

ICN Merger Working Group
Investigative Techniques Workshop
February 15-16, 2017
Washington, DC

Target Audience: Junior and mid-level staff attorneys and economists.

Objectives: develop participants' investigative skills through hands-on interactive breakout sessions and presenting and promoting relevant ICN work product.

PRE-WORKSHOP

Reading: Participants will be asked to read the ICN [Handbook](#) on Investigative Techniques and view the [module](#) produced by the ICN's Training on Demand project on planning the investigation (bonus points for watching the merger planning module).

Webinar: A Pre-Workshop Webinar will be held to present the facts of the hypothetical and assign pre-workshop work.

Assignment:

- Review Merger filing and results of initial desk research (news articles and industry report)
- Draft a preliminary investigation plan and a 3rd party interview outline (on market definition or entry and expansion)

AGENDA-AT-A-GLANCE

Day 1: Investigation

Morning Session - Auditorium

8:45 Welcome and Introductions

9:00 **Presentation: Focusing Initial Investigations & Developing an Investigation Plan and Proof Chart**

9:30 Initial Presentation by Merging Parties
Merging parties present to the case team with follow up question session with the audience

10:00 Initial Case Team Meeting: Initial Assessment/Investigation Plan
Case team meeting to identify investigative issues & strategy with input from the audience

10:30 Break

11:00 **Presentation: Developing Reliable Evidence through Witness Interviews**

11:45 **Presentation: Developing Reliable Evidence through Requests for Documents and Data**

12:30 Lunch

Afternoon Session – Breakout rooms

1:30 Breakout session 1

Room A: Drafting Requests for Information

Participants will review good and bad questions, draft two or more questions on a particular issue, critique questions, and negotiate requests.

Room B: Drafting Data Requests and the Use of Economic Tools

Participants will discuss market share/HHIs, Cross-price elasticity of demand and diversion ratios and obtaining the data needed to use these tools.

Room C: Developing Interview Outlines

Participants will develop and critique interview outlines on market definition and on entry and expansion for mock interviews conducted the following day.

2:45 Break

3:15 Breakout session 2 – Topics Repeat

Room A: Drafting Requests for Information

Room B: Drafting Data Requests and the Use of Economic Tools

Room C: Developing Interview Outlines

4:30 Closing Session – Auditorium: **Roundtable on Investigative Process**

Agency representatives and NGAs discuss importance of transparency, engagement, and confidentiality outside of the hypothetical.

Day 2: Analysis

9:00 **Presentation: ICN Recommended Practices for Merger Analysis and Model ICN Guides**

9:15 **Presentation: The Roles of Market Power and Market Definition in Merger Cases**

9:35 Table Talk

Discussion on assessing markets, including when you lack data to conduct a SSNIP test
Mock Interview #1 on Market Definition

- 10:30 Break
- 10:45 **Presentation: Entry**
- 11:05 Table Talk
Assessment of entry, including document review/entry plan by potential entrant
Mock interview #2 on Entry and Expansion
- 11:55 Model Interview - live or recorded – by experienced attorney covering all topics
- 12:05 Table Talk – Critique of the live interview
- 12:30 Lunch
- 1:30 Presentation: Merging Parties Present White Paper
- 1:45 Table Talk
Case Team meeting: Assessing the Evidence
Updating the Investigation Plan & Proof Chart
- 2:30 Break
- 3:00 **Presentation: Effective Remedies**
- 3:15 Presentation: Merging Parties Present a Remedy Proposal
- 3:30 Table Talk
Evaluating the remedy proposal
Cooperation in the design of remedies
- 4:15 Break
- 4:30 Closing panel – **Tips from senior case managers**
From a “leader” perspective, discuss how to run an effective investigation and what resonates with decision makers