project.

In light of this feedback the ICN proposes to strengthen its mission statement as follows:

**'to advocate the adoption of superior standards and procedures in competition enforcement and policy around the world, formulate**

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<sup>4</sup> According to the Memorandum, the ICN would 'address antitrust enforcement and policy issues of common interest and formulate proposals for procedural and substantive convergence through a results-oriented agenda and structure', and '[encourage] the dissemination of antitrust experience and best practices, [promote] the advocacy role of antitrust agencies and [seek] to facilitate international cooperation'.

**proposals for procedural and substantive convergence, and seek to facilitate effective international cooperation to the benefit of member agencies, consumers and economies worldwide’.**

### High-level goals of the ICN

Consistent with its mission, the ICN will pursue four high-level goals in its second decade:

- i. encourage the dissemination of competition experience and best practices;
- ii. formulate proposals for procedural and substantive convergence through a results-oriented agenda and structure;
- iii. support competition advocacy; and
- iv. facilitate effective international cooperation.

### *Convergence and the ICN*

It is first useful to explain what is meant by ‘convergence’ in this context. This may be summarised as the voluntary adoption of widely-accepted norms of competition policy, substantive standards, procedures and levels of institutional capability.<sup>5</sup>

Progress toward convergence can be understood as a three stage process.<sup>6</sup> The first is decentralised implementation, as different jurisdictions experiment with diverse processes and substantive standards for solving specific problems. The second stage involves sharing these experiences and building consensus through the identification of best practices or techniques. In the third stage, individual jurisdictions opt in to the consensus norms.

In the ICN context, the path to convergence begins with experience-sharing: understanding how different agencies around the world do things. This process enables ICN members to identify shared standards and techniques as well as areas of difference. In areas where differences

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<sup>5</sup> See William E Kovacic, *Extraterritoriality, Institutions, and Convergence in International Competition Policy* (a paper based upon a presentation given at the annual meeting of the American Society of International Law, Washington, DC, 5 April 2003), available at [www.ftc.gov/speeches/other/031210kovacic.pdf](http://www.ftc.gov/speeches/other/031210kovacic.pdf).

<sup>6</sup> Presented in Timothy J Muris, *Competition Agencies in a Market-Based Global Economy* (Brussels, 23 July 2002) (prepared remarks at the Annual Lecture of the European Foreign Affairs Review), available at [www.ftc.gov/speeches/muris/020723brussels.shtm](http://www.ftc.gov/speeches/muris/020723brussels.shtm).

are relatively narrow (e.g. leniency programmes, merger review periods), the ICN provides a forum for members and NGAs to develop consensus Recommended Practices and other ICN best practice guidance. These best practices are intended to be dynamic, revised periodically to reflect the continuous experimentation in the pursuit of better practices at the domestic level. ICN work products are also intended to be inclusive, reflecting the diversity of its membership and the different sizes and stages of development of the economies in which they operate.

In areas where differences are greater due to different domestic economic histories, development and priorities (such as the analysis of unilateral conduct), the ICN facilitates 'informed divergence': identifying the nature and sources of apparent divergence and understanding and respecting any underlying divergent rationale. This greater understanding can offer business and consumers greater clarity and transparency and can lay the groundwork for possible convergence over the longer term.

As regards the 'third stage' of convergence, opting in to ICN recommendations is voluntary: it is left to the individual member agencies and, in some cases, national governments to decide whether and how to implement them.

## Outputs over the next decade

### *i. Encouraging the dissemination of competition experience and best practices*

By sharing their experiences, ICN members can develop a deeper understanding of the standards and procedures of other agencies. The ICN provides a forum for competition agency officials to work together and build trust with their counterparts around the world. Competition agency staff in different countries jointly draft written work products; participate in regular working group conference calls; co-present teleseminars; and meet at ICN events such as workshops and annual conferences. This experience-sharing through practical interaction is the first step on the path to convergence and a great aid to international cooperation.

The ICN will continue its programme of workshops and teleseminars, facilitating the exchange of practical experience among ICN member agencies. The ICN will also continue to develop written experience-

sharing work products: for example, the Unilateral Conduct Working Group is drafting a 'workbook' on the investigation and analysis of unilateral conduct based on the ICN's reports on various aspects of unilateral conduct and Recommended Practices on dominance. This work will help identify analytical principles regarding types of conduct on which there is agreement, as well as remaining areas of divergence. The ICN will also continue work on competition agency effectiveness. Agency effectiveness is an important factor in enabling national agencies to meet the challenge of tackling international competition enforcement, in both the domestic and international contexts.

A new ICN initiative, the ICN Curriculum Project, brings together the expertise of distinguished lecturers to create an open-source virtual 'university' for competition agency officials. The first training modules cover the history and objectives of competition policy, market definition and market power. These modules will be presented to the ICN membership at the ICN's 2011 annual conference, and additional materials will be developed over the course of the next few years.

There is also demand from members for the ICN to continue to offer compilations, or databases, of specific cases and techniques from around the world on the ICN website; examples include the Anti-Cartel Enforcement and Merger Templates, the Market Studies Information Store, the Cartel Awareness and Outreach compilation, and the new Competition Advocacy Postings facility.

### *ii. Formulating proposals for procedural and substantive convergence*

Feedback from members and NGAs shows that there is a strong desire for the ICN to continue to pursue convergence, with ICN Recommended Practices being the work products cited most often by members when asked to describe the ICN's main achievements.

In the next decade, the ICN will continue to seek opportunities for new Recommended Practices. In areas where convergence is not feasible in the near term, the ICN will instead seek to foster informed divergence. The focus will be on the current gaps and overlaps arising from a system of national regimes operating against a background of international markets, starting with those areas with the biggest impact on consumers, business and economies around the world.

A number of issues in competition policy are yet to be addressed by the ICN in detail; examples include vertical and conglomerate mergers and vertical agreements and non-cartel horizontal agreements. The analysis of abuses in unilateral conduct cases is currently at the experience-sharing stage, while the assessment of dominance/substantial market power in such cases is the subject of ICN Recommended Practices. The ICN has issued practical guidance on matters such as cartel enforcement techniques and market studies. The ICN's Recommended Practices on merger notification and procedures and its work on cartel leniency programmes have already influenced changes in practice, and in many cases legislative change, in a number of jurisdictions. Even in these areas, there is room for more jurisdictions to 'opt in' in future.

