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ICN: Advocacy and Outreach

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I. INTRODUCTION

The International Competition Network's commitment to competition advocacy dates back to the network's establishment in 2001, when ICN's founders chose competition advocacy as one of the two areas of focus for the nascent network. Recognizing that public restraints—legislation, regulations, and policies—can have deleterious effects on markets by unnecessarily restricting competition, and that the goal of competition advocacy is to enhance understanding of the competitive process and provide a framework for thinking about public policy issues from a competition perspective, the ICN has dedicated significant resources to developing materials to help competition agencies engage in effective advocacy.²

This past year, the ICN broke new ground in adopting recommended practices in the area of competition advocacy when the 127 member agencies approved 13 practices on conducting competition assessments. The first part of this article is devoted to these new recommended practices, followed by a discussion of some of the ICN's other work in the area of advocacy. The second part, in line with the outreach theme of this *CPI Antitrust Chronicle* symposium discusses the network's own tools for promoting outreach to its members and nongovernmental advisors ("NGAs") including a short profile of the ICN's free-of-charge virtual university.

II. RECOMMENDED PRACTICES FOR COMPETITION ASSESSMENT

In creating recommended practices, the ICN seeks to develop consensus recommendations that distill lessons learned from positive experiences as well as from common frustrations and failures, and define a common set of practices that provide clear, tangible guidance to agencies as well as the private sector. In developing them, ICN member agencies work hand-in-hand with NGAs—non-governmental experts including private practitioners, economists, and academics. The proposed practices are vetted first with participants in the working group covering the relevant substantive area (e.g., the advocacy working group). Once the working group and the ICN's Steering Group have approved the proposed Recommended Practices, the Practices are vetted with the ICN's member agencies, and submitted for approval at the annual conference.

To date, the ICN has developed recommended practices in the areas of merger notification and review procedures, merger analysis, and unilateral conduct. At the 2014 annual

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² For background on the history, mission, and work of the ICN's advocacy working group, see Maria Coppola, *Competition Advocacy and Outreach When All the World Is Your Stage: The ICN Experience*, 8(2) CPI ANTITRUST CHRON. (August, 2012).

conference in Marrakech, the ICN adopted a recommended practice on predatory pricing, as well as the 13 recommended practices on competition assessment discussed here.

A competition assessment—as used in the ICN project—is when a competition agency or another government body evaluates the competitive effects of a proposed or existing policy. Through the competition assessment, policymakers can be urged to consider the policy’s likely impact on competition, identify whether justifications exist for any restrictions on competition, and assess whether less restrictive alternatives would achieve the intended public policy goal. By offering policymakers expertise regarding the potential costs of restrictions on competition, competition agencies raise awareness among policymakers and elevate competition as a consideration alongside other public policy goals. Competition assessments can take many forms, ranging from recommendations supported by general economic theory to the more resource-intensive competition impact assessments that seek to quantify an expected impact on prices and competition, with many variations in between.

The ICN’s Recommended Practices on Competition Assessment build on the OECD’s extensive work on competition assessment, including the OECD Council Recommendation on Competition Assessment and the OECD Competition Assessment Toolkit.³

The practices cover the general framework for competition assessment, how competition agencies can create an enabling environment for competition assessment, and how agencies can select policies for competition assessment. For example, the practices discuss the types of restrictions that are most likely to pose the greatest threat to competition, the importance of defining selection criteria by which to prioritize competition assessment among other advocacy activities, and the need to consider the institutional arrangements and relationships with policymakers in identifying a policy for assessment.

For conducting the competition assessment, the practices give guidance about how to begin an assessment as well as factors to consider, such as how the restrictions are likely to influence the market structure and the behavior of firms and customers in the market(s) or in neighboring markets. The practices suggest ways to evaluate the likely impact on competition of a particular policy, ranging from relying on sound economic theory to gathering empirical evidence. Finally, the practices offer ways to deliver the assessment, which can be determinative whether an assessment is accepted or rejected.

The full text of the Recommended Practices is available here: <http://www.internationalcompetitionnetwork.org/uploads/library/doc978.pdf>.

