

2010 UNILATERAL CONDUCT WORKSHOP

HOSTED BY DG COMPETITION OF THE EUROPEAN COMMISSION
at the Management Centre Europe (MCE), Brussels, BELGIUM
2 – 3 December 2010

PROGRAM

2 December 2010

08:15 - 09:00

REGISTRATION

09:00 - 09:10

OPENING

Alexander Italianer, Director General DG Competition, European Commission

09:10 - 10:45

PANEL 1 - ANALYTICAL FRAMEWORK FOR ANALYZING UNILATERAL CONDUCT

This plenary session will highlight the work of the Unilateral Conduct Working Group (including the ICN Recommended Practices for Assessing Dominance/Substantial Market Power), and focus on the analytical factors to consider and process to follow in determining whether a given action is anticompetitive.

Moderator: **Randy Tritell** (Director, Office of International Affairs, U.S. Federal Trade Commission)

Presenter: Professor **Massimo Motta** (Dean of the Barcelona Graduate School of Economics)

Panellists: **Elisa Mariscal** (General Director of Conduct Investigations, Comisión Federal de Competencia, Mexico), **James Musgrove** (Lang Michener), **Damien Neven** (Chief Economist, DG Competition, European Commission), **Hiroshi Yamada** (Director, International Affairs Division, Japan Fair Trade Commission)

10:45 - 10:55

PRESENTATION OF CASE STUDIES

Loyalty Discount: **Murilo Otavio Lubambo de Melo** (Chief of Division, Services and Utilities, Secretariat of Economic Law, Brazil)

Margin Squeeze: **Konrad Schumm** (Principal Expert in Antitrust Policy, DG Competition, European Commission)

10:55 - 11:15

COFFEE BREAK

11:15 - 12:45

BREAKOUT SESSIONS - OPENING THE INVESTIGATION

Delegates will meet in small group sessions to discuss the issues raised in the morning plenary session and begin to analyze a hypothetical case study. Delegates in each of the six breakout rooms will analyze one of two different cases, one involving a loyalty discount arrangement and the other a margin squeeze claim.

12:45 - 13:45

LUNCH

13:45 - 15:15

PANEL 2 - ANALYZING COMPETITIVE EFFECTS

This plenary session will focus on theories of competitive harm and evidence for assessing competitive effects in unilateral conduct cases.

Moderator: **Simon Roberts** (Chief Economist, Competition Commission, South Africa)

Panellists: **Robert Davis** (Attorney Advisor, Office of the Chairman, U.S. Federal Trade Commission), **Fernando De Magalhães Furlan** (Commissioner, CADE - Brazilian Competition and Antitrust Council), **Amelia Fletcher** (Chief Economist, Office of Fair Trading, UK), **Jorge Padilla** (LECG Consulting)

15:15 - 15:30

COFFEE BREAK

15:30 - 17:30

BREAKOUT SESSIONS - ANALYZING COMPETITIVE EFFECTS

Delegates will continue to analyze the case from the morning's session in their breakout room to determine whether the dominant firm's alleged conduct is anticompetitive.

18:00

COCKTAIL RECEPTION

2010 UNILATERAL CONDUCT WORKSHOP

HOSTED BY DG COMPETITION OF THE EUROPEAN COMMISSION
at the Management Centre Europe (MCE), Brussels, BELGIUM
2 – 3 December 2010

PROGRAM

3 December 2010

08:45 - 09:15

KEYNOTE SPEECH

Vice President **Joaquín Almunia**, Commissioner for Competition, European Commission

09:15 - 10:30

PANEL 3 - COMING TO A DECISION

Panellists will report back on the discussions from the prior day's breakout rooms, including discussion of the role of efficiencies in the analysis.

Moderator: **Jacques Steenberg** (Director-General, Belgian Competition Authority)

Panellists: **Hi Lin Tan** (Deputy Director, Policy & Economic Analysis, Competition Commission, Singapore), **Jan Kees Winters** (Deputy Chief Economist, Netherlands Competition Authority), **Jim Rill** (Howrey LLP), **Alexandre Verheyden** (Jones Day)

10:30 - 11:40

PANEL 4 - DESIGNING AND IMPLEMENTING REMEDIES

This plenary session will address the relative advantages and drawbacks of available remedies in unilateral conduct cases -- from prohibitory remedies designed to stop and prevent recurrence of the unlawful conduct, to remedies that impose affirmative obligations (such as mandating access or dealing at a certain price), to structural remedies, which can require divestiture of assets or lines of business. It also will consider what role possible remedies should play in the case selection process.

Moderator: **Markus Lange** (Head of International Competition Unit, Bundeskartellamt, Germany)

Panellists: **Dan Ducore** (Assistant Director, Bureau Of Competition, U.S. Federal Trade Commission), **Per Hellström** (Head of Unit, DG Competition, European Commission), **Renata Hesse** (Wilson Sonsini Goodrich & Rosati), **Alberto Pera** (Gianni, Origoni, Grippo & Partners)

11:40 – 12:00

COFFEE BREAK

12:00 – 13:00

BREAKOUT SESSIONS – CLOSING THE CASE

In breakout sessions, delegates will share their experience with remedying unilateral conduct cases and seek to devise a remedy for the conduct alleged in the case under discussion in their breakout room.

13:00 – 14:30

LUNCH

14:30 – 15:30

BREAKOUT SESSIONS – IMPLEMENTATION & THE ROAD AHEAD

Breakout sessions on experience sharing, implementation of ICN work product, and discussion of future work.

15:30 – 15:45

COFFEE BREAK

15:45 - 17:00

PANEL 5 – IMPLEMENTATION & THE ROAD AHEAD

Panellists will discuss their experience and offer practical advice for investigating unilateral conduct cases and implementing ICN Recommended Practices.

Moderator: Professor **Eleanor Fox** (New York University, School of Law)

Panellists: Professor **Josef Drex** (Director, Max Planck Institute for Intellectual Property), **Herbert Fung** (Director, Policy & Economic Analysis, Competition Commission, Singapore), **Manuk Mikayelyan** (Economic Expert, State Commission for the Protection of Economic Competition, Armenia), **Charles Webb** (Howrey LLP), **Mario Ybar** (Deputy Head, División de Investigaciones, Fiscalía Nacional Económica, Chile)

17:00 - 17:30

CLOSING SESSION - PROMOTING IMPLEMENTATION & FAREWELL