



ICN Cartel Workshop

Foz do Iguaçu

October 7-10, 2019

Cartels in the Age of Data-Driven Economy

Monday, October 7th

17:00 – 18:00	Early Registration
19:00 – 21:00	Cocktail Reception 📍 <i>(Location TBD)</i>

Tuesday, October 8th

8:00 – 08:45	Registration
08:45 – 09:00	Opening Remarks 📍 <i>Cataratas Room</i>
09:00 – 10:15	<p>Plenary Session 1: Delineation of cartel activities in a changing business environment 📍 <i>Cataratas Room</i></p> <p><i>The "digital revolution" brought meaningful changes in our lives, including the way we do business. In this new business model innovation as a competitive parameter and the assurance of interoperability between different "digital systems" have gained an increased importance. Cooperation between firms have also gained a different meaning since collection and sharing of data may be a necessary feature of doing business and engaging with partners in both horizontal and vertical settings. In this session, the panelists are encouraged to explore the limits of this inter-firm</i></p>

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	<p><i>cooperation that could create or maintain a cartel from three different angles: the delineation of data sharing arrangements; inter-firm cooperation driven by technological aspects; and the relation between cooperation and intellectual property.</i></p> <ul style="list-style-type: none"> - Mr. Alexandre Cordeiro Macedo (Moderator) – Administrative Council for Economic Defense (CADE) <i>General Superintendent</i> - Mr. Andrey Tenishev – Russian Federal Antimonopoly Service <i>Head of the Anti-Cartels Department</i> - Ms. Margarida Matos – Portugal Competition Authority <i>President</i> - Mr. Stanislas Martin – Autorité de la concurrence <i>General Rapporteur</i>
10:15 – 10:45	Break
10:45 – 12:00	<p>Mini Plenary 1: Challenges and information management for data driven markets 📍 Cataratas Room</p> <p><i>An extensive share of the commercial exchanges that take place in society is increasingly moving from traditional economy to online platforms. Observed or inferred, data has become a valuable intangible asset that is often used as a major input for price-setting systems. Furthermore, behavior of internet-based companies has far-reaching consequences that surpass the economic dimension. Panelists will discuss policy tools and strategies to define comprehensive governance of online markets aiming to effectively-protect fundamental values of competition and fair trade.</i></p> <ul style="list-style-type: none"> - Mr. Makgale Mohlala (Moderator) – Competition Commission of South Africa <i>Team Leader on Cartels Investigations</i> - Ms. Charlotte Ho – Hong Kong Competition Commission <i>Manager I (Operations)</i> - Mr. Marc Hansen – DG COMP NGA, Latham & Watkins <i>Solicitor Head of Cartels Division</i> - Mr. Michele Pacillo – Italian Competition Authority <i>Officer for International Affairs</i> <p>Mini Plenary 2: Restrictions of competition "by object" and cartel investigations: burden of proof 📍 Naipi Room</p> <p><i>The three classical “by object/per se” restrictions in agreements between competitors are price-fixing, output limitation and sharing of geographical markets or products and services. With the evolution of the corporative compliance standards and the increase of antitrust enforcement cases, it becomes imperative to</i></p>



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	<p><i>shed some light on conducts that do not fit exactly with the previously-accumulated experience on the subject, such as information sharing, buying interest groups, conducts carried out by software systems, among others. In this context, the discussion on whose shoulders the burden of proof should fall is critical. Panelist will discuss the burden of proof regarding competition restrictions “by object/per se”, by sharing their expertise on this kind of modern behavior.</i></p> <ul style="list-style-type: none"> - Mr. Umberto Berkani (Moderator) – Autorité de la Concurrence <i>Head of one of the Antitrust Units</i> - Ms. Beyza Erbayat – Turkish Competition Authority <i>Competition Expert</i> - Ms. Colette McGuigan – Ireland Competition & Consumer Protection Commission <i>Criminal Enforcement Deputy Director</i> - Ms. Isabel López Gálvez – Spanish National Commission on Markets and Competition <i>Deputy Director Cartels and Leniency</i>
12:00 – 13:15	Lunch Break
13:15 – 14:30	<p>Breakout Session 1: Wage-fixing, no poaching and restrictive labor market practices 📍 Tarobá Room</p> <p><i>Historically, antitrust enforcement has rarely been invoked to target employment relationships and potential restraints based on their anticompetitive effects in the labor-market. In recent years, competition authorities around the world have been analyzing and sanctioning conducts such as wage-fixing, no-poaching and other labor restrictive practices. This session will share experiences and methodologies on how to analyze anticompetitive conducts in the labor market, like wage-fixing, no-poaching and labor-data sharing and address how to face them from the antitrust perspective.</i></p> <ul style="list-style-type: none"> - Mr. Carlos Ragazzo (Moderator) – CADE NGA, Getúlio Vargas Foundation School of Law <i>Associate Professor</i> - Mr. Daniel García-Zarza Martínez Spanish National Commission on Markets and Competition <i>Cartels and Leniency Unit</i> - Mr. Edward Yiu – Hong Kong Competition Commission <i>Manager (Operations)</i> - Mr. Francisco Téllez – Federal Economic Competition Commission (COFECE) <i>Director General for Cartels</i>

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Breakout Session 2: Antitrust liability for software-based infringements

[Naipi Room](#)

The software industry is widely known as a powerful thrust for innovation. However, the fact that software markets are dynamic and complex does not exempt them from complying with antitrust policies. A per se engagement in a cartel offense, however, usually demands a “voluntary” aspect that could be difficult to find in the context of coordinated artificial intelligence systems and algorithms. This session will discuss the requirements and framework to hold economic agents accountable for software-based infringements.