New ICN Recommended Practices and other guidance planned in the next five years include the following:

- The long-term plan of the Unilateral Conduct Working Group for 2011-2016 envisages developing Recommended Practices or other guidance, building on the ICN's existing comparative reports on unilateral conduct and on the Unilateral Conduct Workbook. If that appears infeasible, the group will develop alternative forms of guidance. Given differences in members' approaches to unilateral conduct analysis, the working group will explore the possibility of Recommended Practices with sensitivity to all members' views.
- The Merger Working Group's long-term plan envisages developing new practical guidance for effective merger review.
- The Advocacy Working Group intends to complete the Market Studies Good Practice Handbook following road-testing by a number of member agencies.
- The Cartel Working Group plans additions to the Anti-Cartel Enforcement Manual.

To further its convergence goal, the ICN will increase efforts to promote and facilitate implementation of its work products. This work can take several forms, including:

- improving awareness and dissemination of existing work product;

- reviewing the extent to which ICN recommendations have been implemented by members;
- drawing on members' experiences to identify and address barriers to implementation; and
- helping members to understand and implement ICN work products.

Working groups have committed to promoting ICN work product as a core activity. The ICN Steering Group will support these efforts.

In addition, the Advocacy and Implementation Network (AIN) has an important role in promoting the implementation and dissemination of ICN outputs. It monitors competition law and policy developments in member agencies, as well as promoting ICN work product to international organisations and external bodies. It also runs the Advocacy and Implementation Network Support Program (AISUP). Through the AISUP, ICN members can seek advice about specific ICN work products or receive assistance on how ICN recommendations and other guidance documents might be implemented within their jurisdiction. The AIN will increase its efforts to raise awareness of ICN work products and of the AISUP, and seek enhanced coordination with the ICN's working groups in order to promote implementation and use of ICN work products.

### *iii. Supporting competition advocacy*

Competition advocacy is the main tool used by competition agencies to tackle anti-competitive state action, one of the key sources of consumer harm identified above. Competition advocacy is also an important means to explain to other public bodies how their policy goals can be more effectively achieved by broader use of competition principles in planning and implementation. Agencies also engage in advocacy to promote a 'competition culture' in their jurisdictions, by raising awareness of competition policy among other market participants including businesses and the wider public. Advocacy efforts at the domestic level can be greatly strengthened by agencies learning from their international peers, and by agencies around the world developing a consistent message regarding the benefits of effective competition policy. Feedback from ICN members shows that members consider the support that the ICN provides to their advocacy activities to be one of the main benefits of participating in the ICN.

The ICN currently provides advocacy support both directly and indirectly:

- directly, through the work of the Advocacy Working Group which, by developing practical tools and guidance, and facilitating experience sharing among ICN member agencies, aims to improve the effectiveness of members' advocacy activities; and
- indirectly, by developing and promoting international standards (in the form of Recommended Practices) which member agencies can use to advocate for legislative change in their jurisdictions.

In the future, there may also be a demand for the ICN to play a more visible role in the global competition policy debate. When invited by an ICN member agency, or in the context of the AISUP, future activities might include:

- Issuing consensus high-level resolutions on important competition policy issues or competition hot topics, such as the benefits of competition or competition in times of crisis. This could be useful for member agencies and for governments, for example when policymakers in members' jurisdictions are looking to reform competition laws.
- Providing guidance for members and policymakers on how to incorporate competition principles in their actions.
- Playing the role of a 'critical friend' or sounding board for governments proposing to make legislative changes to competition law.

Future ICN work reflecting the first two of these suggestions is envisaged in the long-term plan of the Advocacy Working Group for 2011-2016. The third is within the ambit of the AIN.

#### *iv. Facilitating effective international cooperation*

By working together, domestic competition agencies can help bridge the gaps and address overlaps caused by national competition regimes dealing with international markets, and can more effectively tackle restrictions on competition that have cross-border effect. Many ICN members consider

that helping to promote substantive international cooperation on enforcement matters should continue to be one of the ICN's main goals.

There are a number of ways in which the ICN facilitates such cooperation. As highlighted earlier, one of the key benefits of the ICN is the way in which it fosters personal relationships between competition enforcers around the world, both among front line staff as well as between agency heads. These relationships make closer and more effective case cooperation more likely. The ICN's convergence work also leads to a platform for greater case cooperation, through its promotion of shared standards and procedures.

Many members would like to take these efforts a step further with ICN work specifically focused on improving cooperation in enforcement cases. Such work is envisaged in the long-term work plans of the Merger and Unilateral Conduct Working Groups, to complement the Cartel Working Group's 2007 report on cooperation between competition agencies in cartel investigations. The ICN held a one-day Roundtable on Enforcement Cooperation aimed at deepening the discussion of enforcement cooperation within the network on March 29, 2010. The programme addressed enforcement cooperation in merger, unilateral conduct, and cartel matters, and identified cooperation-related issues for further consideration by ICN Working Groups, including: facilitating and promoting informal cooperation, and exchange of non-confidential materials, which may help to foster better inter-agency relations and indirectly promote future formal cooperation; developing tools to facilitate identification of agencies reviewing or investigating matters and case liaisons; promoting the exchange of experience and identifying and disseminating practical tips relevant to cooperation through the ICN blog and webinar programs; developing advocacy materials on the value of cooperation; and creating ICN guidance, such as investigational checklists and/or model cooperation agreements or confidentiality provisions, for use by ICN members.

## **II. How the ICN does it**

The ICN was founded on principles of inclusiveness, openness and transparency, welcoming competition agencies small and large, young and old, and working with non-governmental experts. Its virtual model, with much of its work conducted by telephone and e-mail and work products

made freely available on the ICN website, was designed with these principles in mind. The ICN's burgeoning membership has presented growing challenges for the network in living up to these ideals, meaning that the ICN constantly needs to re-evaluate its working methods and governance and ensure that it is making the best use of modern communications tools.

The ICN will remain an agency-led organisation which does not exercise any rule-making function. Where members reach consensus on recommendations arising from ICN projects, it is left to the individual agencies to decide whether and how to implement the recommendations. The ICN will continue to speak through its members to their governments and other audiences, recognising that to do otherwise would require the approval of the full ICN membership.

Members and NGAs are generally supportive of the way in which the ICN operates, applauding its virtual and inclusive model and engagement of non-governmental experts. The recent consultation also prompted a number of suggestions for improving the ICN's working methods, summarised in Annex 1. The feedback included suggestions for maximising inclusiveness in agenda-setting, experience-sharing and the creation of work products; how to overcome barriers to participation caused by language differences, timezones and budget constraints; how to improve communications; and how the ICN annual conference might be improved.