As a follow on to the adoption of these recommended practices, the Advocacy Working Group now will focus on promotion and implementation. The Working Group plans several approaches to promote the recommended practices: continued discussion of the types of restrictions that threaten competition; network-wide teleseminars, including on the more difficult issues of whether and how to conduct the more resource-intensive competition impact assessments that involve empirical work; and dedicated sessions at an upcoming ICN advocacy workshop, as described below.

³ <http://www.oecd.org/daf/competition/assessment-toolkit.htm>.

In a related project, the Advocacy Working Group continues work on how agencies can articulate the benefits of competition for policymakers. A group of members and NGAs are developing an on-line resource of messages and talking points that highlight the value of competition to an economy as well as a compendium of empirical work that supports these messages. The Working Group also has a project to define “competition culture” based on member agency views and identify ways an agency can promote awareness of competition with constituent groups such as the government, the business and legal communities, the judiciary, and the public.

In a few months, the Advocacy Working Group and the Competition Commission of Mauritius will hold a workshop, “*Advocacy: Foundation, Strategies and Assessment*,” open to ICN members and NGAs. The two-day event in early November will examine three topics: (i) establishing an appropriate foundation for advocacy activities, (ii) developing advocacy strategies, and (iii) conducting competition assessments of proposed and existing legislation. In addition to promoting and deepening the new recommended practices on competition assessment, the workshop aims to promote mutual exchange on issues and experiences on the development of advocacy strategies. More information about the event is available here: <http://icnadvocacy2014.ccm.mu/English/Pages/default.aspx>.

III. ICN’S OUTREACH ACTIVITIES

For novices and experts alike who are new to the ICN, the ICN has outreach toolkits for members and NGAs, designed to provide an introduction to the ICN and its current projects, as well as a catalogue⁴ of all ICN work product. For agencies wanting more in-depth assistance understanding or applying ICN work product, the Advocacy and Implementation Network Support Program provides one-on-one assistance. The [ICN blog](#)⁵ keeps readers abreast of ICN-related events as well as notable developments in member jurisdictions.

An ambitious outreach project the ICN launched three years ago is the creation of a free-of-charge online interactive educational center. In this Curriculum Project, a diverse and distinguished group of agency officials, academics, and practitioners offer competition law and economics training modules, consisting of video lectures and accompanying materials. As part of a similar drive to offer training and promote experience sharing, the ICN holds teleseminars and webinars on a broad range of topics such as advocacy and unilateral conduct.

Virtual University

The ICN, through its [Curriculum Project](#),⁶ is creating a comprehensive curriculum of training materials to serve as a free-of-charge virtual university on competition law and practice. Training modules, consisting of video lectures and accompanying materials from a diverse group of member agencies, academics, and practitioners, provide an on-line interactive educational

⁴ ICN Work Products Catalogue, *available at*: <http://www.internationalcompetitionnetwork.org/uploads/library/doc1002.pdf>.

⁵ <http://www.icnblog.org>.

⁶ *Available at* <http://www.internationalcompetitionnetwork.org/about/steering-group/outreach/icncurriculum.aspx>.

center. The Curriculum Project is a primary ICN tool for developing training materials for members and promoting implementation of existing work products.

Thirteen modules have been developed since the project was established. They are organized by subject matter, including: competition policy fundamentals, horizontal restraints, single firm conduct, mergers, competition advocacy, and investigative techniques. Complementing these modules are several short form presentations on discrete topics prepared for the ICN by academics, agency officials, and non-government advisors. In addition, the ICN has collected a [virtual library of visual presentations](#)⁷ prepared by agencies, academics, and others that may be of interest.

To address resource constraints, the ICN has developed a simplified, short form module format, consisting of a basic lecture by one or two participants similar to an online presentation of a classroom lecture as a complementary model alongside existing modules. These lectures are focused on narrower topics without more elaborate production elements or on screen extras.

For the 2015 annual conference, the ICN plans to develop modules on agency effectiveness, interviewing techniques, and dawn raids and electronically stored evidence, along with short form modules on proof of agreement, merger remedies, and bid-rigging.

IV. CONCLUSION

Through the work of its dedicated Advocacy Working Group, the commitment to promoting its consensus work, and dedication to outreach and training initiatives, the ICN not only is an active advocate for sound competition policy to its member agencies, but also offers something to say about the value of competition to governments, businesses, and the public.

⁷ <http://www.internationalcompetitionnetwork.org/about/steering-group/outreach/icncurriculum/linklibrary.aspx>