

## ICN FACTSHEET AND KEY MESSAGES

### ICN At A Glance

- The ICN is a specialized yet informal network of 141 competition authorities from 129 jurisdictions, enriched by the participation of non-governmental advisors (“NGAs” - representatives from business, consumer groups, academics, the legal and economic professions, and international organizations).
- The ICN's mission is to advocate the adoption of superior standards and procedures in competition policy around the world, formulate proposals for procedural and substantive convergence, and seek to facilitate effective international cooperation to the benefit of member agencies, consumers and economies worldwide.
- The ICN is exclusively concerned with competition law – “It is all competition, all the time”. The ICN is guided by a Steering Group with its work taking place primarily in five substantive working groups – Advocacy, Agency Effectiveness, Cartel, Merger, and Unilateral Conduct. The ICN operates by consensus with members and NGAs conducting discussions, typically via teleconference, webinars, e-mail and at workshops. In addition, members and experts convene annually to discuss working group projects and their implications for enforcement at the ICN annual conference.
- The ICN is a results-based, project-oriented network. The ICN has produced a series of practical recommendations and other tools on best practices, investigative techniques and analytical frameworks, which have significantly contributed to cooperation efforts among competition agencies. These include recommended practices, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits, and workshops. Implementation of these work products is voluntary, and in so far as this leads to more efficient and effective enforcement and consistent outcomes, is good for competition agencies, governments, business and ultimately consumers.
  - With an increasing number of investigations that involve cross-border effects and concurrent reviews by multiple agencies, competition agencies collaborate with each other to increase efficiency in the enforcement and review of cases, as well as to promote more aligned outcomes. The ICN helps to facilitate cooperation and convergence, where appropriate. Importantly, the ICN has also helped to foster closer relations among competition agency leaders and staff, leading to improved cooperation on cases and a better understanding of each other’s laws, policies, and practices.

## ICN In-Depth

### What is the ICN?

- The ICN is a specialized yet informal network of competition agencies, with the common aim of addressing practical competition law enforcement and policy issues. The ICN facilitates consensus building and convergence toward sound competition policy and practice across the global competition community.
- The ICN provides competition agencies with a focused multilateral forum where colleagues can meet and discuss competition law and ways of improving competition advocacy. These project-oriented discussions are enriched through the participation of NGAs who represent business and consumer groups, academia, the legal and economic professions, and international organizations.
- The ICN is a voluntary, consensus-based organisation, and members are national or multinational competition agencies, or a competition agency of a customs territory entrusted with the enforcement of competition law throughout the customs territory<sup>1</sup>.
- The ICN is not a rule-making organisation and its work products are not legally binding instruments. When ICN members reach consensus on recommendations or recommended practices arising from its projects, individual competition agencies decide whether and how to implement the recommendations.
- The ICN was established in October 2001 by officials of 15 competition agencies from around the world. Its membership currently includes 141 competition agencies.

### What are the ICN's goals and objectives?

- The ICN is 'all competition, all the time'.
- The ICN's main goal is to improve competition law enforcement and advocacy across the global competition community, for the benefit of business and consumers.
- The ICN encourages the dissemination of competition experience and recommended practices, promotes an advocacy role for competition agencies, and seeks to facilitate international cooperation and convergence.
- The ICN encourages all of its members to not only develop consensus around recommended practices and other recommendations, but to implement these practices.

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<sup>1</sup> <https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/07/ICNOperationalFramework.pdf>

- The ICN seeks to develop and promote sound and principled procedural and substantive benchmarks, and to foster pro-competitive, efficiency-enhancing conduct. These benchmarks can serve as a model for governments and competition agencies looking to develop new laws and policies, and to update current practices.
- The ICN also seeks to support younger agencies in their efforts to enforce their competition laws and to build a competition culture in their jurisdictions.

### **How does the ICN work?**

- The ICN is a results-based, project-oriented organisation. It operates by consensus. Work products and proposals for new work streams are put before the members at the annual conference for approval.
- The ICN is a virtual network. It has no formal Secretariat or premises. The ICN's operational workings and processes are supported by a member agency which provides a centralized secretarial support service.
- Members and experts convene at an annual conference to discuss group projects and the implications for competition policy and enforcement. In addition, ICN working groups organize periodic workshops on specific enforcement and policy topics.
- ICN work takes place in project-oriented working groups, led by three member Co-Chairs and open to all members and NGAs. Working Groups conduct discussions, typically via teleconference, webinars, and e-mail.
- There are currently working groups devoted to: mergers, cartels, unilateral conduct, advocacy, agency effectiveness. There also are several project groups, including on cooperation, the intersection of competition, consumer protection, and privacy, and the competition agency procedure framework (CAP), as well as groups for membership and operational matters.
- ICN working groups produce a variety of work products, including recommended practices and other guidance documents, case-handling and enforcement manuals, reports, templates on legislation and rules in different jurisdictions, databases and toolkits, interactivities workshops and webinars, panel discussions and breakout sessions at the annual conference.
- The ICN is guided by a Steering Group composed of representatives of ICN member agencies.

