

ICN Agency Effectiveness Working Group

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, operations, and procedures.

ORGANIZATION

The Group comprises ICN members almost from 70 jurisdictions and also includes legal, economic, and academic NGAs from around the world. The Working Group leadership team for 2017-20 includes the Canadian Competition Bureau, the Competition Commission of India, and the Norwegian Competition Authority. The Working Group holds periodic teleconferences open to all members and Non-Governmental Advisors (NGAs).

With a clear reference to its mission, the AEWG will work to encourage and facilitate the greater involvement of agency Chief/Senior Economists and NGA economists in its work and the in other ICN-related work. This initiative has two principle complementary goals. The first is to develop and emphasize the importance of economics in competition analysis. The second is to assist agencies in their efforts to build capacity in economic methods, both theoretical and empirical, through: the sharing of experiences; the development of training materials and organization of professional development events; and the dissemination of best practices.

LONG TERM GOALS

To achieve its mission, the Working Group strives 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

Agency Effectiveness Working Group 2017-2018 WORK PLAN

The Agency Effectiveness Working Group will in the period 2017-2018 have three main pillars in its work to achieve its mission and strategic goals.

1. Organizational design;
2. The role of chief/senior economists for effective enforcement; and
3. Due process and transparency.

In addition to these main activities, the AEWG plans to arrange a regional workshop targeting ASEAN jurisdictions in the autumn of 2018.

1. Organizational Design

This project would look at specific internal organizational choices that competition agencies make and have control over, choices such as: whether to have specialized, industry-focused or enforcement-type units; and if/how economic, legal, policy or international units are organized within the agency. The goal would be to present a range of options agencies have considered and possibly explore how design choices can improve agency effectiveness. The topic is well-suited to draw on NGA experiences in general, and former heads of agencies in particular and will endeavor to include such experts. This project would include an agency practices survey and a written final report.

Title	Organizational 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 and on the reasoning behind the organizational choices.
Assessment of Timing	Results for 2018 annual conference. Theme for 2018 regional workshop
Entities/Persons Responsible	TBC
Implementation	N/A
Evaluation	New project, which aims to attract broad participation.
Other comment(s)	Theme will specifically include NGA experience, eg. former heads of agencies.

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. The first step in the project will be to conduct 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.

Title	The Role of Chief/Senior Economists for Effective Enforcement
Description and output	Examination and comparative overview on how economics and economists participate in agencies' internal investigative and decision making processes, as well as what economics-focused subject areas are of most interest and value to participants
Output achieved	Information sharing and exchange of options.
Assessment of Timing	Final report published at the 2018 ICN Annual Conference. Project update call(s) optional.
Entities/Persons Responsible	Canadian Competition Bureau
Implementation	n/a
Evaluation	New project.
Other comment(s)	One of the most preferred new project among AEWG members' (source: AEWG poll Jan 2017). Potentially in cooperation with academic NGAs.

Within this group, there will be two teleseminars on cutting-edge economic topics. The first planned teleseminar will most likely be held in the Fall and the proposed topic will be the use of merger simulations. The second topic will be based on the feedback received from the survey and will be held in early 2018.

3. Due Process, Transparency and Agency Effectiveness

Due process (DP) is defined as "Procedural fairness and rights of defense before, during and after an investigation by a government agency". DP is relevant not only in an enforcement and agency effectiveness perspective, but also in a much broader context as it is crucial for countries' ability to attract investments. This theme will build on the AEWG Investigative process project (IPP) as well as the BOS on the same topic at the ICN 2017 Annual conference and explore different aspects of due process and the relation to agency effectiveness. The project will possibly extend the ICN AEWG work product from the IPP, e.g., a checklist of agency considerations or guiding principles for DP and transparency.

Title	Due process, transparency and agency effectiveness
Description and output	Based on experiences and NGA input explore different aspects of due process and the relation to agency effectiveness
Output achieved	Checklist or guiding principles for DP and transparency
Assessment of Timing	Results for discussion at 2018 annual conference. Theme for 2018 regional workshop.
Entities/Persons Responsible	Norwegian Competition Authority and US Federal Trade Commission
Implementation	Linked to previous IPP; possible implementation-style output
Evaluation	New project.
Other comment(s)	Cooperation with law firm NGAs.

4. **AEWG Regional Workshop**

Related to experience sharing to enhance agency effectiveness, the AEWG will start preparations for a new AEWG workshop in the ASEAN region, building on the experiences with the regional approach chosen for the 2016 AEWG Workshop in Botswana. The workshop will most likely take place in the autumn of 2018 in cooperation with international organizations, such as, OECD, UNCTAD and ASEAN. The program of the workshop will reflect past and ongoing AEWG work and work products, and include the following possible topics:

- Strategy development and implementation
- Organisational design
- Due process and transparency
- Role of economists and economics
- Staff training and interaction
- Tools for effective project delivery

Title	AEWG Regional Workshop
Description and output	A regional workshop reflecting past and ongoing AEWG topics, in cooperation with OECD, UNCTAD and ASEAN
Output achieved	Exchange of experiences and promotion of AEWG work products
Assessment of Timing	Autumn 2018
Entities/Persons Responsible	Norwegian Competition Authority and Canadian Competition Bureau
Implementation	n/a
Evaluation	

Ongoing projects: Comparative & Informative Work

1. Oversight of the ICN Training on Demand Project

The Working Group will continue its oversight and support of [the ICN Training on Demand Project](#) (ITOD).

