



SYNOPSIS OF THE ICN ANNUAL CONFERENCE BREAKOUT SESSIONS

Advocacy Challenges of Today and Tomorrow

BOS #1: The Importance of a Well-thought-out Advocacy Strategy and Well-planned Programs

BOS #2: Innovative Approaches to Competition Advocacy

BOS #3: Competition Assessment: Great results, can be achieved with small force

BOS #4: Stories and ideas from the ICN–WBG Competition Advocacy Contest 2018-19

Agency Effectiveness WG Plenary: Effectiveness Through Organisational Design

BOS #1: Due Process Strikes Back

BOS #2: Organizational design - Getting in shape for the digital economy

BOS #3: The Digital Revolution – what Competition Policy Evolution? (Agency Heads session)

BOS #4: Amex: How many sides does it take?

Cartel WG Plenary: Detection & Enforcement

BOS #1: Interaction of Public and Private Enforcement for Cartels

BOS #2: Optimizing the Design and Coordination of Leniency for Cross-Border Cartel Enforcement

BOS #3: Triggering inspections ex-officio: going beyond the passive cartel policy

BOS #4: Cartel enforcement in the digital era: technological developments and collusion

Merger WG Plenary: Merger Review in the 2020s: Do Digitalization and Globalization Change the Analysis?

BOS #1: Digital Economy and Innovation

BOS #2: Non-Horizontal Mergers

BOS #3: Procedural Infringements in Merger Investigations

BOS #4: Review of Retail Mergers around the world

Unilateral Conduct WG Plenary: New Challenges to the Assessment of Market Power: Time for a Rethink?

BOS #1: New Challenges to the Assessment of Market Power: Time for a Rethink?

BOS #2: Online Vertical Restraints: Recent Enforcement Experiences and Challenges

BOS #3: Remedies in Unilateral Conduct cases

BOS #4: Assessing the Competitive Effects of Loyalty Rebates

ADVOCACY WORKING GROUP

AWG BOS #1: “Strategy without tactics is the slowest route to victory. Tactics without strategy is the noise before defeat.” – *The Importance of a Well-thought-out Advocacy Strategy and Well-planned Programs*

To achieve an advocacy success, having a clear overall strategy as well as meticulously-planned programs is critical. This session will be composed of a couple of hypothetical scenarios (based on some real-life case studies) in which speakers will share their experiences and insights on the key steps and components for a successful and effective advocacy strategy/ program. They will touch on questions such as how a specific advocacy program is formulated to support an agency’s overall advocacy strategy; how a well-thought-out advocacy strategy gives direction and guidance to an individual advocacy program. In this interactive session, participants will also have a chance to discuss and talk about the design and planning of an advocacy strategy/ program in order to address those particular issues and to promote competition by way of non-enforcement means.

FORMAT: Table Discussion

ROOM: Salon Americo Vesputio (Rectangular shaped set-up with chairs on the outer perimeter)

AWG BOS #2: “Water shapes its course according to the nature of the ground over which it flows; the soldier works out his victory in relation to the foe whom he is facing.” – *Innovative Approaches to Competition Advocacy*

Digitalisation and digital markets have resulted in new commercial practices as well as changes to the dynamics of competition in traditional markets. Just as a wise general adopts different tactics to match the enemy and terrain, competition authorities will need to utilise different advocacy strategies based on the characteristics of individual markets and stakeholders. This session will focus on discussing various innovative and even unconventional approaches employed by competition agencies to reach out/advocate competition to their stakeholders in both traditional and digital markets.

FORMAT: Panel/mini-plenary

ROOM: Nuevo Horizonte (Auditorium)

AWG BOS #3: Competition Advocacy: “Great results, can be achieved with small force”

This session will focus on the pros and cons of resource intensive market studies vs. less resource demanding approaches like op-eds in order to succeed in competition assessment based advocacy. Agencies will share their experiences and reflections on various approaches and initiate discussion with contribution from audience.