- The Steering Group members shall elect a Chair from among Steering Group representatives at the ICN Annual Conference in odd-numbered years.
- The Chair of the Steering Group, after consultation with the Steering Group, may nominate up to two Vice Chairs for Steering Group approval.

### **What is the value of the ICN for competition agencies?**

- The ICN encourages the dissemination of antitrust experience and exchanges of recommended practices with other ICN members on topical issues. It is of value to all competition agencies within the network.
- The ICN facilitates convergence and international cooperation between competition agencies. The ICN has developed specific tools to facilitate cooperation. However, the ICN is not used as a forum to cooperate on specific cases. Rather, ICN's work helps to promote the convergence of agency enforcement policies, analytical approaches, and investigative techniques.
- The various ICN work products can influence and bring about change in member agencies' jurisdictions. For example: a change to an element of the competition law or procedures in an ICN member jurisdiction, influenced by an ICN recommended practice or other work product; better detection or sanctioning of restrictions of competition by a member agency through sharing of experiences of other agencies; improved cooperation between agencies; facilitation of the work of case-handlers and of undertakings and their representatives through convergence of practices inspired by the ICN; better targeted and more effective capacity building measures.
- The adoption of ICN benchmarks encourages agencies to align themselves with these agreed benchmarks, which in turn promotes convergence.
- The ICN provides a forum for younger agencies to draw on the experiences and support of more established agencies.

### **What is the value of the ICN for governments?**

- The ICN's goal of improving the enforcement of competition law and advocacy of competition principles facilitates open and competitive markets for the benefit of businesses and consumers. This can contribute to general economic development through increased productivity and efficiency, helping to drive national and regional competitiveness.

- The globalisation of markets requires multilateral dialogue and cooperation. The ICN's promotion of international cooperation and convergence on sound principles of competition law and policy assists policy makers in responding to the pressures and opportunities of the global economy, for example, through reducing barriers to entry and improving economic efficiency.
- The ICN provides a unique source of international best practices and benchmarks for governments looking to introduce reforms and/or strengthen their competition enforcement regime.

### **What is the value of the ICN for business?**

- Competition enforcement may, at times, impose unnecessary costs and uncertainty on the business community and marketplace. The ICN works to promote sound and principled procedural and substantive standards that minimize such burdens and leave pro-competitive, efficiency enhancing conduct to flourish.
- The ICN provides a forum for constructive dialogue between competition agencies and the private sector. The active involvement of the private sector is reflected in the ICN's practical outputs which are of benefit to agencies and business alike. For example, the merger notification and procedures work has proved very successful for both business and agencies. The ICN's work on cartels has proved influential in shaping the development or revision of leniency programmes around the world.

### **What is the value of the ICN for consumers?**

- The ICN works to facilitate improved enforcement and advocacy of competition law, which fosters a vigorous competition in open and well-functioning markets and optimises consumer welfare.
- Effective competition enforcement ensures that consumers benefit from competitive and innovative markets that are not constrained by anti-competitive behaviors, by overly burdensome regulations or by anti-competitive mergers.

### **What has the ICN achieved?**

- The ICN has produced a series of practical recommendations and other tools on best practices, investigative techniques and analytical frameworks, which have significantly contributed to cooperation efforts among competition agencies. Notable achievements have been made in the areas of mergers, cartels, unilateral conduct, advocacy and agency effectiveness through a variety of practical products and outputs. These include recommended practices, case-handling and enforcement manuals, reports, templates

on legislation and rules in different jurisdictions, databases and toolkits and workshops and webinars. Links to all of the ICN work product are available in the ICN Work Product Catalogue posted on the ICN home page.