It is clear that if the ICN is going to remain relevant in today's multipolar system of competition policy and produce work products that benefit from the wealth of experience that its broad membership brings, it will need to improve its existing working methods to maximise participation and inclusiveness.

Anne-Marie Slaughter<sup>7</sup> has put forward the principle of 'global deliberative equality': that a global network cannot work without efforts to maximise inclusiveness and participation, to the extent feasible, by all relevant and affected parties. According to Slaughter, what this means in practice is that all government networks should adopt clear criteria for participation that will be fairly applied; and that those countries that have decided to join the network receive an equal opportunity to participate in agenda

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<sup>7</sup> *A New World Order*, Princeton University Press, 2004.

setting, to advance their position, and to challenge the proposals or positions of others. The ICN should continue to aspire to satisfy these ideals in all aspects of its governance and work.

The ICN has made a number of improvements to its working methods in order to maximise inclusiveness, openness and transparency, and to help ensure that participation in the ICN represents an efficient use of its members' limited resources. The creation of a new Horizontal Coordinator to help enhance coordination across the ICN's working groups (for example in relation to the scheduling of calls) is one recent initiative.

Those improvements, set out in more detail in part III of this paper, include efforts to increase the accountability and transparency of the ICN's governance, with clearer information available on the different ways for members and NGAs to get involved in the ICN, including clear criteria for becoming a Steering Group member or working group co-chair and processes to rotate those positions. To improve transparency, Steering Group agendas, minutes and notes from the Chair will be published on the ICN website. The ICN will make the best use of modern communication methods to help minimise the barriers to participation described above. Efforts are also underway to broaden the participation of NGAs in the ICN, drawn from a wider range of disciplines and jurisdictions.

The ICN will also seek to coordinate better with other international networks concerned with competition policy. These various networks often address similar or complementary issues (albeit with different areas of focus) and have many common participants. By exploiting these complementarities, avoiding unnecessary duplication of work, and cross-promoting one another's work products, we can help our members to make the best use of the resources they contribute to the ICN.

### **III. How we will get there**

Annexes 2 to 5 describe how the feedback has been taken into account, including:

- reports from each working group, the Advocacy and Implementation Network and the NGA Liaison, at **Annex 2**;

- a summary of the key changes made to the ICN's governance, at **Annex 3**;
- a summary of improvements made in the way ICN communicates with members and NGAs, at **Annex 4**; and
- a summary of improvements made to the ICN annual conference, at **Annex 5**.

### **What we hope the ICN will have achieved in ten years' time**

In those areas where the differences between different jurisdictions' standards and procedures are relatively narrow, we hope to see significant progress in convergence and cooperation. Here the focus of the ICN's work in the next decade should be on developing additional recommended practices and practical guidance, and facilitating the implementation of existing recommended practices and work product to build skills and capacity.

In other areas where there is a greater degree of divergence due to different domestic legal frameworks, economic histories, development and priorities, or where statutory change would be needed to bring about convergence or facilitate cooperation, the aim is to create the right infrastructure. Here the focus of the ICN's work should first be on increasing understanding through discussion and debate.

In this way, the ICN will ensure that in ten years' time competition agencies around the world will be better placed as a result of greater cooperation and convergence among diverse agencies to meet the challenges for all market participants, including businesses, governments and consumers, posed by competition in international markets and among interdependent economies, supporting more competitive markets internationally with fewer public and private restrictions.

## Annex 1

### Summary of feedback received in response to the consultation on the ICN's second decade

#### 1. Feedback from ICN members

##### What the ICN does

##### (a) High level goals of the ICN

There is broad support among ICN members for the ICN continuing to pursue the same high level goals as set out in the original Memorandum on the Establishment and Operation of the ICN. According to the Memorandum, the ICN would “address antitrust enforcement and policy issues of common interest and formulate proposals for procedural and substantive convergence” and “encourage the dissemination of antitrust experience and best practices, promote the advocacy role of antitrust agencies and seek to facilitate international cooperation”.

Feedback indicates that the ICN should:

1. Continue to aim for convergence. There is a consistently strong desire for convergence from agencies of different types and sizes, often recognising that convergence may take a long time. One member commented that “ten years on, the ICN should be able to look back and say that it reached convergence on two or three areas.” Some members also pointed out that there are differences between jurisdictions’ judicial systems which mean that convergence in every respect is unrealistic, and that comparative work is also useful.
2. Continue to encourage the dissemination of antitrust experience. Members emphasised the importance of best practice work; experience sharing fora such as workshops, teleseminars and the annual conference; and the ICN curriculum project. Members also suggested that some of the meetings (workshops, teleseminars, breakout sessions at the annual conference) could be tailored specifically to groups of agencies with common interests, such as smaller or younger agencies or agencies in

developing or small economies. One respondent suggested that we should have a 'two-speed ICN', with a focus on practical work accompanied by discussions of more complex / sophisticated substantive issues.

3. Continue to support agencies' advocacy efforts. Many agencies, particularly those in developing countries and younger agencies, expressed a desire for more ICN work on competition advocacy, with suggestions including:

- how to explain the benefits of competition (see further the various comments from ICN members that they would like the ICN to do some work on evaluation, under 'new work' below)
- education initiatives in schools/colleges
- relationship with the press/communications
- specific challenges to competition policy (e.g. economic downturn)
- political economy
- sector-specific advocacy/market studies.

4. Continue to facilitate international cooperation. Members emphasised the huge value they gain from the networking and relationship building opportunities that ICN provides. They also put forward ideas for specific work products aimed at cooperation, such as:

- ICN work aimed at discussing effective international cooperation on cases
- databases of cases
- mechanisms to facilitate information exchange between different agencies for conduct affecting multiple jurisdictions (particularly cartels / unilateral conduct)
- case 'alerts' for cases involving conduct affecting multiple jurisdictions
- an ICN project to develop a process for achieving a global response on international cartels, and a multilateral

cooperation agreement for international anti-cartel enforcement

- online discussion forums on the ICN website.

Other goals for the ICN suggested by members included “effective enforcement”; providing a forum for debate; networking/relationship building (identified by two-thirds of members as a key benefit of participation in the ICN); and training (particularly for younger agencies – see further below). A number of agencies commented that ICN’s practical focus should continue.

