

ICN Reflection – Australian Competition and Consumer Commission (ACCC)

Introduction

The Australian Competition and Consumer Commission (ACCC) is a founding member of the ICN and has remained actively involved in the organisation in various roles and activities over the last 20 years. The ICN enables competition agencies to collaborate for our mutual benefit and also bring non-government advisors into that work. We share experiences, develop best practice approaches to complex challenges in competition policy and enforcement, and deepen our understanding about how we can meet the challenges we face.

As a voluntary organisation organised ‘virtually’, the ACCC recognises that the ICN depends heavily on the active participation of members and the non-government advisors who are involved with it. We have always committed resources to our active engagement. In addition to our role as a member of the ICN Steering Group we have been the ‘Horizontal Coordinator’, a co-chair within the Cartel Working Group for a decade, and co-chair of the Unilateral Conduct Working Group for four years. We are currently active as a co-chair of Steering Group Projects on Enforcement Cooperation, Competition Agencies Procedures and on the Intersection of Competition, Consumer and Privacy.

The ACCC’s involvement with the ICN has been very rewarding for our agency. We have used our engagement with the ICN tools and its products to enhance and develop our own practices, knowledge, and skills. The ICN has provided an excellent forum to work with other agencies and develop longstanding, fruitful relationships that have become stronger over time. It is difficult to summarise over 20 years of activities in a few words, however, we have selected a few highlights below.

Cartel enforcement

One notable area the ICN has been particularly valuable for us is in enhancing our cartel enforcement practices. Combating cartels has been at the forefront of the ICN’s agenda from the outset. The ICN, and in particular the work of the Cartel Working Group (CWG), has helped to strengthen and harmonise agency practices in dealing with cartels and deepen cooperation between agencies on cartel law enforcement.

The development and introduction of the ACCC’s leniency policy is an example of the value the ACCC has derived from its ICN membership. Supported by its engagement with the CWG and its member agencies, the ACCC has introduced a leniency policy that has evolved and strengthened over time. The ACCC’s cartel leniency and immunity policies have proven to be a successful tool for us in combating cartel conduct in Australia. Our practice is to regularly review our policies and when we do so we give significant weight to the latest ICN best practices and feedback from counterpart agencies.

Merger control

The ACCC has also significantly benefitted from its involvement in the ICN’s Merger Working Group (MWG). Since its inception, the MWG has worked to promote consistent approaches to merger control worldwide, and to facilitate developing relationships that foster international cooperation on merger investigations. Cooperation and harmonisation of practice ultimately helps to minimise the public and private costs of assessing cross-border mergers. Of the wide variety of helpful tools and guidance the MWG has produced, the *Recommended*

Practices for Merger Analysis, and the *Framework for Merger Review Cooperation* stand out as impactful, best practice tools that have contributed enormously to global alignment and effectiveness of merger regimes.

Building connections

One of the ICN's greatest strengths is its ability to bring competition agencies and NGAs together to exchange views and experiences, and to build connections between agencies and their staff. The general cooperation between agencies that is facilitated by the ICN in turn supports enforcement cooperation when it is required, as this form of cooperation often requires trust and understanding of each other's respective systems. Taking an active role in the ICN has allowed the ACCC to develop these very important relationships.

The ACCC has found the ICN's regular workshops and annual conferences incredibly valuable for this purpose for building relationships both at an institutional level and between individuals. The ACCC has had the pleasure of hosting several ICN events, including the first ICN Cartel Workshop in Sydney in 2003, the ICN Annual Conference in Sydney in 2015, and more recently, the ICN Merger Workshop in Melbourne in February 2020. Little did attendees know that the Melbourne Workshop would be the last time members and NGAs would meet in person at an ICN event before the COVID-19 pandemic hit. We look forward to seeing our colleagues again in person again in 2022.

To the future

It is an incredibly exciting time for the ICN. In the last 20 years, its membership has expanded in line with the development and implementation of competition law regimes around the world. As we move into the third decade of the ICN, we are faced with increased globalisation and digitalisation, which makes our economies and respective national interests even more interconnected. Many of the problems in the digital economy will only be able to be tackled through collaborative efforts between agencies.

The ICN's role promoting cooperation and developing and advocating for good competition policy and practices will be more important than ever. The ACCC looks forward to continuing to be an active member of the ICN in the coming decades.