



International Chamber of Commerce

The world business organization

Policy statement

ICC recommendations to the International Competition Policy Advisory Committee (ICPAC) on exchange of confidential information between competition authorities in the merger context

Prepared by the Commission on Law and Practices Relating to Competition

The increasingly international nature of business transactions has resulted in a growing number of mergers and cooperation projects falling within the jurisdiction of more than one competition authority. In response to this, competition authorities are examining means of cooperation to facilitate and coordinate their respective review, investigative and decision-making processes.

While recognizing the potential benefits of such cooperation, the business community has also been greatly concerned by one of its main elements: the exchange of confidential corporate information between competition authorities. Confidential information supplied by companies to competition authorities in the context of merger reviews or anti-trust investigations often includes extremely sensitive information relating to the strategy of the company, its investment plans and its marketing goals and methods. If such information falls into the hands of competitors of the company involved, or into the public domain, this could have serious adverse consequences on the competitive position of the company, or its share value. This risk is not theoretical, especially when information is sent to countries where the company providing the information faces strong competition, especially from state-owned companies, or in the context of mergers, when share prices are particularly volatile.

ICC therefore applauds the initiative of the International Competition Policy Advisory Committee (ICPAC - established by the US Department of Justice), in addressing this issue and in inviting the international business community, through ICC, to contribute to its work in this area.

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