(b) New work

Members put forward a broad range of ideas for new work:

- There is considerable demand for more ICN work focused on training and educating agency staff, with many positive comments about the ICN curriculum project. A number of younger agencies and agencies in developing countries said that they would like the ICN to engage in capacity building work to assist younger agencies, and to facilitate bilateral technical assistance / mentoring relationships between mature and young agencies.
- Around one-tenth of respondents suggested that the ICN conduct work on evaluating/assessing the impact of competition enforcement efforts on consumer welfare (partly for use as an advocacy tool).
- A number of agencies were interested in the ICN doing more sector-specific work, e.g. banking, insurance, telecoms; while one respondent commented that sectoral issues are best left to the OECD.
- Two agencies commented that the ICN should work more closely with the judiciary / engage in outreach to judges (e.g. regarding an economics-based approach to substantive competition assessment).

- A number of agencies suggested work on economic analysis (including the use of econometrics) / effects-based approaches to substantive assessment.
- Other suggestions for new work included:
  - public procurement and bid-rigging
  - state aid
  - unilateral conduct: exploitative practices e.g. excessive pricing
  - a focus on economic development / pro-poor initiatives (fundamental to developing countries)
  - more work on small /transition economies
  - merger control in multijurisdictional transactions
  - the substantive test in merger control (e.g. SLC, SIEC)
  - management of agencies
  - procedural innovation
  - settlements/commitments procedures
  - sanctions
  - consumer welfare v total welfare standards
  - methodologies to undertake quick, credible and inexpensive empirical research, e.g. eliciting consumer views
  - complementary issues e.g. trade liberalisation
  - nationalisation/reverse demonopolisation (perceived as an increasing trend).

One respondent noted that the ICN clarify the difference between “recommended practices”; “best practices”, “good practices” etc.

### **How the ICN operates**

We asked members how we can ensure that we achieve the right level of inclusiveness and accountability across the ICN.

(a) Inclusiveness

A number of members suggested that the ICN's agenda and working groups could be more inclusive. Several commented that the ICN should pay more attention in agenda setting to the needs of younger/smaller agencies and/or agencies in small or developing economies, while on the other hand there were various comments from younger/smaller agencies that the ICN's agenda is well balanced, is very useful for smaller/younger agencies, and that the agenda reflects their needs.

A number of smaller/younger agency members felt they have adequate opportunity to be involved in the ICN and take a leadership role should they choose to do so, one small and new agency noting that "you get out of [ICN] what you put into it. Participation may take some effort, but the rewards are there for those that participate."

Specific suggestions included:

- Creating an advisory council of (e.g.) younger agencies.
- More guidance on how written best practices could be put into practice, e.g. through the AISUP or in workshops.
- ICN providing training, e.g. through the ICN curriculum project (see also 'new work' above).
- Suggestions that there should be more diversity in working group discussions / work products; that working groups should encourage free debate on future work and ideas before circulating draft work plans; and that efforts should be made to encourage a broader range of agencies to speak on working group calls (e.g. by doing a 'tour de table').
- Finding ways to avoid the cost of international telephone calls and the timing of ICN calls (a particular problem for agencies in the eastern part of the world) operating as a barrier to participation in ICN calls, e.g. offering toll-free numbers; webinars; posting recordings/minutes of teleseminars/calls on the ICN website.
- Addressing language barriers through: translating ICN work products into different languages; having calls/meetings for specific

language groups; and/or having some working subgroups for specific language groups.

- About one-tenth of responding agencies were in favour of having regional platforms to address regional interests.
- A number of members suggested calls/meetings (e.g. breakout sessions at workshops/conferences) tailored to specific interest groups, e.g. markets at a similar stage of development / particular languages/regions.

Other suggestions included:

- A survey of ICN members' needs as to future topics etc.
- A few members suggested reducing the annual workload of the working groups, which can create a barrier to participation for less well-resourced agencies; while a number of others (including smaller agencies) noted that the ICN is not taking on too much and tackles a good range of subjects.
- The IDRC conferences prior to ICN annual conferences are welcome; could previous topics covered in IDRC conferences be bundled and offered as ICN work product to developing countries?
- There should be clearer information on the different ways to get involved in the work of the working groups and the resource implications that the different options entail.
- The cost of attending workshops was highlighted as a barrier to participation by some agencies. Suggestions to address this issue included webcasting workshops (one member suggested enabling active participation by videoconference) or trying to arrange some ICN events to take place just before or after (and proximate to) other international competition events such as the OECD Global Forum.
- There were several comments and questions regarding the availability of ICN funding for attendance at ICN events, which suggested that the 'rules' for obtaining funding could usefully be clarified.

The feedback indicates relatively little demand for membership of the Steering Group to be broadened. Three members commented that younger agencies and agencies in developing countries should be better represented on the Steering Group, while another (not a Steering Group member) commented that provided the Steering Group's decisions were reflected at working group level and vice versa, the focus on broadening participation in decision-making should centre on the working groups.

(b) Communications

Many members' criticisms centred on communications, including: overlaps in the scheduling of working group calls; out-of-date e-mail distribution lists; some teleseminars suffer from poor line quality; some working group calls are too long and difficult to follow.

A number of members praised the new website, noting that the ICN blog and the provision of contact details for working group chairs etc. contribute to increased transparency. A small number of members found the website difficult to navigate, and one suggested that there should be a special introductory page for new ICN members with information on how to get involved in the different workstreams, and with all the contact details in one place.

There was also a suggestion that the ICN blog could be used more as a means of communicating ICN events, member events etc.

(c) Accountability/transparency

A number of members thought the ICN could be more accessible / responsive: see the comments above. Two members suggested that the ICN needs a clear direction.

One member commented that the Steering Group should share more information regarding its discussions, while one suggested that there is no need for greater transparency as regards its work.

One member suggested that there should be more rotation of Steering Group members, and two members commented that the elections to the Steering Group should be more clearly advertised and more transparent.