The ITOD is led by the US FTC and a project group of interested members, including representatives from each Working Group, and NGAs that volunteer to develop modules and contribute to overall project planning. The ITOD is a primary ICN tool for developing training materials for members on topics relevant to competition law enforcement. It draws on members' accumulated experience and promotes implementation of ICN work product. The ITOD project team will develop, approve and guide future module topics (~2-4 per year) and appropriate formats with volunteer members, NGAs, and Working Groups. The Project will draw upon the insights of Working Groups, ICN work product, and individual member agencies to contribute to the development of new modules.

The ITOD project team will seek feedback from users to evaluate the existing modules to ensure the project is meeting the expectations of its target audiences and to consider potential improvements as well as topics for new modules.

Title	ICN Training on Demand (ITOD)
Description and output	AEWG will continue oversight and support of the ITOD project. ITOD develops online training materials on topics relevant to competition law enforcement. For 2017-18, new module topics might include enforcement cooperation and unilateral conduct; specific topics to be determined.
Output achieved	ITOD includes over 20 modules, with the aim to add ~2-4 per year.
Assessment of Timing	2-4 new modules for 2017-18
Entities/Persons Responsible	US FTC leads a project group that includes representatives from each WG and NGAs
Implementation	ITOD modules draw on members' accumulated experience and promote implementation of ICN work product.
Evaluation	Feedback from users.
Other learning	Complements, draws from, and highlights existing ICN work.

2. Promotion & Implementation of AEWG work

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

Of particular relevance for 2017-2018 will be the promotion of the learning experiences from two webinars on new IT and digital tools for case management. The AEWG has arranged webinars in 2015 and 2017 where the aim has been to continue to share experiences among agencies on new digital tools and procedures related to digital evidence in case management and other IT tools that have contributed to improve agency effectiveness, and continue the webinars.

The AEWG intends to compile the outcome of these webinars, and consider to include this as part of the promotion of the AEWG-developed Investigative Process guidance, a work product that addresses how enforcement tools and procedures can contribute to enhancing the effectiveness of agencies' investigative processes.

The Working Group will welcome feedback on the use and relevance of the guidance for consideration for potential translation or adaptation of the guidance, developing explanatory or complementary work and an ICN ITOD module in support of the guidance, and promoting awareness of the guidance within the ICN (e.g., enforcement WG workshops) and in other organizations (e.g., APEC's international best practices training series).

The AEWG will also use opportunities to organize future workshops during autumn 2017 or beyond (or support other WG workshops), its annual conference breakouts, and periodic teleseminars 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 1) adapting, extending and implementation work on Guidance on Investigative Process and 2) workshop highlighting AEWG work-related themes
Assessment of Timing	Ongoing efforts. Workshop during autumn 2018
Entities/Persons Responsible	Workshop planning: TBC Implementation project: TBC
Implementation	2017-18 work focused on extending Guidance on Investigative Process.

Evaluation	Feedback from users and workshop participants.
Other learning	n/a

Agency Effectiveness Working Group

2017-2020 STRATEGIC GOALS

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

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 across the range of agency age and experience. 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.

New Working Group wide work will address issues of relevance across ICN's membership, including an emphasis on challenges for new and young agencies building institutional capacity. The Working Group has a range of work product formats to deliver value for ICN members, including comprehensive overviews of member practices on a specific topic as in the Agency Practice Manual chapters, ICN Training on Demand online training videos, consensus guidance recommendations, and informative WG and NGA issues papers.

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

- *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.

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 that will be prioritized for implementation efforts includes the [ICN Guidance on Investigative Process](#), the [ICN Agency Practice Manual](#), and the [ICN Training on Demand](#) modules. 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.

Goal: Strong member and NGA participation

The Working Group will continue to engage ICN members and NGAs through the development of new work product of value to Working Group participants; implementation efforts for existing work product; 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.

Goal: Increased engagement of Chief/Senior Economists and NGA Economists

The success of the recent ICN Chief/Senior Economists Workshop in Vancouver highlighted the demand for, and the benefits to be derived from, more economics-rich programming by the ICN. As such, the AEWG will organize more economics-based workshops and/or training sessions on technical econometric topics led by key agency and NGA experts and the development of additional economics-oriented contributions for ICN activities. These Chief/Senior Economists and NGA Economists will also serve as a vehicle for soliciting economics input on other Working Group projects.