



ICN Advocacy Working Group

Break out Session #1: Re-thinking the ICN Advocacy Toolkit

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*Is your Agency facing new issues with an advocacy dimension?
What advocacy responses have you developed to address them?*

Thank you for the opportunity for the Jamaica Fair Trading Commission (FTC) to participate in the ICN Annual Conference.

For several years the Jamaica FTC has been engaging in competition advocacy initiatives of varying degrees to build a strong competition culture in Jamaica. Our initiatives span policy development as well as programs aimed at educating policy makers, businesses, academia, and the legal fraternity on the importance of competition in economic development.

The benefits to Government and business that have been seen include:

- Information sharing between the FTC and sector regulators with respect to investigations and regulatory oversight, eg, the design of regulations and policies.
- Reduction in duplications.
- Cohesive approach on significant policies that implicate different areas of the economy.
- Reassuring the business community of the FTC's purpose and approach to facilitating their needs.

The ICN Advocacy Toolkit is our primary source of guidance on competition advocacy. We use it to assist in the design of strategies and in the tailoring of targeted initiatives. At the forefront of our advocacy programme are:

- identifying matters that raises competition concerns which includes examining topical matters that affect our economy;
- developing competition enhancing or (at a minimal) competition neutral solutions to those concerns.

- maintaining communication with the various groups on the benefits of competition; and
- establishing strong relationships with policymakers and the business community.

The COVID-19 pandemic has changed our lives, and we have had to adjust several operational processes to handle the ‘new norm’ in business. For example, there was an explosion of delivery services and a significantly increased demand for, and supply of online services as work-from-home became a part of our lives and businesses and schools went virtual. These factors, among others, led to a noticeable increase in demand for broadband, and the FTC, through its established relationship with the sector regulators for spectrum and telecommunications, has identified new ways to manage the Government’s Spectrum Holdings Policy.

This example is typical of how we carry out our advocacy interventions.

Ultimately, the FTC’s involvement in the process was much deeper than initially anticipated. We welcomed the opportunity, given the importance of the industry to the economic recovery. It allowed us to offer significantly more guidance than anticipated in relation to the development of competition in the mobile telecoms sector. From data gathered through the FTC’s continued surveillance of the telecoms market, we noted that the COVID-19 pandemic had caused a significant increase in the demand for mobile telecommunication services beyond the amount allowed under the current levels of the established Spectrum Cap that was assigned to the two telecoms service providers for several years.

The advocacy effort took us through several stages used in conducting market studies, and the Advocacy Toolkit was used to guide the work. Our work led us to use the main features of the Toolkit to ensure that all issues were sufficiently addressed.

- Identifying the competition advocacy issues (as there were several issues). For example, the Government’s desire to preserve the market by determining the number of market participants. The FTC had to find a way to handle the problems, which are (a) more spectrum needed by the two telecoms players; and (b) to encourage the entry of new players; which would lead to increased online accessibility by consumers.
- Identifying stakeholders and methods of engagement (there were several, one had a training component);
- Implementing and monitoring the activity. For example, making recommendations to change existing policy and implement a new screening instrument to be used in the screening of requests for additional holdings of mobile spectrum; and administering the assessment of potential harm to competition arising from the requests.
- Evaluating the effectiveness of the intervention. Designing *ex-ante* and *ex-post* methods of measuring the effectiveness of the intervention. This includes a consultative exercise with

telecom operators intended to sensitize and gather feedback from stakeholders regarding the proposed changes to the Policy.

We have found the Toolkit to be extremely useful, and like most things, it has to be updated periodically to account for new issues and new initiatives to address current events.

Final Remarks

In recent times, perhaps resulting from the impact of COVID-19, we have been seeing more policy development across Government for several sectors, and noticeable efforts by the business community to innovate in particular in the digital world. It is therefore important that we continue to build and maintain relationships and collaborate with Government Ministries, Departments & Agencies, trade associations as well as the private bar, specific law firms, and accounting and management consultancy firms.

Advocacy efforts are targeted, and in keeping with our policy of frequent internal review and assessment, we must identify and tailor methods to engage with stakeholders, messages to communicate, and appropriate communication channels. Tools include hosting one-on-one meetings specific to stakeholders' functions and Memorandum of Understanding with sector regulators that formalizes inter-agency collaboration and cooperation between agencies. For example, providing technical expertise, avoiding potential conflicts between competition law and other bodies of law or regulation.

The growing receptivity of the policymakers and the business community certainly abodes well and is engaging; and our Agency must keep up with the times and modify our approach wherever and whenever necessary.

Thanks to Professor Eleanor Fox our moderator today, and to the other presenters for bringing their views to this Session; and to the Hungarian Competition Authority for hosting this Conference.