(d) ICN annual conferences

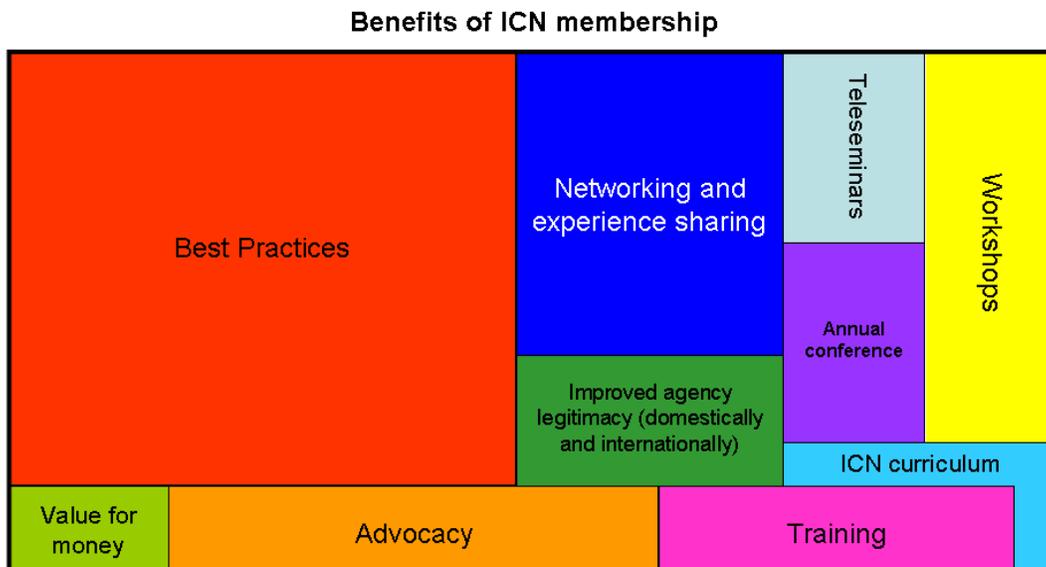
The most frequent criticism of the ICN was that the annual conference needed much more time dedicated to breakout sessions and less to plenary sessions, with a greater focus on interactive/open discussions and case studies. There were also positive comments that ICN conferences have become increasingly diverse over time, with a more frank exchange of views from a broader range of agencies.

A number of members suggested more diversity of speakers on individual panels, and a limit on the number of panels on which an individual speaker would sit.

Other suggestions for future annual conferences included:

- audience Q&A in plenary sessions
- smaller panels in plenary sessions
- the conferences should be smaller/tighter events with less festivities, in order to keep costs down
- one member commented that there should be more time for strategic discussions rather than working group reports, while another welcomed the introduction of working group reports on current/future work on the first day of the conference.

## 2. Diagram showing ICN members' feedback on the benefits of ICN membership



This diagram is weighted by the number of mentions made in ICN 'Second Decade' interviews. For this reason, the Best Practices box appears disproportionately large as some interviewees mentioned multiple work products. Overall, networking and experience sharing was the most common single benefit cited.

## 3. Minutes of the NGA conference call held on September 3, 2010

On September 3, 2010, the NGA Liaison Bruno Lasserre, in cooperation with the Vice Chair for Outreach Bill Kovacic, held a conference call to solicit feedback from NGAs as part of the project, "Planning for ICN's Second Decade."

Prior to the call, the NGAs were asked to complete a short survey about their involvement in the ICN, communications, and satisfaction with ICN work product and aspects of the ICN's governance and structure. The results of the survey can be found on the ICN website at [www.internationalcompetitionnetwork.org/second-decade.aspx](http://www.internationalcompetitionnetwork.org/second-decade.aspx).

The Vice Chair for Outreach opened the call by presenting the preliminary results of the ICN member interviews that took place in July and August as part of the Second Decade project.

The NGA Liaison then invited the NGAs on the call to provide feedback on the ICN, organised under four themes.

1. First, the NGA Liaison asked the NGAs to outline the main benefits that they have realised from participating in the ICN.

Most NGAs emphasised a principal benefit of their participation was networking. Similar to members, NGAs agreed that building relationships with other stakeholders from the competition community was a key asset. They underscored that the ICN provides a venue for them to be better acquainted with enforcers, and to better understand enforcers' views, outside of their regular contact with one another, by sharing thoughts through collaborative work on projects or discussions on the margins of ICN events.

There was a discussion about the specific roles that NGAs play within the network. Some participants on the call said that that NGA participation is extremely valuable, as their participation promotes transparency and fosters the ICN's legitimacy by reflecting diverse views. This diversity of views was considered particularly beneficial when creating standards.

2. Second, the NGA Liaison solicited views on NGA recruitment and diversity.

All NGAs agreed that it was important to ensure that the diversity of views and interests of all ICN members and NGAs are represented. Broader engagement of NGAs from diverse professions and geographical scope was viewed as one of the core challenges for the ICN in the future. The NGA Liaison presented initial work the ICN has done in this area, and NGAs on the call welcomed new recruitment efforts that will be designed in the coming months.

There was support, particularly from current NGA academics, for additional academics to participate as NGAs. It was identified that the ICN curriculum project led by the Vice Chair for Outreach had already begun to engage more deeply academics, and that this project would likely interest additional academics as well, because the project involves teaching and also because there may be room for academics to promote their research on competition issues.

There was support for targeting not only individual academics, but also research centres on competition topics (in law or economics) to better identify potential academics with the relevant expertise for participation in ICN work.

Second, there was recognition that NGA recruitment, particularly in those geographical areas where NGAs are currently underrepresented, could be difficult. NGAs on the call explained that finding the relevant NGAs requires expertise, resources, and a solid understanding of how the ICN works. They underscored that ICN members may benefit from assistance in identifying and recruiting NGAs. One NGA proposed that in some circumstances, existing NGAs could further recruitment efforts by making recommendations for potential NGA candidates. Since many current NGAs have an extensive knowledge of their local competition communities and have already participated in cross-border projects on competition issues, they are well placed to identify potential participants.

Finally, most NGAs highlighted that NGA participation, regardless of professional background, has already proved to be a strong asset for ICN members who have few resources, as NGAs and members share the resource burden of participating in ICN projects.

This would certainly be of interest to other competition agencies, particularly those with limited resources.

3. Third, the NGA Liaison sought views on how the ICN could improve NGA participation, particularly regarding communications.

NGA survey responses as well as discussions on the call made clear that the ICN can improve its communications with respect to NGAs, including by identifying the precise roles and expectations of NGAs. This would be helpful for recruitment of new NGAs and for deepening participation of existing NGAs.

4. Fourth, the NGA Liaison sought input on the future of the ICN.

The NGAs encouraged the ICN to continue to build on its successes, while maintaining a focus on the practical.

NGAs underscored the important role they can play in identifying topics for ICN's future work, including by academics with their expertise gained from research. Specific topics that were identified for future work include: the relationship between competition and protectionism, and private enforcement on competition rules, as well as increased follow up on ICN work products and their impact at a domestic level, notably in

terms of convergence on international standards. One NGA thought the ICN should include judges more closely in its work.

