

Full summary of Klaus Becher's presentation on behalf of ICC at the 29th Fordham Annual Conference on International Antitrust Law and Policy

New York 31 October 2002 - I am honored to be here on this panel. I would like to make clear that I am here not in my capacity as General Counsel of DaimlerChrysler Services, but as representative of the ICC. I am a member of ICC's Competition Commission and the Chair of the ICC Task Force on the International Competition Network.

Since the very beginning, the private sector including the ICC has expressed its support of the ICN. We fully understand that ICN is an organization driven by enforcement officials. However, involvement of the private sector in the work of ICN is - from my point of view - very important for the success of most of the concrete programs of ICN.

More and more, business activities transcend - or should I say ignore - national boundaries. Multijurisdictional merger review becomes more and more the rule rather than the exception. The costs and burdens of multijurisdictional merger review are set out in a respective report of the ICN available on the ICN's website.

Therefore, business is working with increasing commitment for a global antitrust convergence and to assist competition agencies in their efforts to make these regimes hopefully harmonious, at least transparent, nondiscriminatory and simpler.

The fact is that the private sector is highly committed to effective antitrust enforcement. Joint principles of competition policy will promote benefits for developed and developing economies. Therefore, an effective antitrust enforcement is in the interest of business. This includes a global convergence of process in particular for recently established competition authorities.

Starting with ICPAC, followed by the Ditchley Park conference and the formal establishment of the ICN, private sector groups such as the ICC, the OECD's Business and Industry Advisory Committee (BIAC) and the International Bar Association have formally supported the work of the ICN. The joint ICC/BIAC paper on the best practices for merger review process has provided the bases for the excellent report of the Merger Notification and Procedure Subgroup which has been presented in the first ICN Conference in Naples. I hope that the findings of this re-port will influence legislation and thus lead to a soft harmonization of procedures.

As to the future ICN work plan, business deems the following topics to be particularly important:

- The merger notification and procedure best practices project should be expanded to consider additional elements such as those set out in the ICC/BIAC report.
- Far more difficult, but even more important is a discussion of the substantive standards of merger control. This discussion should be based on an analysis of the substantial lessening of competition test v. s. the market dominance test. If at all, there seem to be only a few cases on the record in which the different substantive test has made a difference as far as the outcome of the case is concerned.
- A working group on capacity building and institutional frameworks should be initiated with a contribution from the private sector.
- The project on hard-core cartel enforcement and best enforcement practice guidelines should be started including a discussion of realistic standards for the protection of confidential information.

- Last but not least a working group on competition in the area of intellectual property should be set up to examine main issues such as the legal standard for monopolization and abuse.

In each of these areas, there will be a continuing need for detailed follow-up. As James Rill put it in his speech in Naples, we have to avoid that "ICN's initial work may be relegated to the bookshelves of history". Competition agencies should be encouraged to consider ICN initiatives and provide a description of the actions taken in light of the ICN recommendations. This report should also include a summary of the steps which have not been taken.

Business will contribute to and support all the activities of ICN to the extent allowed by the ICN Steering Group and Working Groups. Because of its worldwide presence, ICC is best suited to continue to seek additional participation from developing economies.

Thank you very much.