#### *Merger review:*

- As one of the ICN's first projects, the Merger Working Group (MWG) was founded in October 2001.
- The mission of the MWG is to promote the adoption of best practices in the design and operation of merger review regimes in order to: (i) enhance the effectiveness of merger review; (ii) facilitate procedural and substantive convergence; and (iii) reduce the public and private time and cost of merger reviews.
- The MWG has pursued work in four broad categories: notification and review, investigative techniques, analytical frameworks, and other policy issues (e.g., cooperation). From year to year, the MWG work focuses on different categories, with the objective of addressing all relevant aspects of merger enforcement on a regular basis.

#### *Cartels:*

- The Cartel Working Group (CWG) was established at the third ICN Annual Conference, in April 2004. The mandate of the CWG is to address the challenges of anti-cartel enforcement, including prevention, detection, investigation and punishment of cartel conduct. At the heart of competition enforcement is the battle against hard core cartels directed at price fixing, bid rigging, market allocation and output restrictions.<sup>2</sup>
- The CWG is divided in two subgroups: (1) SG1: Legal Framework (Policy-level issues of hardcore cartel conduct); and (2) SG2: Enforcement Techniques (Investigative techniques).

#### *Unilateral Conduct:*

- The Unilateral Conduct Working Group (UCWG) was established at the fifth ICN Annual Conference, in May 2006. Its primary objectives are to examine the challenges involved in analysing unilateral conduct of dominant firms and firms with substantial market power, facilitate greater understanding of the issues involved in analysing unilateral conduct and to promote greater convergence and sound enforcement of laws governing unilateral conduct.

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<sup>2</sup> <https://www.internationalcompetitionnetwork.org/working-groups/cartel/>

### *Advocacy:*

- One of the ICN's first initiatives was the establishment of the Advocacy Working Group (AWG), in 2001, with a mandate to undertake projects with a view to recommend best practices to ICN members and to provide them with information to support their advocacy task. The AWG aims to develop practical tools and guidance, and to facilitate experience-sharing among ICN member agencies and existing and prospective NGAs, in order to improve the effectiveness of ICN members in advocating the dissemination of competition principles and to promote the development of a competition culture within society.

### *Agency Effectiveness:*

- The Agency Effectiveness Working Group (AEWG) was established in 2009<sup>3</sup>, aiming to share experience among ICN members and NGAs and to develop and disseminate good practices for agency effectiveness.
- The mission of the AEWG is to identify key elements of a well-functioning competition agency and to develop best practices for agency strategy, planning, operations and procedures.
- The AEWG also has an economic subgroup, which provides a space for discussion about economic analysis and the critical role it plays in competition investigations, enforcement, policy, and advocacy work. This subgroup organizes a regular **ICN Economists Workshop**, where chief and senior economists of competition agencies around the world come together to share best practices and experiences, and meet with top academics on key issues in competition economics.

### **Who are the ICN's stakeholders?**

- The ICN has a wide range of stakeholders, including the business community, consumer representatives, academics, the legal and economic professions, international organizations, as well as policy makers, who stand to benefit from the ICN's work.
- NGAs from the legal, economic, consumer, business and academic communities are invited to participate in the development of the ICN's work products and take part in discussions at annual conferences and workshops.

### **How does the ICN engage with its stakeholders?**

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<sup>3</sup> ICN, *ICN Statement of Achievements (2001-2013)*, 2013.

- The ICN engages with NGAs through informal collaboration, which is consistent with an informal network. NGAs volunteer to participate mainly by contacting member agencies. NGAs may contribute to the work carried out by the ICN. This could include, for example:
  - making available their expertise and actively being involved in the draft work product of the ICN, including recommended best practices and guidelines;
  - identifying issues and factors to be considered by the Steering Group and other Working Groups of the ICN;
  - identifying potential projects; and
  - actively participating in workshops and webinars.
- The ICN recognizes the value of NGA involvement in the development of its work products, both in terms of productivity and insightful commentary, which contributes to the development of valuable and practical principles, recommendations and materials.
- NGAs are actively involved in the ICN and the development of its work and participate in the range of ICN discussions and programs.

**Why is the ICN not an inter-governmental organisation?**

- The ICN is organised by and for competition agencies. It provides a forum for its members to have equal and direct input to practical discussions on competition enforcement and competition advocacy issues.
- The ICN’s member-driven approach avoids top-down, lowest-common denominator harmonisation of competition law and policies across the world.
- The ICN complements international governmental organisations that cover competition issues (e.g., OECD and UNCTAD).
- Unlike other international organisations, the ICN specializes only in competition issues.
- The ICN’s informal nature and virtual approach avoids the administrative trappings and obligations associated with a formal inter-governmental setting.
- The ICN’s work products are not legally binding instruments.