Some NGAs suggested dedicating more time at the annual conferences to breakout sessions, which are from their point of view the best way to facilitate open dialogue. One NGA said the ICN has managed to maintain a coherent line of thinking from its inception until today, but that to substantiate the second decade project, the ICN should not lose track of its primary objective which is convergence.

## Annex 2

### **Response to the second decade feedback by Working Groups, Advocacy and Implementation Network and NGA Liaison**

#### **1. Advocacy Working Group response to feedback**

Re-established in 2007, the Advocacy Working Group (AWG) has been continuously exploring flexible and 'user-friendly' forms of addressing the needs of the ICN Membership in the intellectual underpinnings of, and practical experience in, planning, implementing and evaluating their competition advocacy programmes. Reaction to ICN members' needs in the area of competition advocacy has always been a driving force of the AWG planning and activity, starting with a comprehensive survey presented in its 2009 Report on 'Assessment of ICN Members' Requirements and Recommendations on Further ICN Work on Competition Advocacy' ([www.internationalcompetitionnetwork.org/uploads/library/doc362.pdf](http://www.internationalcompetitionnetwork.org/uploads/library/doc362.pdf)).

In response to the feedback received from ICN members and NGAs in the consultation on the ICN's second decade, the following new projects are included in the AWG's long-term plan for 2011-2016:

- **A project on raising awareness of the benefits of competition**, in which the group will learn how agencies explain the benefits of competition; gather existing learning on methods of measuring or evaluating the benefits of competition agency interventions; and draw together the existing learning on the role of competition policy in driving growth and innovation.
- **Providing guidance for government bodies on considering the competitive effects of their market interventions**. The intention is to examine whether and how governments analyse competitive effects of market interventions and to consider producing work product, possibly in the form of good practices, to complement the OECD's Competition Assessment Toolkit which is designed to help evaluate whether a law or regulation unduly restricts competition.
- **A project on 'promoting competition culture'**, in which the group will seek to define what is meant by a competition culture; learn

how members interact with the constituent parts of a competition culture and the roles that each part plays or potentially could play; and consider developing guidance or tips for member interaction with constituents in promoting a competition culture.

- Hold one or more **ICN Advocacy Workshops**.
- Be a **forum for the identification and discussion of important policy issues and hot topics in competition advocacy**, on an ongoing basis. For topics where the AWG is best placed to promote dialogue, the AWG may consider carrying out work; in other cases the AWG may put forward suggestions to other groups within the ICN.

## **2. Agency Effectiveness Working Group response to feedback**

The Agency Effectiveness Working Group (AEWG) is working on the preparation of a comprehensive Competition Agency Practice Manual (*Agency Manual*) since its inception during the 8th Annual Conference in Zurich in 2009. So far the group has completed:

- the first chapter, on “strategic planning and prioritization”;
- a draft of the second chapter, on “effective project delivery”; and
- a questionnaire to ICN members on “Effective Knowledge Management”, which will be the subject of the third chapter of the Agency Manual, and a draft summary of the answers to selected questions in the questionnaire to be presented in the Annual Conference in The Hague for further discussion.

The AEWG has decided that there is no need to review its long-term plan for the moment. This is mainly because finalisation of the Agency Manual is the first and most important task it needs to accomplish.

In future, the AEWG may consider preparation of Recommended Practices following the finalisation of the Agency Manual. Moreover, AEWG believes that teleseminars and workshops are quite beneficial to further develop and disseminate the work it carries out. Therefore, the AEWG may organise future teleseminars on the chapters of the Agency Manual.

The AEWG attaches great importance to the involvement of younger agencies as well as the agencies of developing countries in its work in addition to experienced agencies.

### **3. Cartel Working Group response to feedback**

The Second decade feedback has confirmed interest by ICN members for most of the projects included in the Cartel Working Group's Long Term Work Plan. As a result, the Cartel Working Group Long Term Plan, which was adopted as recently as in 2010, already anticipates most of the initiatives and topics raised in the Second decade feedback. In particular, possible future initiatives identified in the feedback, such as experience sharing through workshops, teleseminars or work focused on particular topics are part of the Cartel Working Group's existing work product and will continue to be part of the group's 2011-2016 Long term work plan.

In line with the outcome of the Second Decade feedback, the Cartel Working Group will take measures to better involve younger agencies or groups of agencies with common interests in the work of the Cartel Working Group and improve promotion and accessibility of the work products.

Finally, the Cartel Working Group will also continue to contribute in the broader work of the ICN, by cooperating with other working groups and international organisations, such as OECD.

### **4. Merger Working Group response to feedback**

The Merger Working Group has dedicated the past year to conducting a comprehensive assessment of the use and impact of its existing work, and the needs of ICN members going forward. This project has provided the Merger Working Group with a wealth of information that will greatly impact its priorities and activities in the years to come.

First, the Merger Working Group obtained a great deal of information on the use and impact of its work product, as well as barriers to work product use. Over the next five years, the Merger Working Group will place a high priority on promoting familiarity, implementation, and use of its work product based on the information it gathered during this year's assessment.

Second, the Merger Working Group in the next five years will place an emphasis on work in areas where ICN members have indicated the highest levels of interest. This includes exploring the potential for additional Recommended Practices for Merger Analysis, updating the Merger Guidelines Workbook, and new work on economic analysis, investigative techniques, and merger remedies.

Finally, the Merger Working Group will continue efforts to involve additional ICN members and NGAs in its work. In response to the information it received in the assessment, the Merger Working Group plans to (1) make greater use of ICN's webinar technology, (2) explore ways to disseminate workshop and teleseminar materials and content more widely, and (3) undertake a project next year to improve its use of web-based tools, including improvements that may help in reducing or removing barriers to work product use and implementation.

#### **5. Unilateral Conduct Working Group response to feedback**

The Unilateral Conduct Working Group (UCWG) held several working group calls to discuss how it might revise its long term plan to incorporate, as appropriate, the feedback received from ICN members and NGAs.

Consistent with the feedback received, the Working Group aspires to propose Recommended Practices or other guidance for the analysis of unilateral conduct. As the Working Group recognises that different views may make achieving consensus difficult, the Group will discuss when it would be most promising to begin this work, whether to start with a general analytical framework or specific types of conduct, and if the latter, which conduct.

