

*CPI's Cartel Column Presents:*

# Report on the ICN's 17th annual conference

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The International Competition Network (ICN) held its 17th annual conference on March 21-23, 2018, hosted by the Competition Commission of India (CCI). Nearly 500 participants from more than 70 jurisdictions attended the conference, including representatives and stakeholders such as the business community, legal and economic professionals, international organizations, and academics.

The ICN is the most important network of competition authorities worldwide. It comprises 138 competition agencies from 125 jurisdictions. Andreas Mundt, President of the Bundeskartellamt, has been the ICN Steering Group Chair since September 2013.

The Annual Conference once more provided an opportunity for member agencies and other stakeholders to have in-depth discussions about existing work products and future topics. Over three days of plenary panels and breakout sessions the ICN membership and non-governmental advisors (NGAs) discussed some of the most important topics to competition agencies and companies worldwide.

The opening speeches were given by the Honourable Minister for Law, Justice and Corporate Affairs, P.P. Chaudhary, CCI Chairman Devender Kumar Sikri, and ICN Chair Andreas Mundt. All three emphasized the crucial role of competition in the modern-day economy. Competition in the digital world, the balance between due process and swift and effective enforcement, and vertical issues were important themes for discussion during the conference.

Plenary sessions on the first day of the conference dealt with the CCI's special project on the problems caused by cartels, as well as a plenary on "Advocacy in Good and Bad Times," and a plenary on agency effectiveness. This final plenary in the afternoon was entitled "Perspectives from the Bench: Litigating Competition Cases," with contributions from four judges, as well as former judges and commissioners from four continents.

Prizes were awarded to the winners of the ICN Advocacy Working Group and World Bank competition advocacy contest. The contest is a very effective tool to attract interest and encourage experience sharing of successful agency advocacy initiatives, ensuring geographic diversity and active participation both by experienced and younger agencies. The results achieved so far are impressive. In four editions, the contest has received 170 applications, from 57 jurisdictions. It is a great example of fruitful cooperation between two international organizations.

Also on this first day of ICN's annual conference, the ICN's working groups highlighted their 2018 work products:

The **Advocacy Working Group** released its second report as part of the Strategy Project. The report analyzes survey results on how competition agencies assess their advocacy actions and programs, and identifies common practices and trends. The group also expanded the Market Studies Information Store which is a catalogue of market studies carried out by member agencies, which now includes over 700 market studies conducted by member agencies, and facilitates knowledge-sharing, collaboration, and best practices in market studies.

The **Agency Effectiveness Working Group** produced Guiding Principles for procedural fairness in competition law enforcement, an addition to the ICN guidance recommendations addressing internal agency procedural checks and balances, and a new work product format: an annotated version of the ICN guidance on investigative process with implementation ideas. The group also studied how economic thinking and economic analysis can be further developed in competition analysis. Under the roof of the Agency Effectiveness Working Group, the “ICN Training on Demand” (ITOD) online interactive educational center introduced new video training modules on merger remedies and enforcement cooperation.

The **Cartel Working Group** presented an interim report on survey findings regarding major characteristics of leniency regimes, incentives and disincentives for leniency applications and interaction between leniency and other policies.

The **Merger Working Group** presented for adoption updated and expanded recommended practices on cooperation in merger control and the timing of merger notifications and review periods. The working group also presented results of its agency survey on vertical merger analysis and related economic assessment.

The **Unilateral Conduct Working Group** presented an interim report on its multiyear vertical restraints project examining the effects on competition of vertical restraints. The project will see the development of a series of papers exploring hypothetical vertical restraint scenarios.

The second day of the conference saw plenary panel discussions on Vertical Mergers and Vertical Restraints. Due to digitalisation and globalisation, competition agencies increasingly have to deal with different types of markets and changing business models. While it might have been unthinkable 10 years ago to devote two plenary panels to vertical issues, it is not surprising that these topics of vertical mergers and vertical restraints are firmly on the ICN agenda today.

On the last day of the conference, the Cartel plenary panel discussed the changing trends in cartel enforcement, and how to ensure that agencies provide sufficient incentives for cartelists to report cartel activity, in an age of increasing private enforcement of competition law in damages actions. The conference also discussed how ICN work products can best be implemented by its members in a plenary session organized by the ICN Promotion & Implementation team now comprising the US Federal Trade Commission, the Portuguese Autoridade da Concorrência and the Mexican Comisión Federal de Competencia Económica, COFECE.

In his closing speech, ICN Chair Andreas Mundt thanked the Competition Commission of India for hosting the ICN’s 17th Conference and all ICN members and NGAs for their commitment, enthusiasm and team spirit. He stated that it is the responsibility of competition agencies worldwide to ensure that the ICN’s unique work products, its guidelines and recommended practices, are developed and implemented, while preserving the ICN’s ultra-light organizational structure. “Who is global if not the ICN?”, stated Mundt.

All 2018 ICN work products are available at the conference website <http://icn2018delhi.in/conference-materials.html> and will be available on the new ICN website presented in Delhi by Chris Fonteijn, Chairman of the Board of the Netherlands Authority for Consumers and Markets (ACM) and ICN Vice-Chair for Communication. The website team is currently in the process of incorporating suggestions and ideas that resulted from the discussions with the ICN membership and NGAs in Delhi in their plans, and the new website will be online shortly. As Chris Fonteijn is leaving the ACM, the ICN Steering Group approved Han Li Toh, Chief Executive of the Competition and Consumer Commission of Singapore, as new Vice Chair for Communication in its March meeting. The Steering Group also approved Margarida Matos Rosa, President of the Portuguese Autoridade da Concorrência as new ICN/OECD Liaison replacing Commissioner John Pecman, Canadian Competition Bureau. The cooperation with other international organizations has a high priority for the ICN and parallel to the ICN/OECD structure the ICN Steering Group recently established an official ICN/UNCTAD Liaison. This task is performed by Alessandra Tonazzi, Director International and EU Affairs, Italian Autorità Garante della Concorrenza e del Mercato.

### **Upcoming Events**

This coming autumn, there will be several ICN events, namely: the Israel Antitrust Authority will host the Cartel Workshop from October 16 -18; the South African Competition Commission will host the Unilateral Conduct Workshop from November 1 - 2; and the Japan Fair Trade Commission will host the Merger Workshop from November 7 - 8. The 2019 ICN Annual Conference will be held in Cartagena, Colombia, hosted by the Colombian Superintendencia de Industria y Comercio.