

**2017 ICN Cartel Workshop
Draft Agenda**

Tuesday October 3rd

7:00-8:30 pm ***Evening Welcome Reception***
Grand Hall, Canadian Museum of History – 100 Laurier St. Gatineau

Day 1 – Wednesday October 4th – “Detection”

9:00-10:00am: ***Registration***
[Chateau Laurier, French Corridor]

10:00-10:30am: ***Opening Remarks***

Speakers:
John Pecman, Commissioner, Competition Bureau Canada
Michiel Denkers, Director of Competition, Netherlands Authority for Consumers and Markets; Co-Chair of Subgroup 2 of the ICN Cartel Working Group

10:30-10:45am: ***Break***
[Chateau Laurier, French Corridor]

10:45-12:15pm: ***Plenary 1: Experiences with bid-rigging in public and private procurement***
Panelists will discuss bid-rigging and the detection of bid-rigging generally, including highlighting their jurisdictions’ experiences generally and issues raised or lessons learned from one or two specific examples, with an emphasis on similarities and/or differences between bid-rigging in public procurement (government goods/services) versus private procurement.
[Chateau Laurier, Ballroom]

Moderator:
Stéphane Hould, Deputy Commissioner of Competition, Competition Bureau Canada

Panellists:
Eric Van Genderachter, Directorate-General for Competition, European Commission
Marvin Price, Acting Deputy Assistant Attorney General for Criminal Enforcement, United States Department of Justice, Antitrust Division
Margarida Matos Rosa, President, Autoridade da Concorrência, Portugal
Administrative Council for Economic Defence

12:15-1:15pm: ***Lunch***
[Chateau Laurier, Drawing Room]

1:15-2:45pm: ***Simultaneous Mini Plenary Sessions:***

Mini Plenary #1: Raising awareness of bid-rigging with (and generating leads from) public procurement agencies/authorities

The relationships between competition agencies and public procurers as a key tool to encourage/enable the reporting of suspected bid-rigging.

[Chateau Laurier, Room TBD]

Moderator:

Renato Ferrandi, Senior Competition Officer, Italian Competition Authority

Panelists:

Megan Lewis, Trial Attorney, United States Department of Justice, Antitrust Division

Barbara Glover, Assistant Deputy Minister, Public Services and Procurement Canada

Pia Odqvist, Senior Case Officer, Swedish Competition Authority

Mini Plenary #2: Screening public procurement data to detect bid-rigging

Agencies who have undertaken such a project could describe what they have done and the results they have seen/lessons they have learned.

Agencies that have a screening tool that they can demonstrate could do so in this session.

[Chateau Laurier, Room TBD]

Moderator:

Antonio Capobianco, Senior Competition Expert, Organization for Economic Cooperation and Development

Panelists:

Dr. Niklaus Wallimann, Chief Economist, Competition Commission, Switzerland

John Kirkpatrick, Senior Director Advocacy, Competition and Markets Authority

Mukhamed Khamukov, Deputy Head of Anti-Cartel Division, Federal Antimonopoly Service, Russia

Diogo Thomson, Administrative Council for Economic Defense, Brazil

Mini Plenary #3: Other methods of bid-rigging detection

Panelists could provide their perspectives on detecting bid-rigging (with a focus on bid-rigging in public procurement) using: leniency programs, media monitoring, whistleblowers, informants, tips from the public, and/or compliance training for businesses. Panelists would be encouraged to explore any other methods of detection other than those that are already the subject of another session.

[Chateau Laurier, Room TBD]

Speakers:

Byung Hoon Ahn, Director, International Cartel Division, Korea Fair Trade Commission

Masayuki Atsumi, Lawyer, Mori Hamada & Matsumoto, Japan

Isabel López Gálvez, Head of Cartels and Leniency Unit, National Authority for Markets and Competition, Spain

Charlotte Wezi Malonda, Executive Director, Competition and Fair Trading Commission, Malawi

2:45-3:00pm:

Break

[Chateau Laurier, French Corridor]

3:00-4:30pm:

Simultaneous Breakout Sessions:

Breakout Session #1: Organizing your agency to maximize cartel detection [French language session]

Topics to discuss could include building institutional relationships with other antitrust authorities and other law enforcement bodies. Sub-topics could include formalizing these relationships through MOUs, etc., protocols surrounding the exchange of information with these partners, as well as internal structures such as centralized information or intelligence gathering units.

