

## ICN ANNUAL CONFERENCE – PLENARY & BREAKOUT SESSIONS

### **AWG Plenary: Re-thinking the Advocacy Toolkit**

- BOS Round 1: Sustainability and Competition Policy
- BOS Round 3: Interactions between Sector Regulators and Competition Authorities
- BOS Round 4: ICN-WBG Competition Advocacy Contest: lessons learnt from the first ten years and future developments

### **AEWG Plenary: Looking into the Crystal Ball: What do we see and how do we choose our priorities (Particularly in light of the current energy/inflation crisis)?**

- BOS Round 1: Digitalization: technologies & techniques for collecting & processing information in antitrust cases
- BOS Round 2: Measuring effectiveness: Ex-post and ex-ante impact assessment of competition authorities' activities
- BOS Round 3: Innovative detection tools and their effective usage (closed session)

### **CWG Plenary: Transforming Cartel Enforcement in ICN's Third Decade: Current trends and the Challenges Ahead**

- BOS Round 2: Labour market cartel enforcement: latest trends and challenges
- BOS Round 3: Triggering ex-officio inspections: going beyond leniency
- BOS Round 4: Anti-cartel enforcement in the digital era: Building effective case teams to meet new challenges

### **MWG Plenary: Digital mergers**

- BOS Round 1: Non-horizontal mergers
- BOS Round 2: Control of data, market power and potential competition in merger reviews
- BOS Round 3: Investigative techniques in merger control

### **UCWG Plenary: Challenges around unilateral conduct cases**

- BOS Round 1: How to ensure effectiveness of remedies imposed in unilateral conduct cases and obstacles encountered in case practice
- BOS Round 2: Assessment of Dominance: challenges ahead
- BOS Round 4: Interaction between antitrust and regulation in digital markets

### **BREAKOUT SIDE SESSIONS**

- ICN Introduction - 8:00—8:45 Wednesday, 18 October – just before the conference begins!
- Round 1: Heads of Agency Session on the Competitive Implications of AI (closed session)
- Round 1: NGA Engagement: Digital markets and regulatory initiatives
- Round 2: Heads of Agency Session on Competition and Sustainability (closed session)
- Round 2: Challenges for young competition agencies when cooperating internationally
- Round 3: Intersection between Competition & Privacy
- Round 4: International enforcement cooperation/CAP Session
- Round 4: Competition concerns in agriculture and food markets
- Round 4: Nuevas tecnologías y su aplicación en las investigaciones de competencia



## **Plenary: Re-thinking the Advocacy Toolkit**

The ICN Advocacy Toolkit provides an inspiration for the implementation of effective advocacy initiatives around the world. With the Toolkit, many competition authorities have been able to move forward, not only in their dialogue and engagement with other regulators, but also with the design of successful strategies aimed at gaining the public's awareness and recognition and market self-regulation.

The Plenary will provide a platform to discuss the milestones of the project that has led to the update of this document and also to hear first-hand narratives from some authorities that contributed to the update with some of their recent initiatives. Therefore, the session will explore the following questions:

- What is the structure of the updated Toolkit?
- Why is it important to consult it?
- What are some successful experiences from different jurisdictions that have used the Toolkit?
- What lessons can be learned from the different experiences presented?
- What are the challenges for an effective application of the Toolkit?

## **BOS Round 1: Sustainability and Competition Policy**

Integration of sustainability considerations into competition policies is important because the effects of climate change and loss of biological diversity is becoming more apparent. Yet there are inadequate policy and regulatory responses in the face of growing evidence that many businesses are looking to work together to fight climate change - but often fear that competition law limits such co-operation.

This BOS aims to collect experiences on how competition agencies are supporting the government and private sector initiatives on sustainability. The recent focus on climate change, sustainable production, and a circular economy presents an opportunity for innovative businesses. What is the role of Private-public partnerships? Competitors may not need to cooperate to achieve sustainability objectives where actual and potential customers' willingness to pay for a green or more sustainable product is enough to finance investments to reduce or avoid the environmental (and social) costs to society. Normally, firms will compete on the basis of innovation, quality, and sustainability reputation. In such markets, and for sustainable products, firms have both the ability and the incentive to act independently and in competition with each other to reduce, for example, greenhouse gas emissions, pollution, and depletion of non-renewable resources.

