

Note from the Chair for the June 13, 2012 Steering Group Meeting

June 5, 2012

Dear colleagues,

We have a very full agenda for the June meeting. I hope in particular to spend time discussing how we will move forward on the key points of the [Vision Statement](#), i.e., enhanced member engagement, direct assistance to members, and increasing the visibility of competition policy and principles. Based on our discussion, I would like to prepare a more detailed proposal for your consideration in at our September meeting.

Agenda Item 2. Vision Statement

Enhanced Member Engagement

I see member engagement as comprising two tracks: ensuring that the issues we address and tools we develop are responsive to a wide variety of needs, and promoting our work product.

- ICN work product. Working with Vice Chair Andreas Mundt, we seek to identify ways to ensure that the ICN's work products are useful to our members. This could include quality control initiatives such as templates for work plans and self-assessment by working groups.
- Outreach. Over the years we have shared a number of ideas on member outreach, including in David Lewis's [2008 Outreach Study](#), focus groups held in 2009-2010, and most recently in the Second Decade project. We have prepared member and NGA introductory "toolkits," held orientation calls for new members, and coordinated partnership and mentoring through the former CPI working group and AISUP. Building on this work, I propose to work with Vice Chairs Lasserre and Takeshima to prepare a list of initiatives to consider at the October Steering Group meeting.

In the immediate term, I encourage each of you to reach out to colleagues to make them aware of the exciting work year ahead for ICN. I plan to do a virtual "town hall" meeting on June 21, together with John Fingleton, to promote some of the big picture initiatives. I hope we will hold a second such meeting this summer in which Working Groups or the Vice Chairs will present projects that they will undertake this year.

Improved Assistance to Members

The vision statement provides for the ICN to take a more active role in supporting members with assistance on specific policy initiatives. Members to whom we have provided a formal ICN view, including Brazil, India, Jersey, and most recently, Peru, have provided overwhelmingly positive

feedback.¹ In response to the vision statement, I have already received requests from members for the ICN to review and comment on their proposed laws.

Based on the Steering Group's discussion at its January 2010 meeting and on conversations I have had with many of you recently, I believe there is general consensus that providing advice, when requested, on member's conformity with ICN recommended practices is valuable to members. Based on feedback from Steering Group members, I think it would be useful to discuss the criteria and process for preparing and providing comments, including:

- In response to requests from whom should we provide comments? Should it only be requests from ICN members or should we consider requests from national legislators, bar associations, or regional bodies?
- What should be the basis for the substance of the comments – Recommended Practices? ICN prescriptive work, including best practice and manuals? Broader ICN work product? Commonly accepted principles of competition practice and analysis?
- Who should draft the comments? Who should review them? How much time should we provide for review? What should be the role of the working groups? AIN?

I thought it might be useful, simply as a starting point, to share my preliminary thoughts on some of these questions. I think the clearest case for providing comments is when a member requests our assistance and the subject matter is closely tied to ICN Recommended Practices. I also think we should be open to the possibility of considering responding to requests from other parties, with the ICN member's consent, and to providing advice based on other ICN work. We may want to indicate other available resources without taking a view as to what the appropriate practice is. Working Groups have an important role to play but I am also aware of the burdens associated with preparing comments, including the need for a fast turn-around in some instances. Working Groups may want to draft the comments themselves, or they may prefer to review comments prepared by the Chair, depending on their workload. In each case we could offer both opportunities to the Working Group. I also believe Steering Group input is important, and would envision providing an opportunity for the Steering Group to review the comments. I look forward to a robust discussion of these issues.

A related assistance project we may want to consider is developing a set of questions for assessing conformity with the analytical Recommended Practices and, where practicable, template language for comments. This could build on the work done in the merger notification and procedures area, such as the [self-assessment tool](#).

Initiatives at the Steering Group level should complement the work of the Advocacy and Implementation Support Program ([AISUP](#)), which currently provides for more broad-based technical assistance. In AISUP, the JFTC pairs an agency that requests assistance with expert staff from other members. The supporting agencies provide the requesting agency with a thorough explanation of all of the relevant ICN work products and, in some cases, implementation advice.

