

**INTERNATIONAL COMPETITION NETWORK
COMPETITION POLICY IMPLEMENTATION WORKING GROUP
DRAFT WORK PLANS 2005-2006**

PROPOSED WOK PLAN SUBGROUP 1 ON TECHNICAL ASSISTANCE

Mission: Subgroup 1 seeks to improve the effectiveness of technical assistance to support an agency's advocacy and enforcement action.

Background

During the year culminating with the 2003 Annual Meeting in Merida, this group, which was then known as the Working Group on Capacity Building and Competition Policy Implementation and led by the European Commission and South Africa, conducted a written questionnaire of providers and recipients of technical assistance and contributed to the preparation of the report entitled "Capacity Building and Technical Assistance: Building Credible Competition Authorities in Developing and Transition Economies." The report identified a number of cogent areas for further exploration on the technical assistance front.

The Subgroup took its present form after the Merida Annual Meeting. During the period leading up to the 2004 Annual Meeting in Seoul, it compiled a comprehensive inventory detailing the technical assistance that has been provided to competition agencies since 1990. Building on the issues identified by the questionnaires conducted by the Group in 2002-2003, the Subgroup decided to conduct more detailed in-person surveys of technical assistance recipients to determine with more precision what type of technical assistance works well and what does not. In consultation with a variety of competition agencies and NGAs, the Subgroup developed a survey methodology that would answer three specific questions: (i) how the technical assistance needs of a developing or transition country competition agency can best be assessed, (ii) which models of technical assistance work best at the various stages of a competition agency's development, and (iii) if the impact of a technical assistance program can be measured, and if so, how it should be done. Following the ICN Annual Meeting in Seoul, the Subgroup further refined the survey methodology and gathered data called for by the methodology. It was agreed that the Subgroup should conduct the survey.

In the period between the Seoul and Bonn meetings, the Subgroup finalized the survey instrument, conducted the survey, analyzed the results, and prepared a report entitled: "Assessing Technical Assistance: Examining the Foundations of Successful Assistance." Thirty-seven competition agencies were surveyed in preparation for the report, and additional interviews are planned. The report verified the view of previous qualitative research that the satisfaction with technical assistance programs is higher if the recipient agency is actively involved in the initial process of assessing needs for assistance and in the design of specific assistance projects and further found that advisor quality is important for the success of a technical assistance project, and was significantly related to both overall project quality and overall impact on agency effectiveness, that developing competition agencies perceive that advisors are more effective when they are drawn from the ranks of more experienced competition agency staff than from other sources, and that respondents' satisfaction with a technical assistance project does not necessarily depend on the project's

impact on agency performance. The survey raises many issues for further examination and analysis, however.

The Subgroup has thus explored issues and challenges surrounding the provision of technical assistance and has conducted an empirical survey of what has worked well and what has not. Drawing on the Subgroup's previous work and the discussion about the survey results at the Bonn meeting, the Subgroup now intends to refine the analysis contained in the Bonn report, to seek reactions from recipients of technical assistance about ways that the subgroup can be of more assistance to them, and to consider providing more practical and operational guidance to donors, providers, and recipients of technical assistance.

Approach

The Subgroup's first task will be to conduct, during and immediately following the Bonn meeting, additional interviews or updating the interviews that have already been conducted. In conjunction with that effort, the Subgroup will solicit reactions to the report by ICN members who are recipients of technical assistance to seek their views about how the report can be made more useful to them.

1. The Subgroup will then determine what additional work product might be useful based on the Merida and Bonn Reports, input from ICN Members at the Bonn meeting, and any additional conclusions derived from the survey data. Because of what has been learned during the process of preparing the report, the Subgroup is strongly considering updating, refining, and subsequently publishing a more thorough version of the report that was released in Bonn.
2. The Subgroup will also develop an appropriate methodology to seek input about the actual and potential utility of continuing to develop, update and maintain several databases intended to assist recipients, providers, and donors of technical assistance. These include the Inventory of Technical Assistance Projects since 1990, the Bulletin Board of Current and Future Technical Assistance Projects, Seminars and Conferences, and the Donor Contact List. The Subgroup will also consider the feasibility of adding technical assistance training materials to the website. The Subgroup's efforts along these lines will be guided by that input.
3. The Subgroup will also consider, based on input received, whether it should develop more practical and operational guidance to donors, providers and recipients of technical assistance. If so, the Subgroup will consider what form this type of guidance should take (e.g., recommended practices or a practical manual). All options will be explored by the Subgroup, and the Subgroup will begin work on the agreed-on final work product.

Organization: The Subgroup is chaired by Russell Damtoft of the United States Federal Trade Commission and Aini Proos of the Estonian Competition Board.