## **BOS Round 3: Interactions between Sector Regulators and Competition Authorities**

While the objectives of Sector Regulations and Competition Policy should often coincide in terms of preventing market failure and aiming for the sustainable development of that market, Sector regulations have broader objectives, and this may make the two policies incompatible in some cases. Inconsistent decisions by Sector Regulators and Competition Authorities can create uncertainty for market participants. Ideal interaction between them would result in consistent rulemaking and its effective advocacy and enforcement, as well as increased efficiency through synergy effects of experience and knowledge between them.

This BOS aims to collect experiences on how competition agencies have been interacting with Sector Regulators in terms of advocacy. In recent years, attention has been focused on the involvement of competition authorities and competition policy in the environmental area against the backdrop of growing concern for global environmental protection, and also in areas related to the data collection from the perspective of personal data protection. More traditionally, there has been

a debate on how competition authorities should interact with regulators in discussions of deregulation in areas such as natural monopolies. What frameworks are most effective as a form of interaction, including joint guidelines, MOUs and legally backed frameworks, and what are the advantages of each when advocacy is the main objective?

#### **BOS Round 4: ICN-WBG Competition Advocacy Contest: lessons learnt from the first ten years and future developments**

As the Contest has run for a decade, this session will be an opportunity to look back on the past ten years, showcase successful stories and learn about their impact overtime. We will take stock of how competition advocacy has evolved for mature as well as younger competition agencies. The first ten editions of the Contest have seen interesting stories where competition advocacy played an important role in preserving markets for sustained economic recovery, in addressing global challenges from the battle against corruption to digital inclusion and growing inequality, and in building a culture of competition for private sector and Governments. To this end, a retrospective publication on the Contest prepared by the World Bank Group will be presented and discussed through the experience of winners and HM of the contest.



#### **AEWG Plenary: Looking into the Crystal Ball: What do we see and how do we choose our priorities (particularly in light of current energy/inflation crisis)?**

The Digital Economy, Sustainability, Energy Crisis, Inflation – these are some areas which competition agencies have recently focused on. Moving ahead, what are the areas with significant impact on competition in the market which competition agencies have to pay attention to? This plenary session will discuss the competition agencies’ current areas of focus as well as identify emerging areas which they should consider. The session will also provide insights on how competition agencies select their priorities/focused areas from the many areas in order to be more effective and to make the best use of their resources.

#### **BOS Round 1: Digitalization: technologies and techniques for collecting and processing information in antitrust cases**

Digital technologies and innovations provide several new tools that competition agencies can utilize to improve agency effectiveness. These can be particularly useful when large number of documents or data have to be processed in an antitrust case. This session will discuss and demonstrate best practices in applying digital tools, machine learning and AI technologies in antitrust cases and their (potential) effects on agency effectiveness.

#### **BOS Round 2: Measuring effectiveness: ex post and ex ante impact assessment of competition authorities’ activities**

Ex post and ex ante assessments can help determine the effects of competition policy interventions and, hence, evaluate whether the competition agency has achieved its objective and, if not, the reasons why it failed or achieved only partial goals. These assessments also allow to better design future interventions so that agencies make sure that their efforts are delivering the best and most effective results possible. Because of this, ex post and ex ante assessments have become a successful tool to measure the effectiveness of competition agencies. In this sense, this session will feature agencies’ experiences in order to identify best practices and discuss how agencies can further develop or implement this kind of exercise to assess the effectiveness of their actions.

### **BOS Round 3: Innovative detection tools and their effective usage (agencies only session)**

In light of the current digitalization trends within competition agencies, detection tools have become more sophisticated and innovative. This agency only session will feature a showcase of several innovative detection tools; using hypotheticals and mock scenarios, participants will learn how agencies are effectively using detection tools in their investigative processes.



### **CWG Plenary: Transforming Cartel Enforcement in ICN's Third Decade: Current trends and the Challenges Ahead**

The session will debate the major issues and trends in cartel enforcement faced by competition agencies and companies in the post-pandemic era, with the digital and green transitions posing new challenges and opportunities ahead. The session will cover a range of topics ranging from new and old detection tools and new sectoral priorities and types of cartels to increasing importance of domestic and international cooperation and the interplay with private enforcement.

### **BOS Round 2: Labor market cartel enforcement: latest trends and challenges**

The enforcement of labour market cartels is gaining attention from competition authorities all around the globe. Under scrutiny are the so-called wage-fixing and no-poaching agreements. Some countries have even amended their competition acts to specifically ban such cartels or have published guidance for businesses. The objective of the session is to discuss latest trends and theoretical and practical challenges faced by competition authorities in applying competition law in these markets.

