

AN INCREASING ROLE FOR COMPETITION IN THE REGULATION OF BANKS
Best practices by the International Competition Network

1. After a report by the ICN Antitrust Enforcement in Regulated Sectors Working Group on “An Increasing Role for Competition in the Regulation of Banks”, the 2005 ICN Annual Conference approves the following best practices aimed at achieving a more competitive banking industry through more extensive liberalization, appropriately designed regulatory institutions, a rigorous application of antitrust rules and advocacy interventions to be adopted when appropriate.

2. Jurisdictions should:

1 promote an open, competitive, banking environment without unjustified restrictions on entry, ownership or exit, resulting either from the rules to be applied or from enforcement practices;

2 ensure that there is a proper separation between the enforcement of prudential regulation and of the general competition rules.

3. In addition, agencies should:

3 whatever the institutional setting, build good working relationships with the regulatory agencies and coordinate their efforts in reviewing particular matters;

4 apply in enforcement the usual tools of antitrust analysis, including market definition, market power/dominance, remedies.

4. Finally, agencies in their competition advocacy functions should consider, as appropriate when competition concerns are raised, to advocate for:

5 the elimination of exclusions from competition law for financial institutions;

6 an environment where banks are informed in a timely and complete manner on the debt exposure of potential borrowers (in integrated financial markets also on an international basis), making sure to identify ways and precautions such that information sharing does not lead to restrictions of competition;

7 a legal environment where the taking possession of collateral is possible without delay;

8 a reduction of switching costs by depositors, for example by asking for disclosure rules, for example on the costs associated with the closing of an account or paying off a mortgage;

9 a reduction of transaction costs on cross border payments and, in countries with a common currency, the creation of larger than national payment systems, so as to favor the development of larger markets and greater choices for consumers;

10 especially in developing countries and consistent with maintaining a competitive market, the creation of a legal environment where financial institutions can reduce their risk by joint liability lending.