In light of the demand from members, the Working Group also will continue to develop a unilateral conduct workbook and hold biennial workshops and two to three teleseminars annually on topics of mutual interest that arise in analysing unilateral conduct.

New areas of work suggested by members and incorporated in the group's 2011-2016 long term plan include enhancing communication, facilitating cooperation in unilateral conduct enforcement, and conducting training webinars.

1. The Working Group will develop a unilateral conduct blog, discussion forum, and/or quarterly newsletter, e.g., posting cases, articles, or other public information on the ICN blog or a dedicated page on the ICN website.
2. A project on cooperation could include: the objectives of cooperation; the types of cases that may benefit from cooperation; cooperation tools; impediments to cooperation; confidentiality and privilege considerations; cooperation on remedies; how parties can facilitate cooperation; and what makes for effective cooperation.
3. Training webinars would address topics ranging from the assessment of dominance to the design of remedies, drawing on the Working Group's work product and agencies' experience.

## **6. Advocacy and Implementation Network response to feedback**

In response to the Second Decade Project, the Advocacy and Implementation Network (AIN) discussed what the AIN should/can do to provide guidance on putting written work products into practice. As a result of the discussion, the AIN has agreed that it is important to raise awareness of the activities of the AIN and AISUP (Advocacy and Implementation Network Support Program) and has already taken the following measures.

- The AIN posted an article regarding ICN Work Products Catalogue and the AIN on the ICN blog on December 14, 2010 (see [www.icnblog.org/?p=934](http://www.icnblog.org/?p=934))
- The ICN Work Products Catalogue and AISUP Flyer continued to be distributed at various international fora. Examples include the ICN Unilateral Conduct Workshop held on December 2-3, 2010 in Brussels, the OECD Global Forum on Competition held on February 17-18, 2011 in Paris and APEC-CPLG (Competition Policy and Law Group) meeting held on March 7-8, 2011 in Washington DC.
- The AIN also plans to hold an AIN/AISUP optional breakout session during the ICN's 10<sup>th</sup> Annual Conference in The Hague. In the session, panellists from recipient agencies of the AISUP will be invited to explain how they benefited from the AISUP and discuss

together with resource persons from AIN member agencies and the floor how the AIN/AISUP could do better.

- The JFTC is planning to distribute USB drives which include work products included in the ICN Work Products Catalogue at the optional breakout session.

## **7. NGA Liaison response to feedback**

Recognising that participation of NGAs is among the ICN's core strengths, the project of fostering NGA engagement in the ICN was initiated with the designation of Bruno Lasserre as NGA Liaison in September 2009.

As part of the consultation on the ICN's second decade, NGAs were asked to complete a survey about their involvement in the ICN in August 2010 and to give some additional feedback on a conference call on September 3, 2010. The minutes of the NGA conference call are set out in Annex 1 and the results of the NGA survey can be found on the ICN website at [www.internationalcompetitionnetwork.org/second-decade.aspx](http://www.internationalcompetitionnetwork.org/second-decade.aspx).

The feedback confirmed the many benefits of being an NGA and of engaging NGAs in the ICN's work (building relationships with other stakeholders, contributing to the adoption of better practices, promoting transparency within the ICN and fostering legitimacy of the ICN's work products by reflecting a diversity of views). It also suggested the need for improvement in two main areas: diversity of the NGA community and communications with respect to NGAs.

In light of this feedback the NGA Liaison launched the creation of an NGA Toolkit (a). Additional steps to respond to the feedback could be contemplated to ensure greater NGA diversity (b) and provide greater NGA engagement in the ICN (c).

### **(a) The NGA Toolkit: guidance for NGAs**

The purpose of the NGA Toolkit is to provide guidance to both NGAs and member agencies with a view to enhance NGA engagement in the ICN.

The toolkit covers four main issues:

- the role of an NGA – what is expected of NGAs in the different aspects of the ICN’s activities;
- the benefits of NGAs – from the perspective of the NGA and the perspective of member agencies;
- how to become an NGA – what to do and who to contact;
- how to engage NGAs – with tips for member agencies.

A draft of the toolkit, pre-tested by NGAs recommended by Steering group members, is to be presented at the ICN Annual Conference in The Hague in May 2011 during a dedicated breakout session on NGAs organised for the first time at the initiative of the NGA Liaison. A final version incorporating the feedback received during the NGA breakout session is to be circulated among member agencies by early Autumn 2011.

(b) Greater NGA diversity

The recruitment of NGAs has been on a par with the expansion of the ICN membership over the ICN’s first decade, as a number of agencies joining the ICN have been keen to involve experts from their respective antitrust communities.

It is widely agreed that it is necessary to ensure diversity in the NGA community, both in terms of geographical distribution and also of professional background, as input from a diverse group of competition experts is at the heart of the added value that NGAs bring to the work of the ICN. The following suggestions are intended to broaden NGA engagement in terms of geography and professional background:

- Geographical diversity: how to broaden the geographical scope of NGAs
  - Existing NGAs of under-represented jurisdictions could play an active role in convincing others in their jurisdiction to join the ICN;
  - Having a geographical balance in ICN events could be an incentive to attract a more diverse representation of experts.

- Diversity of professional background: how better to include academics, consumer organisations and representatives of smaller businesses
  - Co-hosting Working Groups' workshops – organisers could envisage new initiatives such as e.g. teaming up with research centres or universities to host workshops;
  - Guest speakers – Working Groups' co-chairs could consider inviting non-ICN experts to speak at Annual Conference breakout sessions, Working Groups' workshops and teleseminars, in order to create a more diverse pool of potential future NGAs.

(c) Greater NGA engagement

The substantive work of the ICN is primarily conducted in the Working Groups. This is also, quite naturally, the place where most NGA contribution to ICN activities takes place.

Within the Working Groups, NGAs contribute to producing work product, both in devising, drafting and reviewing documents. They interact with their domestic and other competition agencies, on a cooperative basis, and also with NGAs of other jurisdictions. They are consulted on the Working Group agenda and offer suggestions for future work products.

The Working Group co-chairs will be instrumental in fostering the participation of NGAs, and the better identification of their input. When gathering ideas on new projects, holding calls, circulating documents, seeking review, or disseminating work products, Working Group co-chairs should consider how, and to what extent, NGAs can participate most effectively.

NGA engagement can also be improved through better communication. This is discussed further in annex 4.

