

# **FOREWORD to the 4th edition of the GLOBAL MERGER NOTIFICATION HANDBOOK**

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This publication, although only in its fourth year, already stands as one of the most invaluable information sources for those of us involved in merger control, whether as regulators, as businesspeople, or as legal practitioners. The Handbook is at the same time a testament to the astounding proliferation of merger control regimes in recent years. This has been an extraordinary phenomenon, and one which is to be applauded. Merger control is a welcome - indeed, in my view, a necessary - "flanking" policy instrument for all market economies, irrespective of their level of development.

The growth of merger control has not occurred in a vacuum. Those jurisdictions with established regimes have had an important influence on the shape and content of emerging systems. Moreover, in the past couple of years, one new multilateral forum has paid particular attention to the development of merger control: the International Competition Network. As a consensus-based organisation, the ICN, with some 80 member jurisdictions, has already contributed significantly to an effective dissemination of sound competition principles, with the ultimate purpose of promoting consumer welfare and job creation. At the same time the ICN is working to reduce costs and burdens on industry, in particular those associated with having to seek merger clearance in a multiplicity of jurisdictions.

The ICN is a project-oriented and consensus-based organization, and at its first Annual Conference in September 2002 it adopted a comprehensive set of Guiding Principles governing merger notification and review procedures. These represent an excellent foundation upon which to build a more detailed set of agreed best practices with regard to this crucial aspect of merger control regimes worldwide. The benefits, both for merging companies (in terms of alleviation of unnecessary regulatory burdens) and for us as public authorities (in terms of rendering our procedures more efficient, and in terms of focusing our resources on the truly problematic transactions) are undeniable.

At its second Annual Conference in Merida, Mexico, in June of this year, the ICN members went still further and adopted seven detailed recommended practices according to which merger control agencies should:

- examine a deal only if it has a real impact in their national market;
- adopt clear and objective notification thresholds;
- allow for flexibility in the timing of notification;
- require only the information strictly necessary for a proper assessment;
- ensure that investigation timetables are predictable and no longer than necessary;
- provide for transparency in their laws, procedures and individual decisions;
- periodically review their merger control systems.

The recommended practices are non-binding but, with the imprimatur of the ICN, they constitute a sound and widely-accepted basis for legislative and enforcement practice. Further recommended practices are currently being developed by Member agencies, and I am

confident that we will very soon have a comprehensive guiding framework for merger notification and procedures, to the benefit of all jurisdictions. This is truly a welcome development.