FORMAT: Table Discussion

ROOM: Nuevo Horizonte (Auditorium)

AWG BOS #4: Stories and ideas from the ICN–WBG Competition Advocacy Contest 2018-19

The breakout session will be dedicated to 2018-2019 Advocacy Contest winners

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada 3D (Auditorium)

AGENCY EFFECTIVENESS WORKING GROUP

AEWG BOS #1: Due Process Strikes Back

Due process, natural justice, rights of defense, procedural fairness, good process, doing the right thing . . . whatever you call it, chances are you have a sense of what makes for appropriate process and chances are it's similar to your counterparts around the world: some mix of universal concepts like transparency, predictability, accountability, effectiveness, communication, and non-discrimination. In this breakout, the discussion facilitators will take you behind the curtain of due process pleasantries and dissect the confessions of a due process skeptic. In the spirit of transparency, open audience participation is encouraged for this group exercise. This breakout will break down the myths of due process before we break up.

FORMAT: Table Discussion

ROOM: Nueva Granada C (Round table set-up)

AEWG BOS #2: Organisational design - Getting in shape for the digital economy

Competition authorities are taking different approaches to their staffing and structure to ensure that they are well placed to face the competition challenges posed on digital markets. For example, some competition authorities have implemented horizontal working groups for digital issues. Others have created specialised digital units or recruited digital or forensic IT staff within existing structures. At the same time, some Competition authorities may regard competition problems on digital market issues as indistinct from issues on traditional markets, and may see such organisational changes as unnecessary. This BOS will explore different options adopted by Competition authorities, to gauge successes and challenges.

FORMAT: Plenary/mini-plenary

ROOM: ROOM: Nueva Granada 3D (Auditorium)

AEWG BOS #3: The Digital Revolution - what competition policy evolution? (*Agency Heads only session*)

Demands are increasing on governments to act against the digital giants to protect various public interests. Competition authorities can contribute but have a relatively narrow remit, though bolstered by fundamental values of liberal democracy. Competition authorities also differ in their priorities, their focus, their remit, their tools and in their legal and economic environment. Some study, some enforce, some prefer to wait and see. Nevertheless it would be odd if any one jurisdiction determined the playing rules in this area. Our discussion will help build consensus on what are the most important problems that competition authorities can help with, what problems may need to be left to pro-competitive regulation and what problems need to rely on other tools. How can Competition authorities contribute, advocate

within government, learn from one another, and intervene when needed quickly and without chilling genuine innovation incentives. Can Competition authorities with a consumer protection mandate use a combined competition and consumer policy approach here?

FORMAT: Plenary/mini-plenary

ROOM: Nueva Granada 3D (Auditorium)

AEWG BOS #4: Amex: How many sides does it take?

The recent AMEX decision by the Supreme Court in the United States raised many interesting questions and implications about platforms and multi-sided markets more broadly. Economists and practitioners are debating what this means for market definition, network effects, the importance of links between the different sides of a platform, and competitive effects. This session will bring an economic lens to this question while also touching on the implications of this debate for competition authorities investigating cases involving platforms.

FORMAT: Panel/mini-plenary

ROOM: Nuevo Horizonte (Auditorium)

CARTEL WORKING GROUP

CWG BOS #1: Interaction of public and private enforcement for cartels

This session will introduce the new chapter of the ICN Anti-cartel Enforcement Manual on Private Enforcement. The panelists and the participants will discuss the different challenges that the interplay of public and private enforcement entails for Competition authorities and undertakings and ways to address these challenges. They will share views, concerns and experiences in relation to disclosure of evidence, limits to liability, collective redress mechanisms, quantification of harm and passing on defense.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada D (Auditorium)

CWG BOS #2: Optimizing the design and coordination of leniency for cross-border cartel enforcement

This session will introduce the paper on “Steps towards a more efficient and effective leniency program and its application”. This paper will serve as a discussion basis among the panelists and the participants to help them exchange experiences in relation to different ways to optimize cooperation for cross-border cartel enforcement in leniency cases.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada C (Auditorium)

CWG BOS #3: Triggering inspections ex-officio: going beyond the passive cartel policy (MEMBER AGENCIES AND OBSERVERS ONLY)

Detection of cartels in the last decade has generally relied on private complaints or leniency applications. However, it can be noticed that the effectiveness of such tools is strongly related to the perception of risk of detection of conducts regardless of the report to the Competition authorities. In that sense, this session will focus on the sharing of experiences on initiatives for the improvement of ex-officio investigation, such as inspections oriented by gathering and screening of information, open source intelligence, infiltration and informant programs.