## Annex 3

### Key governance changes

Responding to the feedback from the consultation on the ICN second decade, Steering Group members tasked the Operational Framework Working Group with amending the ICN's Operational Framework, which governs the ICN. The revised Operational Framework was approved by ICN members on March 4, 2011 and is available on the ICN website at [www.internationalcompetitionnetwork.org/about/operational-framework.aspx](http://www.internationalcompetitionnetwork.org/about/operational-framework.aspx)

The main changes to the Operational Framework include:

- The establishment of clear criteria and a system for the rotation of Steering Group members and Working Group co-chairs. Notably, Steering Group members serve two-year terms and are selected in odd numbered years. Working Groups are now governed by three co-chairs that serve three-year terms and the rotation structure allows a new agency to rotate into a Working Group co-chair position each year. With these revisions, all ICN member agencies that make a significant contribution to the ICN or Working Group (mindful of the relative size of the member agency), and consistently and effectively participate in the ICN have an opportunity to apply for Steering Group membership every two years, and an annual opportunity to assume a leadership role as a Working Group co-chair.
- The clarification of the role of Vice Chair of the Steering Group. The revised Operational Framework has amended the role of the Vice Chair to include chairing Steering Group meetings, and representing the ICN at speaking engagements, conferences and other fora, if the Chair of the Steering Group is not available. Distinct from the role of Vice Chair, the Chair may appoint a Steering Group member to lead a project for a specified timeframe or on an ongoing basis, such as Advocacy and Implementation, International Coordination, and Outreach.
- The publication of the minutes, agenda and the note from the Chair from each Steering Group meeting on the ICN website. In addition to the comprehensive information that is available on the ICN website, this measure elevates transparency within the ICN by providing ICN members and stakeholders with ongoing access to Steering Group discussions and decisions.

Consistent with the ICN vision for the second decade, these amendments promote diversity, inclusiveness and transparency in the ICN's governance framework. In the ongoing pursuit of excellence, the Operational Framework Working Group will continue to seek opportunities in the second decade to strengthen the Operational Framework to best support the effective functioning of the ICN.

## Annex 4

### Improved methods of communication

The ICN has undertaken several initiatives to improve methods of communication among its members and stakeholders.

#### (a) ICN website

The redesign of the ICN website was the first initiative to improve communication. The new website includes the following improvements:

- a document library to facilitate access to ICN work products contained on the website;
- more informative and user-friendly pages for Working Groups and other projects, with updates on ongoing work and display of key work products;
- an improved search function to allow for effective document and web page retrieval; and
- a calendar that informs members and stakeholders of upcoming conference calls and meetings.

Working Groups have also planned and executed new work products exclusively for the improved website. For instance, the Advocacy Working Group's Market Studies Information Store and the Cartel Working Group's Cartel Awareness and Outreach compilation are online focused work products.

#### (b) ICN blog

As already mentioned, the ICN's blog has been a very successful communication tool to showcase the ICN's work, highlights from ICN members and stakeholders, and also to provide updates of ICN events.

#### (c) Competition Advocacy Toolkit Postings

Similar to the ICN blog, the Competition Advocacy Toolkit Posting section on the ICN website provides an opportunity for members and stakeholders to post their notes, articles, statements, and messages on competition advocacy matters for wide dissemination and discussion.

#### (d) Working Group Communications

Working Groups held a series of teleseminars on various topics including advocacy, cartels, mergers and unilateral conduct. Some of these teleseminars were recorded to be listened at members' convenience, and toll free numbers were given to participants, thus reducing long-distance costs. Many of these seminars were advertised through the Secretariat's central member email list and on the blog in order to disseminate the information to all members.

In addition to teleseminars, the ICN is experimenting with holding webinars, which are interactive seminars conducted over the internet to ICN members. The recording and uploading of webinars to the ICN website would improve accessibility, which was an issue raised by ICN members in the second decade survey.

ICN members and stakeholders also watched a live webcast of the plenary sessions at the 2010 Unilateral Conduct Workshop.

The geographical diversity of the ICN's membership across different timezones presents a challenge for some members' participation on conference calls. In order to help address this, the Cartel Working Group held a "Pacific-friendly" conference call on a cartel awareness topic.

#### (e) Translation of work products

Although English is the working language of the ICN, certain ICN work products were translated to other languages to increase the level of understanding of various ICN and stakeholders.

Better communication can also help to ensure greater levels of NGA engagement. It is therefore important to continue to focus on communication both within the ICN about the involvement of NGAs, between the ICN and prospective and existing NGAs, and among NGAs. Immediate steps might include creating a dedicated NGA webpage on the ICN's website and having an NGA breakout session at each ICN Annual Conference:

- NGA webpage

This page could list practical and substantive information for NGAs, such as a complete list of NGAs, the NGA Liaison contact information, the NGA Toolkit, the ICN Quarterly updates, videos of major ICN events like Annual Conferences plenary sessions and Working Groups' annual workshops (for NGAs not able to attend), etc.

- NGA breakout session

A dedicated breakout session for NGAs at each future ICN Annual Conference would have the benefit of creating horizontal communication and cross fertilisation among NGAs involved in different Working Groups and activities.

## **Annex 5**

### **Improvements made to the ICN Annual Conference**

The ICN Annual Conference is a unique opportunity for ICN members to network; interact on the substance of ICN's work; exchange ideas; and to approve ICN products. The ICN has responded to the feedback received on how to improve the ICN Annual Conference and facilitate a more efficient conference organisation. The Netherlands Competition Authority (NMa)'s conference planning committee for the tenth Annual Conference has also taken note of suggestions. Building on the work of the Zurich and Istanbul conferences, the NMa has introduced some innovations to the 2011 ICN Annual Conference, particularly with respect to requests for increased inclusiveness and participation.

- Increasing the time devoted to break-out sessions and reducing the time available for plenary sessions during the conference –to increase the opportunity for all ICN Members to interact.
- Introducing handheld voting devices for use during the plenary sessions – to stimulate real-time participation of the increasing number of delegates with the subject material.
- Introducing optional morning specialist break-out sessions – to deal with issues of interest to smaller groups of ICN members.
- Introducing a paper-free conference, with all documentation available to download prior to the conference and I-pads available to rent, and no printers – to stimulate reading the materials prior to attending the conference; reduce carbon footprint; and to cut costs.
- Introducing 'coffee-tables' – to facilitate informal thematic networking during the conference coffee breaks.

The NMa has endeavoured to pick a special project topic (competition enforcement and consumer welfare) that would challenge members and provide a new train of thought for the second decade of ICN.