

# Unilateral Conduct Working Group (UCWG)

## Short Form Work Plan

### 2024 - 2025 Projects

Pursuant to ‘**Working Group structure and 3 year plan**’ the Unilateral Conduct Working Group will work on the following projects during the 2024-2025 ICN year:

Project 1 - The use of urgency enforcement tools in the context of abuse of dominance proceedings

Project 2 - Follow up on theories of harm and remedies in digital markets

Project 3 – Updating the UCWG Handbook Chapter on Exclusive Dealing

Project 4 - Webinars

Project 5 - Workshop

Project 6 - Implementation

### **Project 1 - The use of urgency enforcement tools in the context of abuse of dominance proceedings**

The UCWG will complete its project on urgency enforcement tools in the context of abuse of dominance proceedings.

In the wake of the questionnaire sent to UCWG members, as well as the organization of a dedicated webinar and a break out session at the 2024 Annual Conference, the UCWG co-chairs will coordinate the preparation of a practical document (for example in the form of a Comparative Report and/or Good Practices, Guiding Principles, or Checklist) aimed at guiding competition agencies that already benefit from these tools, and possibly informing those who might wish to add this tool to their competition law framework. A draft version of the document will be shared with UCWG members for comments.

This project is led by the French *Autorité de la concurrence* as project lead, with the cooperation of CADE

### **Project 2 - Follow up on theories of harm and remedies in digital markets.**

The UCWG will continue with the project that started following up on the report “Analysis of Theories of Harm and Design of Remedies Concerning Unilateral Conduct with Dominance/Substantial Market Power in Digital Markets”, presented in the latest UCWG Workshop 2023.

The intention of the UCWG was to respond to ICN members request for further ICN guidance – in the form of a separate and focused document – on the analysis of theories of harm and the design, implementation, and monitoring of remedies concerning unilateral

conduct by companies with dominance/ substantial market power in digital markets. In this regard, we designed a detailed questionnaire about theories of harm and remedies in the digital sector that was distributed for ICN members to submit their responses in the ICN year 2023-2024.

After compiling and analysing the responses to the questionnaire, we aim to detect common patterns and challenges that may arise in the application of theories of harm to digital cases and how remedies are designed, applied, and monitored. This report will be drafted during the ICN year 2024/2025 and circulated to members for comments.

The outcome of the project will include an additional specific session on this topic to disseminate the findings of the questionnaire and exchange enforcement experiences about this issue with other agencies. We will try to provide guidance to agencies less experimented with lessons from the enforcement experience analysed.

This project will be led by the CNMC with the cooperation of CADE and the Turkish Competition Authority.

### **Project 3 – Updating the UCWG Handbook Chapter on Exclusive Dealing**

During the 2024-2025 ICN year, the working group will update the UCWG Handbook Chapter on Exclusive Dealing, first drafted in 2013.

The Swedish Competition Authority held a webinar on recent developments in exclusive dealing on March 19<sup>th</sup> 2024. It featured presentations from four speakers representing various jurisdictions worldwide, offering insights into different enforcement trends within exclusive dealing. A concise synthesis report is currently being compiled to highlight the webinar's conclusions and emphasize potential new issues to be addressed since the workbook chapter was written in 2013.

Using the insights gained from both the webinar and a literature review, the UCWG will revise and update the existing workbook chapter, with the goal of presenting a revised chapter at the 2025 ICN Annual Conference.

This project will be led by the Swedish Competition Authority.

### **Project 4 - Webinars**

The Working Group will possibly hold **4** webinars on issues of mutual interest that arise in analysing unilateral conduct. The discussions will aim to increase understanding of differences in standards in relation to unilateral conduct and their advantages and drawbacks, and to promote implementation of UCWG work products. Webinar topics are to be discussed with the Working Group.

Topics to be addressed in 2024-2025 shall include the ones listed below, subject to further suggestions that may be made at and following the 2024 annual conference:

- Synergies between unilateral conduct enforcement and mergers review. This is an opportunity to discuss on the coincidences between the analysis of mergers and unilateral practices cases. The goal is to come up with ideas that make enforcement

more efficient and seize the synergies between the two policies. This webinar would take place at the third or last quarter of 2024 and will be organized by the Turkish Competition Authority.

- Self-pricing. The idea is to better evaluate this type of controversial conduct, which lies on the threshold between efficiency and illicit, to understand the difference in the authorities' position on the nuances that make it go one way or the other. Discuss the theory and especially the concrete cases to see if we can identify the central elements that led to the practice being condemned as illegal or not. This webinar will be organized by the Brazilian CADE.
- Data-related remedies. The idea is to share the international experience with the application of data-related remedies in digital markets. This webinar will be organized by Brazilian CADE.
- Implementation of UCWG products. A specific webinar is being considered to promote the implementation of existing UCWG work products. The idea is to conduct an exercise to detect areas where the work products have become outdated or where future efforts should be prioritized to keep the work products relevant for members and promote the use of them by members. This webinar will be organized by the CNMC in the first or second quarter of 2025.

Q3/Q4 2024	<b>Webinar about <u>synergies between unilateral conduct enforcement and mergers review</u></b>
Q3/Q4 2024	<b>Webinar on self-pricing</b>
Q4 2024	<b>Webinar on data-related remedies</b>
Q1/Q2 2025	<b>Webinar on implementation of UCWG products</b>

### **Project 5 – Workshop**

The Working Group will make its best endeavors to hold a new edition of the UCWG Workshop in 2025.

### **Project 6 - Implementation**

The Working Group will promote implementation of its existing work-products. It is envisaged to utilise the webinars included in the work plan as the main forum.

This work will be coordinated by the four Co-Chairs.