FORMAT: Panel/mini-plenary

ROOM: Salon Americo (Auditorium)

CWG BOS #4: Cartel enforcement in the digital era: technological developments and collusion

Collusion typically refers to a market situation where competitors seek to achieve higher profits than in competition through a form of coordination. In the digital economy, algorithms and AI, fueled by the availability and collection of massive volumes of data, raise issues regarding new forms of collusion, as they can facilitate a high frequency of information exchanges between market players, as well as market transparency. Moreover, the dematerialization of exchanges through encrypted messaging and online platforms for data management could be a new vehicle for hard-to-unveil collusion. Against this background, this session will consider whether technological developments are to become the new usual suspects of cartel enforcement.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada C (Auditorium)

MERGER WORKING GROUP

MWG BOS #1: Digital Economy and Innovation

This session will explore the practical challenges of the merger review in the digital economy, such as notification thresholds, analytical framework, assessment of evidence, and innovation in merger review. The format of the session will use a mixture of case and issue presentation.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada 3D (Auditorium)

MWG BOS #2: Non-Horizontal Mergers

The MWG has been working on the Vertical Merger Project for the past two years, starting from members' survey to comparative case studies to sharing members' experiences. This session will review what we have learned from the past years' hard work on vertical mergers and also include discussion of conglomerate mergers. Topics may include: common theories of harm and important factors in analyzing conglomerate mergers, the role of efficiencies, and whether behavioural remedies are preferred in the case of non-horizontal mergers.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada D (Auditorium)

MWG BOS 3: Procedural Infringements in Merger Investigations

There is a rising concern about the procedural infringements in merger investigation among both competition authorities and notifying parties. Participants could discuss types of procedural infringements (e.g., failure to file, gun-jumping, RFI compliance, remedial violations, providing misleading information) and their associated rules, sanctions, challenges, and preventive measures (Dos and Don'ts), etc.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada C (Auditorium)

MWG BOS 4: Review of Retail Mergers around the World

Highlighting MWG's regional teleseminar series that was held in different regions of the world this past year, this session will have a concluding discussion on retail mergers. Participants will explore the following questions: (1) What are the recent trends or developments in your jurisdiction? (2) What is the main evidence used in your assessment of retail mergers? (3) How do you deal with mergers affecting a significant number of local markets within your jurisdiction? (4) What is the role of online competition in your assessment? How do you assess constraints across those two channels?

FORMAT: Table Discussion

ROOM: Salon Americo (Rectangular shaped set-up with chairs on the outer perimeter)

UNILATERAL CONDUCT WG

UCWG BOS #: Online vertical restraints: recent enforcement experiences and challenges

After a presentation of the main findings of the Vertical Restraints Project, which involved analysis of a project group's assessment of two hypothetical scenarios involving vertical restraints (online parity clauses and third-party platform sale bans)? Reflecting on a number of key themes observed in responses from the project group, the session will focus its discussion on what enforcement approach, if any, is appropriate for certain types of vertical restraints. This panel will also respond to moderated questions from the audience delivered through an interactive platform.

FORMAT: Panel/mini-plenary

ROOM: Américo Vespucio (Auditorium)

UCWG BOS #2: New Challenges to the Assessment of Market Power: Time for a Rethink?

This session will allow members to discuss issues raised in the UCWG plenary and facilitate enforcement experience sharing among participants.

FORMAT: Panel/mini-plenary

ROOM: Nuevo Horizonte (Auditorium)

UCWG BOS #3: Remedies in Unilateral Conduct Cases

This session will address the difficulties for competition agencies in identifying appropriate and effective remedies in abuse of dominance cases and discuss the approaches followed by different authorities to this issue, including when remedial measures may have an effect outside their jurisdiction.

FORMAT: Panel/mini-plenary

ROOM: Nueva Granada D (Auditorium)

UCWG BOS #4: Assessing the Competitive Effects of Loyalty Rebates

The goal of this session is to discuss assessment criteria and evidence and debate as to what extent rebates should be viewed as exclusive dealing, predatory pricing, or both.

FORMAT: Table Discussion

ROOM: Nueva Granada D (Round table set-up)