However, there is some concern that AISUP is not being used despite considerable effort to promote the program and consistent feedback from members (particularly in the Second Decade project) that this is

¹ We have also had excellent feedback from the dozen or more jurisdictions to whom we have provided informal comments on proposed merger laws or amendments, as well as the jurisdictions who have received comments through the AISUP program.

precisely the type of activity that members would like ICN to do.² I welcome your ideas on how we might reconcile this gap between stated and actual demand, either at this meeting or in the July meeting.

Increasing the visibility of competition policy and principles

We agree that increasing the visibility of competition policy and principles is an important goal. To promote competition policy and principles – whether at the domestic or multilateral level – we need to have clear messages about the benefits of competition that goes beyond law enforcement. Building on the Competition Policy in an Economic Downturn document and the Benefits project underway in the Advocacy Working Group, we could consider developing these messages. At this meeting we could have a discussion about how to take this forward, including a “brainstorming” session about:

- What themes should the messages cover?
- Who is the best audience for these messages?
- Should the messages have an ICN imprimatur?
- How will we take forward this project?

As a starting point for discussion, my initial thoughts regarding themes are we might consider topics such as the importance of attention to microeconomic considerations in formulating economic policy and development policy, the role of government in markets, general principles for competition-friendly policy formulation, and sector-specific messages (drawing on existing ICN work in telecommunications and banking). For audience, I believe there are two audiences: domestic players and the multilateral arena. The domestic audience could include sectoral regulators or our ministries of economy and finance. For the multilateral audience, we could consider our own foreign ministries, other OECD committees, or government to government meetings of, for example, ministers of finance. While I hope we can agree on messages that will carry the ICN imprimatur, I understand that this will likely need to be considered on a case-by-case basis, with appropriate sensitivity to the limits of our role as competition agencies. To take the project forward, I believe we should incubate the project in the Steering Group, with the goal of eventually transferring the project to the Advocacy Working Group. Based on our discussion at this meeting I could prepare a more concrete proposal for the September meeting.

In the longer term, as noted in the Vision Statement, for a domestic audience I hope we could consider distilling the messages to develop principles and practices, and then invite regulators to engage in a dialogue to refine and implement them. We could build on the OECD Competition Assessment Toolkit and existing ICN best practices in the telecommunications and banking sectors, and perhaps some of the work done in the Antitrust Enforcement in Regulated Sectors Working Group.

For the multilateral arena, we could consider identifying appropriate platforms and participate as speakers. If there are specific topics or events that merit it, we could consider advocacy initiatives. For example, the ICN-counterpart in the consumer protection area, ICPEN, recently sent [a letter to ICANN](#) about the planned expansion of the domain name system. Clearly such initiatives would have to be very carefully selected and widely consulted.

² The JFTC has noted that one challenge may relate to the partnership element of AISUP. They note that “AISUP sometimes seems to require substantial amount of efforts to seek appropriate supporting agency in terms of the compatibilities with due to geography, language, agency resource, etc.”

Agenda Item 4. Member and NGA engagement

Bruno Lasserre will provide an update on NGA and member engagement and seek feedback on two projects that were proposed at the NGA breakout session in Rio: an academic hubs project and a welcome track project. The academic hubs project would be coordinated by Bill Kovacic and involve identifying academic hubs to promote cooperation between ICN members and universities. The welcome track project will be to facilitate their engagement for new and young ICN members in order to guide them through the different steps they can take when getting into the ICN.

Agenda Item 6. AEWG work plan

The co-chairs of Agency Effectiveness Working Group will present a revised mission statement and work plan, including a proposal to incorporate the ICN curriculum project into AEWG.

Agenda Item 9. Other business. Topics for future Steering Group meetings

At the July Steering Group meeting I propose that we:

- discuss member and NGA engagement;
- discuss matters that cut across working groups including quality control, self-evaluation, work product, and work plan templates; and
- agree on topics to discuss in our forthcoming meetings. Please send any suggested topics to me by the end of June.

I look forward to seeing many of you and speaking with all of you next week.

Best regards,

Eduardo