

International Cooperation- Instrument for Competition Authorities to Harmonize their Practices

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First of all I would like to congratulate the Serbian Commission for Protection of Competition on its 6th anniversary. And I would like to thank you for inviting the Swedish Competition Authority to participate at this Competition Day Conference. My presence here today can be seen as a follow-up on the peer review of Serbian competition policy at the UNCTAD meeting in Geneva in July last year and in which a colleague of mine was one of the lead examiners.

I have been asked to speak about international cooperation as an instrument for competition authorities to harmonize their practices. And peer reviews as they have been performed by UNCTAD and also by the OECD are examples of precisely that – instruments of international cooperation that are platforms for exchange of experiences and information which in its turn enhances convergence of competition policies.

Preparing for and carrying out a peer review puts a great burden on the competition authority and the country exposed to it, a lot of work is involved. And even if this is a voluntary exercise, it also requires courage, as shortcomings are exposed and commented along with the positive developments. However, the questions put and comments made are often helpful to further strengthen competition policy and I hope that the outcome of your examination last year has been positive for further development in your country. I know that the examiners at the meeting in Geneva were impressed by Serbia's commitment and performance.

International cooperation between competition authorities is today generally regarded as a necessity. Businesses operate to a much larger extent on markets outside their home markets and competition problems occurring around the world have more and more in common. And the ways in which we as competition authorities deal with them are more and more similar due to increased convergence of our competition legislations worldwide. Cooperation between competition authorities takes place in various forms and at several levels, bilateral, regional or multinational. I have understood that we will hear more about bilateral cooperation later at this Conference.

I therefore now turn to regional cooperation. There are several examples of successful regional cooperation between competition authorities in every part of the world. Neighbour countries often have a lot in common, such as traditions, history and trade, and the same companies may be operating on their markets. This makes of course cooperation between the competition authorities even more relevant and beneficiary.

In the Nordic countries, Denmark, Finland, Norway and Sweden, cooperation between the competition authorities started more than 50 years ago. The cooperation has developed during the last 15 years, thanks to increased convergence of our national competition laws and policies. Regulatory reforms opening up our markets have also contributed to an increased number of issues of common interest. We have jointly produced a number of reports which have dealt with competition in various sectors such as telecommunications, energy and the food sector. In addition to country chapters, the reports also contain recommendations to our governments on how competition could be further improved.

Annual meetings and working groups have helped to establish informal and personal contacts between our employees which have facilitated exchange of information at every level. One of the major benefits from this Nordic cooperation is learning from each other about working methods in law enforcement, about policy work and agency effectiveness. Many contacts are related to cases, potential or existing. One of the major cases before the Swedish Competition Authority so far was a cartel concerning asphalt works on roads. When the cartel had been detected in Sweden, similar cartel cases involving to some extent the same companies were investigated by the competition authorities in both Norway and Finland.

Informal contacts are often very useful but they do not allow for exchange of confidential information. For that purpose a Nordic cooperation agreement was concluded between our countries about ten years ago. Each country's national law on secrecy stipulates what kind of information is to be classified as confidential. In addition, Denmark, Finland and Sweden, as members of the European Union, can exchange confidential information relating to cases concerning cartels and abuse

of a dominant position provided that trade between the EU Member States is affected and thus the EC Regulation 1/2003 applicable.

As you know, this Regulation not only allows for exchange of confidential information but also for the closest form of cooperation that exists in the world, that is, enforcement actions such as inspections at the premises of companies. A national EU competition authority can request an inspection to be carried out by a competition authority in another member state. Last year, the Swedish Competition Authority carried out a number of such inspections.

The EU cooperation, within the European Competition Network, ECN, is a very effective form of cooperation, by which we can exchange information at every stage of the investigation of cases and we even have the instruments to carry out inspections on each other's behalf. However, it should also be recalled that this kind of cooperation requires that we apply the same competition rules under a common regulatory framework containing a number of obligations to be followed by the competition authorities. Here we talk about rules of law and their application which are harmonized. It is therefore not quite fair to compare such a cooperation with forms of voluntary cooperation to which I am referring here today.

Multinational organizations such as the OECD and UNCTAD serve as platforms for exchange of experiences and information about policies and enforcement practices. In this context, the ICN, the International Competition Network, should also be mentioned. As you know, the ICN is a network between competition authorities around the world which, through exchange of information and virtual discussions in working groups, produce best practices primarily concerning investigations and analysis related to application of competition rules but also on advocacy and other issues. I am personally engaged in its working group about agency effectiveness where we discuss how to make most efficient use of our resources. I have not heard of any competition authority that does not consider its number of staff or budget to be too limited.

I would like to mention one example of an issue that has been high on the agenda in international forums for quite some time. I am talking about bid-rigging cartels and the importance to detect them, also as a means to impede fraud and corruption in the public procurement process. Anticompetitive conduct affecting public procurement is a particularly harmful violation of the competition rules. Through bid-rigging practices the price paid by the public administration for goods and services is artificially raised, forcing the public sector to pay excessive prices. How to detect and pursue bid-rigging cartels has been penetrated at various roundtables and for example the OECD has produced checklists and other information in this regard.

The public procurement legislation could effectively support the fight against bid-rigging cartels, for instance through provisions stipulating the exclusion of suppliers that have participated in anti-competitive unlawful conduct. Such provisions could also contribute to counteracting fraud and corruption. The matter has not only been discussed in these international forums. Many competition authorities, among them the Antimonopoly Service of the Russian Federation, present here today, and the Swedish Competition Authority, have taken several measures to reduce the risk of bid-rigging and corruption.

Learning from each other by sharing experiences and information is no doubt one of the ways forward for us as competition authorities to improve our work and combat the fact that we all suffer from scarce resources. International cooperation between competition authorities is needed, mutually beneficial, and helps developing our policies and competences. International cooperation has also contributed to increased convergence as regards substantive rules of competition as well as enforcement procedures. This in turn make the benefits of international cooperation even greater. I am confident that the Serbian Commission for Protection of Competition will continue participating in various forms of international cooperation and I wish you every success in your future work.

Thank you.