



# Department of Justice

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## **INTERNATIONAL COMPETITION NETWORK ADOPTS RECOMMENDED PRACTICES FOR PREDATORY PRICING ANALYSIS AND ADVANCES CONVERGENCE ON CONFIDENTIALITY PROTECTIONS**

WASHINGTON – The International Competition Network (ICN) adopted new recommended practices for predatory pricing analysis and competition assessment, and approved new work product on international merger enforcement cooperation, confidentiality protections during investigations, leniency policy and digital evidence gathering, the Department of Justice announced today.

The 13th annual ICN conference, hosted by the Moroccan Competition Council, was held on April 23-25, 2014, in Marrakesh, Morocco. More than 500 delegates from 90 jurisdictions participated, including competition experts from international organizations and the legal, business, consumer and academic communities. Assistant Attorney General Bill Baer of the Department of Justice’s Antitrust Division and Federal Trade Commission (FTC) Chairwoman Edith Ramirez led the U.S. delegation. The conference showcased the achievements of ICN working groups on cartels, competition advocacy, competition agency effectiveness, mergers and unilateral conduct.

The Department of Justice co-chairs the Cartel Working Group, which addressed the challenges of cartel enforcement, including prevention, detection, investigation and sanctioning of cartel conduct. The working group showcased revised work product focusing on the implementation of effective leniency policy and digital evidence gathering. Assistant Attorney General Baer spoke on a panel about effective cartel enforcement, highlighting the Antitrust Division’s digital evidence gathering techniques.

“Gathering the world’s antitrust enforcers together to discuss and share ideas on the most effective ways to combat cartel and civil anticompetitive behavior is critical to ensuring that the global marketplace remains open and competitive benefiting consumers and businesses,” said Assistant Attorney General Baer. “It is important to stay nimble and take advantage of new technology, such as the digital evidence gathering tools being used by many antitrust enforcement agencies.”

FTC Chairwoman Ramirez participated in the Merger Working Group’s plenary discussion of international cooperation in merger cases, the subject of a multi-year study by the working group. The Chairwoman highlighted that, “Our experience demonstrates that

international cooperation is essential to ensure effective and consistent merger review. The ICN is a uniquely valuable forum in which to advance the coordination and sound analysis of the increasing volume of cross-border transactions.”

The Merger Working Group presented a report detailing agencies’ experiences with international enforcement cooperation that will inform the development of ICN guidance on effective cooperation. This initiative furthers the working group’s mission to promote the adoption of best practices in the design and operation of merger review laws.

To further the Unilateral Conduct Working Group’s mission to promote convergence toward sound enforcement of laws governing conduct by firms with substantial market power, the working group presented new recommended practices for predatory pricing investigations at the conference. Deputy Assistant Attorney General Renata B. Hesse of the department’s Antitrust Division participated in the working group’s plenary discussion of how agencies characterize and pursue unilateral conduct enforcement.

The Agency Effectiveness Working Group, co-chaired by the FTC, addresses competition agency strategy, planning, operations, and investigative tools and procedures. An ongoing working group project on agency investigative process aims to identify investigative procedures that promote fair and informed enforcement actions. Paul O’Brien, International Counsel at the FTC, moderated a plenary session on agency procedures focused on investigative transparency and engagement. This year, the working group also produced a report on confidentiality protections that underscored common approaches to these practices.

The Advocacy Working Group presented a set of recommended practices on competition assessment, the exercise of evaluating the effects on competition of a proposed or existing law, regulation or policy. The ICN recommendations extend and complement work by the Organisation for Economic Co-operation and Development (OECD) in its Competition Assessment Toolkit, and advance the working group’s goal to promote the development of practical tools and guidance to improve the effectiveness of competition agencies’ competition advocacy activities.

The Moroccan Competition Council led a special project devoted to the treatment of state-owned enterprises under competition law.

The ICN was created in October 2001, when the Department of Justice and the FTC joined antitrust agencies from 13 other jurisdictions to increase understanding of competition policy and promote convergence toward best practices around the world. The ICN now comprises 128 member agencies from 115 jurisdictions.

More resources are available on the [ICN website](#).

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