### **BOS Round 3: Triggering ex-officio inspections: going beyond leniency**

In recent years, several competition authorities have been investing heavily in tools that enable them to open ex officio investigations. This is largely motivated by the decline in leniency applications but it also allows authorities to set their cartel enforcement policies more autonomously rather than having to depend on leniency applications. As a result, there is a clear trend towards more investigations being launched ex officio. The session will discuss tools used by enforcers to crack down on cartels by their own initiative including whistleblower programmes, data analytics and cooperation with other public authorities (e.g., public prosecutors, anti-corruption authorities, tax policy, court of auditors).

### **BOS Round 4: Anti-cartel enforcement in the digital era: Building effective case teams to meet new challenges (agencies only session)**

Advances in technology have changed the way people communicate and the way cartels operate. Competition authorities must adapt to this new and constantly changing environment. Many cartel enforcement teams have expanded beyond the traditional legal and economic staff to include experienced investigators, information technology personnel, and data scientists, and some agencies have developed intelligence-focused units. Agencies are also increasingly relying on a wide range of sophisticated digital analysis tools, including document review and case management software, tools for collecting and analyzing phone and messaging data, and screening tools. The purpose

of this session is for agency leaders to discuss strategies for effectively equipping cartel enforcement teams to meet the challenges of today and build for the future.



## Merger Working Group



### **MWG Plenary: Digital mergers**

Objective: Sharing best practices on Digital Mergers. Topics may include market definition, competitive assessment and theories of harm (network effects, tipping of the market, etc.), use of empirical analysis and evidence (survey, GUPPI, etc.), strategies to pursue buying up nascent and potential competitors and remedies in digital markets.

### **BOS Round 1: Non-horizontal mergers**

Objective: Present the first draft of the new RP chapter on non-horizontal mergers and share best practices on topics such as non-horizontal theories of harm and competition analysis, empirical analysis/evidence and remedies in non-horizontal mergers.

### **BOS Round 2: Control of data, market power and potential competition in merger review**

Objective: Present conclusions on the project "Control of data, market power and potential competition in merger review" and stimulate the debate on how to assess the effects of the control of data on merger reviews, especially regarding the assessment of market power of the merging firms and potential competition in digital markets.

### **BOS Round 3: Investigative techniques in merger review**

Objective: Share best practices on investigative techniques, including internal document review, surveys, interviews, questionnaires and other evidence used in merger control.



## Unilateral Conduct Working Group



### **Plenary: Challenges around unilateral conduct cases**

Effective competition law enforcement in unilateral conduct cases entails significant challenges, ranging from growing technical complexity to procedural issues, high standard of proof and fast-changing markets calling for swift intervention. This plenary session will allow participants to share experience on the main difficulties they are facing before discussing relevant approaches and solutions to keep competition law adequate and efficient.

### **BOS Round 1: How to ensure effectiveness of remedies imposed in UC cases and obstacles encountered in case practice**

The purpose of this session is to share case practice and difficulties found in putting forward the appropriate remedies for a given infringement and the requirements for their effectiveness to restore competitive conditions. The discussion

will also cover how the international dimension of some practices affect the design of remedies and how to foster international convergence and cooperation.

### **BOS Round 2: Assessment of Dominance: challenges ahead**

In this session, participants will focus on current and future challenges to assess dominance and discuss the possible approaches and tools, including the techniques and sources of evidence, to meet the required standard of proof.

### **BOS Round 4: Interaction between antitrust and regulation in digital markets**

This session would explore the interaction between antitrust and regulation, and in which circumstances economic regulation complements competition enforcement, in particular in the digital sector (data protection, platforms regulations...). How this complementarity works when applying specific structural or behavioral remedies? What are the limits and overlaps in potential remedy options?

## **BREAKOUT SIDE SESSIONS**

### **Introduction to the ICN**

08:00—08:45 Wednesday, 18 October – *just* before the conference begins!

*Target audience: agency representatives and NGAs new to the ICN*

Are you or your agency new to the ICN or the annual conference? If so, please join us for a warm welcome and an informal introduction to all things ICN: its work, processes, and opportunities for new participants. In a relaxed setting, we will describe the network, the annual conference, and how to get involved – in addition to answering any questions about the ICN. Maybe you are already active in the ICN, but have an unresolved question or two about the network? You are welcome too! Feel free to stop by during the session at any time. We will ensure that you have time to find your seat in the plenary room for the opening session at 09:00, newly informed with insights about your network!