[Chateau Laurier, Room TBD]

Discussion leaders:

Sophie Bresny, Chef du service investigations, Autorité de la concurrence, France

Jean-Sébastien Rivard, Major Case Director and Strategic Advisor, Competition Bureau Canada

Flavio Laina, Directorate-General for Competition, European Commission

Breakout Session #2: “Other” tech tools for cartel detection

Is your agency using new tools to gather evidence or information? What are they? What is working well? What isn't?

[Chateau Laurier, Room TBD]

Discussion leaders:

Speaker from Competition and Markets Authority, United Kingdom

Jane Lin, GM of Commercial Construction Unit in the Enforcement Division, Australian Competition and Consumer Commission

Tamir Reindel, Senior Intelligence Analyst, Israel Antitrust Authority

Peter Alstergren, Senior Advisor, Swedish Competition Authority

Breakout Session #3: Can algorithms form price-fixing cartels?

Are companies using tools that, inadvertently or otherwise, enable or facilitate cartel behaviour? What are these tools? What risks are companies assuming by using them? Are companies receiving advice

from their competition counsel on their responsible use? Are competition agencies providing any guidance?

[Chateau Laurier, Room TBD]

Discussion Leaders:

Paul Johnson, TD MacDonad Chair in Industrial Economics, Competition Bureau Canada

Anita Banicevic, Partner, Davies Ward Phillips & Vinceberg LLP

Mikhail Voronin, Antimonopoly Law Office LLC, Russia

Breakout Session #4: Handling informants [AGENCY ONLY]

Participants could discuss what kind of protections or benefits their agencies afford confidential informants, the risks of these kinds of programs (for both agencies and individuals), and informant reward programs.

[Chateau Laurier, Room TBD]

Discussion leaders:

Maarten Schueler, Team Manager, The Netherlands Authority for Consumers and Markets

Rob Ghali, GM of Serious Cartels Group and Enforcement New South Wales, Australian Competition and Consumer Commission

Special Agent Devon Mahoney, Program Manager, International Corruption Squad, Federal Bureau of Investigation, United States of America

Ngoako Moropene, Principal Investigator (Cartels) Competition Commission of South Africa

Breakout Session #5: Screening public procurement data to detect bid-rigging

Agencies currently developing a screening mechanism could discuss the challenges they are facing and what they have been doing to overcome these challenges.

[Chateau Laurier, Room TBD]

Discussion leaders:

Francisco Tellez, Director, Cartel Investigation Division, Federal Economic Competition Commission of Mexico

Lilian Petit, Case-handler and Economist, The Netherlands Authority for Consumers and Markets

Sergio Sinovas Caballero, Deputy Head of Cartels and Leniency Unit, National Authority for Markets and Competition, Spain

Day 2: Thursday October 5th – “Investigation”

8:45-9:15am: ***The Honourable Amarjeet Sohi, the Member of Parliament for Edmonton Mill Woods and the Minister of Infrastructure and Communities, will address the Workshop***

9:15-10:30am: ***Plenary #2: The outer limits: the parameters of a bid-rigging investigation***
How can a bid-rigging in public procurement investigation overlap with other jurisdictions, other areas of law, and other law enforcement agencies? How does that overlap influence and shape the investigation? Panelists will be encouraged to take a broad approach to this topic, to foreshadow the issues to be discussed in more detail as the day goes on.
[Chateau Laurier, Ballroom]

Moderator:

Pierre-Yves Guay, Assistant Deputy Commissioner, Competition Bureau Canada

Panelists:

Silke Hossenfelder, Chairman of the 9th Decision Division, Bundeskartellamt, Germany

Lynette Chua, Senior Assistant Director, Legal and Enforcement, Competition Commission of Singapore

Antonio Capobianco, Senior Competition Expert, Organization for Economic Cooperation and Development

Sergio Lopez Rodriguez, Head of the Investigative Authority, Federal Economic Competition Commission of Mexico

10:30-10:45am: ***Break***
[Chateau Laurier, French Corridor]

10:45-12:15pm: ***Simultaneous Mini Plenary Sessions:***

Mini Plenary #4: Cooperation with other domestic law enforcement agencies

Panelists could discuss their experiences, and the best practices they would recommend in light of those experiences. This could include experiences related to receiving investigative assistance from other law enforcement agencies, and embedding competition law investigators in other law enforcement agencies (or vice versa).

