



COMPETITION LAW AND POLICY DURING AND IN THE AFTERMATH OF THE COVID-19 PANDEMIC, REFLECTIONS IN THE ARAB REGION

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16 July 2020



Why should authorities co-operate?

- Globalisation, and growing number of multi-jurisdictional cases emphasizes the growing need for co-operation and co-ordination.
- Over 120 countries now have competition laws and an effective authority to enforce the law
- Authorities increasingly face situations where the effective enforcement of domestic competition laws *depends on co-operation with other enforcers*.
- International and regional co-operation can extend from informal to formal co-operation:
 - extend limited budgets even if resource intensive upfront
 - develop personal relations of trust which can be called into play during investigations and proceedings
 - training opportunities to build internal capacities and structures
 - peer learning/peer review
 - communicate on remedies so that they do not harm another jurisdiction.





OECD emphasizes co-operation

OECD Recommendation of the Council Concerning International Co-operation on Competition Investigations and Proceedings anchors work on international including regional, co-operation

- 2013 Survey carried out by the OECD and the International Competition Network which showed that while there was significant co-operation ***existing legal and practical limitations often made it burdensome and limited its scope.***
- Adherents consider this Recommendation as ***an essential instrument to help them foster enforcement co-operation*** with other jurisdictions and deter anticompetitive practices and mergers with possible anticompetitive effects.
- Recommendation is often used as a ***template for establishing MOUs*** as it covers all of the necessary elements – such as co-ordination on investigations, and proceedings, as well as assistance (witness statements) principles on exchange of information including confidential information, as well as more general assistance and co-operation.

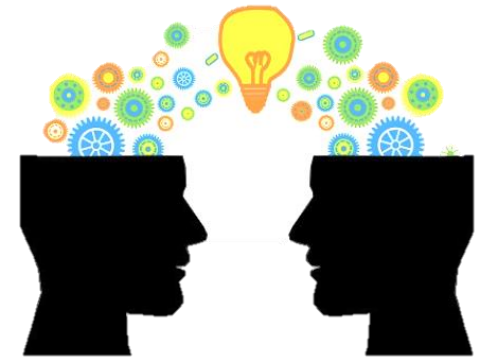


Co-operation is more important than ever...

As a result of COVID- 19

- closed borders
- increasing calls for more state interference
- loosening of competition rules
- revival of national or regional champions
- unseen challenges for the organisation of agencies and their enforcement

Authorities turning to each other to see how others are dealing with challenges and which (temporary) solutions they implemented.





Fostering co-operation in times of COVID-19

- Webinars for members and non-members, 60 jurisdictions participating in each around 250 participants in total.
- OECD Centres in Seoul, Budapest and Lima foster regional co-operation - > additional effort on COVID related exchanges.





Fostering co-operation in times of COVID-19

Korea Policy Centre (Seoul):

- Virtual Seminar on **health sector** on 16-21 July, with dedicated sections on COVID-19, for example, co-operation, excessive pricing.
- Meeting of **High Level Representatives of Asia-Pacific Competition Authorities** on 15 July.



Fostering co-operation in times of COVID-19

OECD-GVH Regional Centre (Budapest):

Virtual Seminar on **Competition Policy Responses to the Crisis** on 1 – 2 July topics included:

- **How to deal with price gouging and exploitative prices** included case studies from Ukraine and Armenia
- **Merger control in the face of uncertainty and state intervention** included case studies from Serbia and Moldova



Fostering co-operation in times of COVID-19

Regional Centre for Competition in Latin America (Lima):

- Virtual seminar for **heads of authorities** from across Latin America
- Virtual seminar on **Competition in the Health Sector** on 22-26 June topics included:
 - **Cartel Enforcement in the Health Sector: experience sharing in Latin America** included case studies from Brazil, Chile, Colombia, Mexico, Peru
 - **Health Care Mergers: market definition, theories of harm and vertical issues** included case studies from Chile, France, USFTC, UK



Fostering co-operation in times of COVID-19

International Co-operation Network (ICN) (<https://www.internationalcompetitionnetwork.org/>)

ICN Steering Group issued a joint statement addressing key considerations related to competition law enforcement during and after the COVID-19 pandemic. The statement reaffirms the relevance of competition to economies in crisis and urges member agencies to remain vigilant to anti-competitive conduct during the crisis. It recognizes the ability of agencies to evaluate and consider good faith efforts and limited collaborations among competitors to provide needed goods and services in making enforcement decisions, in line with applicable laws. It also encourages transparency with respect to operational and policy changes during the crisis and supports member agency advocacy efforts to promote competition as a guiding principle for economic recovery efforts in the aftermath of the pandemic.

European Competition Network (ECN) (https://ec.europa.eu/competition/ecn/index_en.html)

Issued a joint statement on the application of competition law during the coronavirus crisis. The statement reassures the private sector that European competition authorities recognise measures that companies may need to take such as co-operation amongst competitors, yet at the same time sends a signal that authorities are still active in their enforcement activities and that European authorities are working together to maintain an active level of enforcement.



Co-operation more important than ever

- **Co-operation is more important** than ever
- In the face of the COVID-19 crisis, resulting economic hardship and in some cases rising nationalism, **authorities are increasingly connecting to each other**
- OECD and the ICN recently undertook a new survey of competition authorities on their international co-operation practices which will **help us decide on new work in the future** and review our Recommendation
- We continue our global outreach work with a clear emphasis on what we think is the **most promising approach which is closer regional networks**
- Continue to work with **UNESCWA and UNCTAD to help build and foster regional co-operation across the MENA region**



OECD Competition policy responses to COVID-19

<http://www.oecd.org/daf/competition/competition-policy-responses-to-covid-19.htm>



THANK YOU