Subgroup Members

Armenia	Korea
Barbados	Pakistan
Brazil (SDE)	Panama
Costa Rica	Romania
Estonia	Slovenia
European Commission	South Africa (Tribunal)
Hungary	United States (DOJ)
Indonesia	United States (FTC)
Japan	

International Organizations

Robert Anderson & Pierre Arhel, World Trade Organization
Paulo Correa, World Bank
Tomas Serebrisky, World Bank

Non-governmental Advisors:

Simon Evenett, St. Gallen University
Eleanor Fox, New York University
Georges Korsun, Deloitte
William Kovacic, George Washington University
Tad Lipsky, American Bar Association
Taimoon Stewart, University of West Indies
Michael Nicholson, IRIS
Raymond Taylor, Villanova University

PROPOSED WORK PLAN SUBGROUP 2

Enhancing the stature of competition authorities with businesses and experiences of young agencies. Lead agencies: Barbados, and Competition Bureau, Canada

Background: The ICN Advocacy report identified five key stakeholders whose 'buy-in' is considered critical to the success of the overall competition project. These are the government, the judiciary, the business community, the law and economics professions and, finally, the broad community of consumers. In 2004-05, sub-group 2 focused on the latter constituency - the community of consumers - and examined how competition authorities go about the crucial task of securing their support. It considered how the competition enforcement and consumer protection complement each other, examined programs and strategies designed to 'reach out' to consumers, conducted a workshop on consumer outreach in Paris, compiled a video of different outreach methods and best practises and examined the impact of institutional structures.

Proposed Future Work for CPI Sub-Group 2 (Canadian Competition Bureau and Barbados lead):

Having concluded its work on citizen/consumer outreach, sub-group 2 proposes that during the next year it focus on outreach to the business community, another of the five key stakeholder groups whose buy-in is deemed critical to the success of competition authorities. ICN members engage in outreach to their respective business communities in a number of ways including: corporate compliance programs, bid-rigging presentations to procurement officials, special communications tools tailored to business demands and interests (speeches, web sites and publications) and partnering with business organizations to reach as many members of the business community as possible. The work of the sub-group would involve examining how to achieve acceptance for competition principles, how to reach big businesses and SMEs, how to develop compliance programs in partnership with businesses and the risks involved in partnering with business.

The group would prepare a report on outreach to business practices by ICN members and endeavour to create a guide which would assist jurisdictions in improving their outreach to business. This work will be of particular benefit to younger jurisdictions who require buy-in for pro-competitive reform. The challenges facing these jurisdictions are different from those of more experienced jurisdictions as the interests of business are frequently viewed as opposing strong competition policy regimes. A tool-kit would be prepared similar to the successful kit on advocacy which is now being used by many younger jurisdictions.

Lessons to be Learnt from Experiences of Young Competition Agencies

Concern and Purpose

While technical assistance and capacity building programs incorporate discussions of the do's and don'ts of establishing and implementing a competition regime, there is a great deal to be learnt from the actual experiences of newly established competition authorities. In many cases, mistakes were made which could have been avoided with good prior knowledge. There are still many countries which have not yet established competition regimes or whose competition regimes are young enough to benefit from knowledge of experiences of other competition authorities. Yet, there is no systematically recorded information on such experiences that could be easily accessed by interested competition agencies.

It is proposed here that the ICN undertake an enquiry into the experiences of young competition agencies through a qualitative survey of the problems encountered and the practices that worked as young agencies established themselves. The findings of this qualitative survey could be compiled into a handbook that could be made available to interested parties.

Framework for Developing Questionnaire

The key components of a successful competition agency could be used to define the parameters of the research questions. In establishing and operating a successful competition agency, the following components are of critical importance:

1. Having legislation that allows for the application of workable standards of liability
2. Political support for the work of the agency
3. An administrative structure that supports sound decision-making based on law and economics
4. An adequate budget
5. A civil service structure that allows an agency to attract good quality staff
6. An enforcement structure that allows the agency to obtain the evidence they need consistent with due process
7. The ability to impose remedies that will act as a serious deterrent to anti-competitive conduct
8. A judiciary that is capable of enforcing orders and applying meaningful judicial review
9. An initial and ongoing training system for staff
10. Support of the business and consumer communities for the work of the agency.

The trust of the survey would be to learn of successes or failures/problems stories related to each of these components.

Methodology

An open-ended questionnaire could be developed, based on the key components of a successful competition agency and sent to a selection of young competition agencies. In the selection process, an attempt should be made to get a cross-section of country types that reflect differing political and judicial systems, size of economies and level of rule of law in the society, since all of these would impact on the type of problems encountered. Cultural and

political environments have a significant impact on how the society responds to a newly introduced competition regime. This will have to be made explicit in the analysis and reporting.

It is proposed that competition agencies be asked to respond to the questionnaire internally and send the response to the sub-group, rather than the sub-group organize interviews which could be very time-consuming and costly. It could be suggested that the questionnaire be put on the agenda of a routine staff meeting and used as an internal audit, the findings of which could inform the response to the sub-group. It is important to leave room for inclusion of information not within the parameters of the questionnaire, but which may be of critical importance.

The responses of the agencies would be classified according to type of experience and type of politico/judicial environment. The root cause of the problems and the key to successes will be drawn out and exemplary stories used to illustrate the analysis.

It may be useful to have some key technical persons who provide technical assistance to review the draft report of the responses because these persons, with their immense experience, could add to the analysis or even add interesting stories that were not fleshed out in the survey.

We wish to emphasize that this effort is not intended to more than a recording of experiences and evaluation for lessons that could be drawn from them that could be useful to other young competition authorities.

Output

A handbook of the problems encountered and the practices that work in young competition authorities, both in legislating and implementing their law.