[Chateau Laurier, Room TBD]

Moderator:

Speaker from the Turkish Competition Authority

Panelists:

Sarah Cannevel, Bundeskartellamt, Germany

Natalie Harsdorf, Deputy Managing Director, Austrian Federal Competition Authority
Christine Chan, Manager, Operations, Competition Commission, Hong Kong

Mini Plenary #5: Cooperation with international antitrust partners

It is hoped that panelists will pay special attention to the issue of how this kind of international cooperation affects leniency programs, and particularly their appeal, success and future.

[Chateau Laurier, Room TBD]

Moderator:

Makgale Mohlala, Manager of Cartels Division, Competition Commission of South Africa

Panelists:

Kris Dekeyser, Directorate-General for Competition, European Commission

Leah Won, Team Leader of Serious Cartels Group within the Enforcement Division, Australian Competition and Consumer Commission
Romina Polley, Partner, Cleary Gottlieb Steen & Hamilton LLP, Germany

Mini Plenary #6: The role of Inspectors General, Ombudspersons or other public officials mandated to investigate malfeasance in public contracting

Discussion could focus on what Inspectors General are, where their work overlaps with that of the competition authority, and how their expertise can best be leveraged by competition authorities.

[Chateau Laurier, Room TBD]

Moderator:

Matthew Boswell, Senior Deputy Commissioner, Competition Bureau Canada

Panelists

Denis Gallant, Inspector General, Office of the Inspector General of the City of Montreal, Canada

Michael E. Horowitz, Inspector General, Office of the Inspector General, United States Department of Justice

Pia Odqvist, Senior Case Officer, Swedish Competition Authority

12:15-1:15pm:

Lunch

[Chateau Laurier, Drawing Room]

1:15-2:45pm:

Simultaneous Breakout Sessions

Breakout Session #6: The role of traditional policing techniques in cartel investigations

Just as agencies are developing and using new technologies to develop their investigations, some are also making increased use of more traditional policing techniques. Discussion topics could include the use of techniques such as handwriting and fingerprint analysis, and wiretapping. Discussion could also focus on how agencies are developing their knowledge and understanding of these techniques, i.e. by working with domestic law enforcement partners.

[Chateau Laurier, Room TBD]

Discussion leaders:

Rob Ghali, GM of Serious Cartels Group and Enforcement New South Wales, Australian Competition and Consumer Commission
Eyal Perzon, Team Leader, Israel Antitrust Authority
Mukhamed Khamukov, Deputy Head of Anti-Cartel Department, Federal Antimonopoly Service, Russia

Breakout Session #7: The use of indirect evidence in building a cartel case [French language session]

How can indirect evidence be used in your jurisdiction? Does your agency have examples of when it was used successfully/unsuccessfully that you could use to provide others with an illustration?

[Chateau Laurier, Room TBD]

Discussion leaders:

Marisa Luisa Tierno Centella, Directorate-General for Competition, European Commission
Alexis Brunelle, Référendaire, Autorité de la concurrence, France
Colette Morin-Wade, Senior Competition Law Officer, Competition Bureau Canada
Amanda Athayde Linhares Martins, Chefe de Gabinete, Administrative Council for Economic Defense, Brazil

Breakout Session #8: Bid-rigging, price-fixing, or both?

How does your agency tackle “hybrid” cases, or cases with multiple theories of harm? Does your agency have defined criteria that it uses to decide how it will proceed? If so, what are they? What successful/unsuccessful cases of this kind have you had? What have you learned from these experiences?