### **Round 1: Heads of Agency Session – Competitive Implications of Artificial Intelligence (closed session)**

Large-scale AI has had a breakout year in terms of capabilities, economic impact, public attention, and regulatory scrutiny. The mass introduction of AI is a key moment of technological innovation that can transform markets. Historically, such inflection points have the potential to open up markets to more competition, but they also can be used by incumbents to entrench their dominance via unlawful tactics. This session will begin with a brief presentation on AI and competition. A room discussion among Heads of Agency will follow.

### **Round 1: NGA Engagement: Digital Markets and Regulatory Initiatives**

The session aims to bring the NGA perspective about the authorities' strategies on how to bring together the objectives of the competition enforcement and other legal assets that the proposed regulations aim to protect (e.g., transparency, fairness, freedom of expression, etc.).

### **Round 2: Heads of Agency Session – Competition and Sustainability (closed session)**

Attention on environmental sustainability has risen among governments in recent years, and climate change goals adopted by governments may involve businesses, including competitors, engaging in various forms of collaborations to achieve these goals. This attention has led to an increased emphasis for competition authorities to consider the environmental sustainability impact in their assessment frameworks. During this session, Heads of Agency session will have a candid discussion on the challenges and issues their agencies face from the increasing focus on environmental sustainability.

### **Round 2: Challenges for young competition agencies when cooperating internationally**

This session will explore the challenges that young or small competition agencies face when engaging in international cooperation efforts. Whether with other agencies or with international organizations, like the ICN, cooperation is essential for competition agencies not only for enforcement matters but also for accessing to best international practices and exchange knowledge. The session will consist of a roundtable in which panelists will each share their views in the topic and will discuss ideas on how the Bridging Project, and ultimately the ICN, can contribute to improve international cooperation for young or small agencies.

### **Round 3: Intersection between Competition & Privacy**

What happens when privacy and competition clash? This session will explain the privacy/competition relationship, identify the issues for agencies to assess when privacy and competition concerns intersect, and show how the draft handbook on “Competition law enforcement at the intersection between competition and privacy: Agency considerations can help members navigate their decision-making processes.

### **Round 4: International enforcement cooperation/CAP Session**

With our economies increasingly digitalized and globalized, international cooperation among competition enforcers can be beneficial for all stakeholders. Cooperation can be facilitated, and trust can be built by increasing understanding of how a potential cooperation partner investigates its cases, as well as its laws, policies and limitations, confidentiality protections, and the cooperation tools available. The ICN has developed the resources, frameworks and opportunities required for effective collaboration. The interactive session aims to combine insightful presentations on relevant ICN and OECD documents with the active engagement of participants through small group discussion and sharing of experiences.

### **Round 4: Competition concerns in agriculture and food markets**

Developing countries are experiencing daunting problems in the delivery of food at affordable prices to poorer populations. Research indicates the possibility of serious market failures and competition issues in national and cross-border markets. This session will explore the challenges posed by high food prices and problems with availability, especially for poorer populations and developing countries, and what are the possible roles for competition authorities. The session will assist in developing the agenda for the proposed special project on the same topic and building the network of those interested in the topic.

### **Round 4: Nuevas tecnologías y competencia**

El Derecho de la Competencia afronta en la actualidad nuevos retos, derivados de la irrupción definitiva de lo que antes eran novedades, tales como la cada vez mayor preponderancia de las plataformas de comercio electrónico, y las herramientas basadas en la Inteligencia Artificial, que pueden ayudar a la generación y ocultamiento de esquemas anticompetitivos. Esta sesión pretende explorar los problemas de competencia que pueden surgir en este campo, junto con las oportunidades que las autoridades de competencia pueden aprovechar al utilizar las nuevas tecnologías en su beneficio, como en la detección de conductas o en la realización de inspecciones donde el uso de las nuevas tecnologías puede tener un papel protagonista.

#### **New technologies and competition**

Competition Law currently faces new challenges, derived from the definitive emergence of what were previously novelties, such as the increasing preponderance of electronic commerce platforms, and tools based on Artificial Intelligence, which can help to the generation and concealment of anti-competitive schemes. This session aims to explore the competition problems that may arise in this field, along with the opportunities for competition authorities by using new technologies to their advantage, such as in the detection of conducts or in carrying out inspections where the use of new technologies can play a leading role.