



Department of Justice

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**INTERNATIONAL COMPETITION NETWORK ADOPTS GUIDANCE ON
INVESTIGATIVE PROCESS TO ENHANCE PROCEDURAL FAIRNESS IN
COMPETITION CASES AND COOPERATION IN INTERNATIONAL MERGER
ENFORCEMENT**

WASHINGTON – At its annual meeting, the International Competition Network (ICN) adopted guidance on investigative process in competition cases and approved new work on international merger enforcement cooperation, legal theories in tying and bundling investigations and interaction with government procurement agencies, the Department of Justice’s Antitrust Division announced today.

The 14th annual ICN conference, hosted by the Australian Competition and Consumer Commission (ACCC), was held from April 28-May 1, 2015, in Sydney, Australia. Over 500 delegates participated, representing more than 70 antitrust agencies from around the world, and included 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 Chairwoman Edith Ramirez led the U.S. delegation. The conference showcased the achievements of ICN working groups on cartels, competition agency effectiveness, unilateral conduct, mergers and competition advocacy.

“ICN is an important forum for collaboration with our counterpart agencies around the world,” said Assistant Attorney General Baer. “Cooperation with other jurisdictions makes our own enforcement stronger, particularly in a globalized economy where the number of companies operating in multiple jurisdictions continues to rise and there is a greater risk that anticompetitive transactions or conduct in one jurisdiction will harm consumers in other parts of the world.”

Assistant Attorney General Baer spoke on a panel about international cooperation in cartel enforcement. The Cartel Working Group, co-chaired by the Antitrust Division, showcased new work on cooperation with procurement agencies and how to build constructive relationships to ensure free and fair competition in public bidding procedures.

“The ICN’s guidance on investigative process is an important step as agencies strive to be effective in promoting competition and protecting consumers,” said Chairwoman Ramirez. “Good investigative process leads to better agency decision making, protects the procedural rights of parties and bolsters the legitimacy of competition enforcement.”

The Agency Effectiveness Working Group, co-chaired by the FTC, addresses competition agency strategy, operations and investigative procedures. The working group developed ICN

guidance on investigative process to promote fair and informed enforcement across all institutional frameworks and all competition enforcement areas. The guidance is based on a broad consensus among ICN members regarding the importance of transparency, engagement between agencies and parties and the protection of confidential information during investigations. It represents the most comprehensive agency-led effort to articulate guidance on investigative principles and practices that promote procedural fairness and effective enforcement. The working group also presented new on-line training modules on effective interviewing during the course of a competition investigation.

Chairwoman Ramirez participated in the Unilateral Conduct Working Group's plenary discussion of unilateral conduct in the new economy and optimal enforcement to promote innovation. The working group promotes convergence and sound enforcement of laws governing conduct by firms with substantial market power. This year, it presented a new workbook chapter on tying and bundling as part of a practical guide to the investigation of various types of unilateral conduct.

The Merger Working Group presented a practical guide to international enforcement cooperation. It is intended to promote interagency cooperation, including for parties and third parties that seek to facilitate cooperation. The guide identifies the benefits and basic principles of enforcement cooperation such as consistent outcomes, efficient investigations, flexibility and independent agency decision making. It then highlights cooperation practices on timing alignment, information sharing, analysis and remedies. 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 promote implementation of the ICN Recommended Practices on Competition Assessment adopted at the 2014 ICN Annual Conference, the Advocacy Working Group presented a framework of examples of the roles that competition agencies play in evaluating the effects on competition of a proposed or existing law or regulation. The working group also presented a report on developing an effective competition culture.

In 2014-2015, the ACCC led a special project devoted to the treatment of on-line vertical restraints under competition law and produced a comparative report, based on responses to a survey from 47 ICN member agencies. The report was presented in a plenary session and discussed at the conference.

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 132 member agencies from 119 jurisdictions.

More resources are available on [the ICN website \(link is external\)](#).

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