

## **ICN Annual Conference, New Delhi, 2018**

**22 March 2018**

ICN's Annual Conference second day in New Delhi, India, had plenary panel discussions on Vertical Mergers and Vertical Restraints – vertical issues being a main theme of ICN's conference this year. Vertical mergers and vertical restraints are difficult topics in competition law. Competition experts world-wide agree that horizontal mergers may restrict competition. They also agree on the harmful effects of horizontal restraints. However, competition experts world-wide have different opinions on the degree to which, and the circumstances in which, vertical mergers and vertical restraints may be harmful to competition and consumers. For example, traditionally, the U.S. courts have been less convinced of the harm in such cases, than the European courts.

Due to digitalisation and globalisation, competition agencies increasingly have to deal with different types of markets and changing business models. The vertical restraints in use today go deeper and change faster. Their use is more widespread and more intense. For this reason, while it might have been unthinkable 10 years ago to devote 2 plenary panels to vertical issues, it is not surprising that these topics of vertical mergers and vertical restraints are firmly on the ICN agenda today.

These topics are notoriously complicated, but as one NGA stated today "You do not have to be a PhD economist to deal with vertical mergers!" While agencies may have different opinions on where the burden of proof should lie in cases concerning vertical restraints, they all agreed that an evidence-based, fact-specific approach is essential when dealing with complicated vertical business practices. There is also agreement among all speakers on the need to conduct market studies to understand digital markets better.

In this regard, since the last annual conference, ICN's Merger Working Group has updated and expanded its Recommended Practices. The Unilateral Conduct Working Group has done extra work on vertical restraints. And the ICN Advocacy Working Group has developed its market studies database. You will find all work products on the conference website under "conference materials". See <http://ICN2018delhi.in>