[Chateau Laurier, Room TBD]

Discussion leaders:

Luis Omar Guerrero Rodriguez, Hogan Lovells, Mexico City
Sofia Vasileiou, Case handler, Directorate-General for Competition, European Commission

Subrata Bhattacharjee, Partner, Borden Ladner Gervais LLP, Canada
Ngoako Moropene, Principal Investigator, Competition Commission of South Africa
Juan Correa, Head of Anti-Cartels Unit, Fiscalía Nacional Económica, Chile

Breakout Session #9: Coordinating investigations involving multiple stakeholders

When dealing with multiple levels of government or prosecution, how are questions of jurisdiction resolved? Who takes the lead? What are the rules/parameters of cooperation that produce the best results? Are there specific considerations in granting leniency in these types of investigations?

[Chateau Laurier, Room TBD]

Discussion leaders:

Mariana Villela, Officer, IBRAC, Brazil
Hiromitsu Miyakawa, Partner, Jones Day, Japan
Marcin Trepka, K&L Gates, Poland
Chester Njobvu, Competition and Consumer Protection Commission, Zambia

Breakout Session #10: Tech tools for furthering a cartel investigation [AGENCY ONLY]

Panelists discuss (and demonstrate!) the newest technologies they are using to further their investigations- particularly tools used to manage and summarize/present evidence.

[Chateau Laurier, Room TBD]

Discussion leaders:

Flavio Laina, Head of Unit, Cartels, Directorate-General for Competition, European Commission
Grant Chamberlain, New Zealand Commerce Commission
Matthew Kyrytow, Acting Coordinator of EEU, Competition Bureau Canada
Pedro Marques Bom, Director- Geral de Investigação, Autoridade da Concorrência, Portugal

2:45-3:00pm:

Break

[Chateau Laurier, French Corridor]

3:00 pm – 4:30 pm: Plenary #3: How to achieve deterrence

This introduction to our final theme of deterrence could be fairly general in nature. Ideas for sub-topics include how best to work with procurement agencies to deter bid-rigging. (This could include a discussion of what fair/flawed bidding processes look like, and how competition law agencies

can best influence tender design, particularly in the public sphere, including the use of electronic trade/bidding platforms.)

[This session will also feature a brief update on ICN work from representatives of the Cartels Working Group]
[Chateau Laurier, Ballroom]

Moderator:

Panelists:

Paul Johnson, TD MacDonad Chair in Industrial Economics, Competition Bureau Canada

Yukinari Sugiyama, Director General, Criminal Investigation Department, Investigation Bureau, Japan Fair Trade Commission

Michiel Denkers, Director of Competition, The Netherlands Authority for Consumers and Markets

Kris Van Hove, Partner, Van Bael & Bellis, Brussels

5:00pm: ***Tours of Centre Block of Parliament will run in 10 minute intervals, departing from the main lobby of the Chateau Laurier***

5:30-7:00pm: ***Hors d'oeuvres and drinks will be served at Sir John A. Macdonald building***

7:00pm: ***Dinner – served after the last tour group has arrived***

Day 3: Friday, October 6th – “Deterrence and Prevention”

9:00-10:30am: ***Simultaneous Mini Plenary Sessions:***

Mini Plenary #7: Compliance training & Communication

Training is just one form of communication, and the key is getting the message out most effectively. There are more ways to do this than just training.

[Chateau Laurier, Room TBD]

Moderator:

Vicky Eatrides, Competition Bureau Canada

Panelists:

Michael Osborne, Affleck Greene McMurtry, Canada

Joseph Murphy, Joseph E. Murphy, PC, United States

Kathryn Hellings, Hogan Lovells, United States

Mini Plenary #8: How to get the compliance message out to smaller businesses

Panelists could discuss the techniques they use to get their anti-

cartel/anti-bid-rigging message out to small businesses, with a particular emphasis on new techniques.

[Chateau Laurier, Room TBD]

Moderator:

Nadia Brault, Competition Bureau Canada (moderator)

Panelists:

Nell Zhou, University of International Business and Economics, Beijing

Theodore Banks, Scharf Banks Marmor, Chicago

A NGA nominated by the Portuguese Autoridade da Concorrencia

Mini Plenary #9: Sanctions

Panelists could discuss topics ranging from the types of available sanction and their effectiveness to factors to be considered when sanctions are being determined (such as recidivism). The use of debarment appears to be of particular interest to some: panelists could also consider the benefits and challenges of debarment as a sanction for cartel conduct, focusing on the public procurement context. Panelists could also consider the calculation of fines.

