A new tool of international cooperation to boost procedural fairness

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The International Competition Network (ICN), gathering 138 international competition authorities, has adopted a new tool of cooperation, the Framework on Competition Agency Procedures (thereafter the “CAP”).

The CAP fully fits into the ICN scope, and constitutes a voluntary instrument of accession, to which will only participate the competition authorities wishing to join in. It will come into effect at the 18th ICN Annual Conference, to be held from 15 to 17 May in Cartagena, Colombia.

The CAP's primary objective is to identify **the main principles guaranteeing procedural fairness in procedures that implement competition law**. These principles are enumerated: non-discrimination in the application of procedures, transparency and predictability of rules and procedures, resolution of cases within a reasonable time period, confidentiality of information, rules on conflicts of interest, proper notice and opportunity to defend, including representation by legal counsel, written and published decisions, independent review of decisions imposing a prohibition, remedy or sanction.

The CAP, after enumerating these main principles, combines them with two mechanisms - one of cooperation, the other of review - aimed at ensuring an effective implementation:

- The **cooperation mechanism** allows a focused and working dialogue between CAP member authorities on the basis of the establishment of a list of liaison officers members of authorities;
- The **review mechanism** provides in addition for the publication of documents

providing an overview of applicable legal regimes ("templates") for each CAP member authority.

By combining for the first time the statement of substantive principles and the establishment of concrete follow-up mechanisms, the CAP marks an unprecedented and decisive step forward in international cooperation between competition authorities.

“The ICN CAP is a remarkable achievement that illustrates the dynamism of the international competition community. Developing common procedural principles, which ensure a high level of guarantees for companies, contributes to the convergence of national systems of competition law and, in fine, to legal certainty.
The ICN should continue to be a vector of convergence between authorities, not only for substantial law and procedural law, but also for the application of competition law to new challenges, such as the digital economy” stated Isabelle de Silva, President of the Autorité de la concurrence.

The Autorité de la concurrence is a founding member of the ICN, member of its Steering Group and co-president of the Cartels group.

Established in 2001, the ICN currently gathers 138 member authorities from 125 different jurisdictions, as well as non-governmental representatives from civil society (non-governmental advisors).

> For more information on ICN CAP

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