Moderator:

Rafael Allendesalazar, Partner, Martinez Lage Allendesalazar & Brokelmann, Spain

Panelists:

Peter Renehan, Special Counsel, Australian Competition and Consumer Commission

Naohiko Komuro, Director, Information Analysis Office, Investigation Bureau, Japan Fair Trade Commission

Hae-Kyung Yoo, Director, Korea Fair Trade Commission

10:30-10:45am:

Break

[Chateau Laurier, French Corridor]

10:45-12:15pm:

Simultaneous Breakout Sessions

Breakout Session #11: When civil servants go bad: what to do when a government procurement agency is involved in bid-rigging

Topics for discussion could include how to deal with the government department/agency- can/should it be charged? Or should education be the primary goal? What about the individuals (civil servants, or even politicians) involved? Can/should they be charged? Under competition law, or under a statute related to their duties as civil servants/elected officials?

[Chateau Laurier, Room TBD]

Discussion leaders:

Guy Pinsonnault, Partner, McMillan LLP, Canada
Fernanda Garcia Machado, Head of Cartel Unit, Administrative Council
for Economic Defense of Brazil
Susan Ning, Senior Partner, King & Wood Mallesons, Beijing
Narissa Somji, Counsel, Public Prosecution Service of Canada

Breakout Session #12: The treatment of individuals who engage in cartel conduct

Should individuals be pursued? Under what circumstances? What is the most effective approach? Criminal sanctions? Director disqualification?
[Chateau Laurier, Room TBD]

Discussion leaders:

Stephen Blake, Senior Director – Cartels and Criminal, Competition and Markets Authority, United Kingdom
Maarten Schueler, Team Manager, The Netherlands Authority for Consumers and Markets
Isabel López Gálvez, Head of Cartels and Leniency Unit, National Authority for Markets and Competition, Spain
Peter Whelan, Professor, University of Leeds, United Kingdom

Breakout Session #13: Structural risk

Are some types of government more at risk for bid-rigging of public procurement process? Are some market sectors? Are there steps competition law agencies can take to mitigate either of these kinds of risk?

[Chateau Laurier, Room TBD]

Discussion Leaders:

A representative from the Competition and Markets Authority, United Kingdom
Eduardo Frade, Visiting Scholar, George Mason University, United States
Oleg Shpetrik, Competition Law Officer, Competition Bureau of Canada

Breakout Session #14: Private enforcement

Participants could discuss their respective agencies' roles with respect to private enforcement, particularly with respect to supporting procurement agencies/municipalities/taxpayers in recovering damages when there has been bid-rigging in the context of public procurement. The calculation of damages, either in public procurement cases or competition class actions more generally, could also be considered, as could the confidentiality of leniency/plea documents from the associated agency case.

[Chateau Laurier, Room TBD]

Discussion leaders:

Tetsuya Kanda, Senior Planning Officer, Investigation Bureau, Japan Fair Trade Commission

Gordon Fraser, Competition Law Officer, Competition Bureau Canada

Christof Swaak, Partner, Stibbe, Amsterdam

Daniel Andreoli, Legal Counsel, TozziniFreire Advogados, Brazil

Breakout Session #15: Tactics in negotiating plea deals [AGENCY ONLY]

One possible sub-topic could be how agencies address inability to pay arguments. Is it a defence set out in statute, available under common law, or merely an agency policy? What considerations/factors underlie your jurisdiction's treatment of these kind of claims?

[Chateau Laurier, Room TBD]

Discussion leaders:

Peter Renehan, Special Counsel, Australian Competition and Consumer Commission

Alexis Brunelle, Référendaire, Autorité de la concurrence, France

Sean Farrell, Assistant Chief, New York Office, United States Department of Justice, Antitrust Division

12:15-12:45pm:

Closing Remarks

Speakers:

Stéphane Hould, Deputy Commissioner, Competition Bureau Canada

Mukhamed Khamukov, Federal Antimonopoly Service of Russia; Co-Chair of Subgroup 2 of the ICN Cartel Working Group