- **Mr. Joost van Zwet** (Moderator) – Netherlands Authority for Consumers and Markets
Senior Strategy Advisor
- **Ms. Jacklin Lem** – US Department of Justice
Assistant Chief
- **Ms. Lucilia Falsarella-Pereira** – UK Competition and Markets Authority
Director - Cartel and Antitrust Enforcement
- **Ms. Sofia Vasileiou** – Directorate-General for Competition, European Commission
Case handler

Breakout Session 3: Information sharing cartels: theories of harm, international background, requirements and limits

[Guaira Room](#)

Information exchanges among competitors can increase transparency in a given market and lead to efficiency-enhancing benefits. However, it may also present competition risks given that detailed knowledge about competitors can reduce the magnitude of competition. The challenge for competition enforcers is to define whether and how information-sharing processes have adverse effects on markets. Based on a simulation of interview, this session will deal with the topic of information-sharing cartels under the umbrella of theories of harm, by presenting how various jurisdiction have dealt with the subject.

- **Mr. Subrata Bhattacharjee** (Moderator) – Canada CB NGA
- **Mr. Alden Caribé de Sousa** – Administrative Council for Economic Defense (CADE)
Head of Leniency Unit
- **Mr. Gonaço Anastácio** – Portugal Competition Authority NGA
- **Mr. Maanda Lambani** – Competition Commission of South Africa
Investigator

14:30 – 15:00

Break

15:00 – 16:15

Plenary Session 2: Intelligence and Screening Tools

[Cataratas Room](#)

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Investigating cartels has always been a demanding task. Often market conspiracies use deceptive means to mask their real interests. The world of data-driven technology, however, can be an ally of competition authorities to discover what has been hidden. Some databases, algorithms, and knowledge about social patterns can provide valuable clues to unveil useful information. In order to accomplish this objective, skilled and experienced investigators will share their knowledge on the subject with the audience.

- **Mr. Diogo Thomson de Andrade** (Moderator) – Administrative Council for Economic Defense (CADE)
Deputy Superintendent

- **Mr. Calvin Shivers** – US Federal Bureau of Investigation
CID Deputy Assistant Director

- **Mr. Hylke de Vriend** – Netherlands Authority for Consumers and Markets
Senior Case-Handler - Expert on Cartel Detection

- **Ms. Reiko Aoki** – Japan Fair Trade Commission
Commissioner

Mini Plenary 3: Reliable evidence gathering in the digital era and the increasing role of civil society

[📍 Cataratas Room](#)

One crucial step to dismantle cartels is the gathering of evidence. This task takes a different dimension in the digital era. Information is not only more accessible but sometimes the data-analysis can be overwhelming. Furthermore, all this information poses the questions of how to obtain it and its reliability. In this session, panelists will discuss how competition authorities are dealing with this issues and the role of civil society institutions in providing reliable information about cartels, using information gathered by the authorities in private damage claims in order to build comprehensive cases that respect due process and the limits of privacy.

16:15 – 17:30

- **Ms. Naoko Teranishi** (Moderator) – Japan Fair Trade Commission
Director of Fair Competition Inspection Office, Investigation Bureau

- **Mr. Caio Mário Pereira Neto** – CADE NGA, Pereira Neto, Macedo Advogados
Partner/Lawyer

- **Mr. Fernando Carreño** – COFECE NGA, Von Wobeser y Sierra
Partner

- **Mr. Mark Rosman** – US DOJ NGA, Wilson Sonsini Goodrich & Rosati
Partner

Mini Plenary 4: Potential, Limits and Risks of Surveillance, Infiltration and Whistleblowers in Cartel Probes

[📍 Naipi Room](#)

Surveillance, infiltration and whistleblowers can be powerful



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19:00 – 21:00	<p><i>mechanisms of cracking down cartels in some jurisdictions. Carry on these measures, however, involves some inherent risks that often demand great expertise. Panelists will discuss the use and effectiveness of such tools as well as their potential to prove the existence of cartels.</i></p> <ul style="list-style-type: none"> - Mr. Devon Mahoney (Moderator) – US DOJ NGA, Washington, D.C. office of Gibson, Dunn & Crutcher <i>Partner</i> - Ms. Ann Salvatore – Canada Competition Bureau <i>Deputy Commissioner, Cartels Directorate</i> - Mr. Haim Arbiv – Israel Competition Authority <i>Director of the Investigations Department</i> - Ms. Maureen Banda-Mwanza – Zambia Competition and Consumer Protection Commission <i>Director of Legal and Corporate Affairs</i> <p>Special Dinner 📍 (Location TBD)</p>
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Wednesday, October 9th

9:00 – 10:15	<p>Breakout Session 4: Modern and innovative tools for detecting and analyzing cartel conduct 📍 Tarobá Room</p> <p><i>Analyzing economic transactions is a challenging burden for competition authorities. Delegate the load to automated systems becomes necessary for matching the need for oversight of economic agents. This panel will explore the nuances of different types of automated tools that are helping cartel evidence assessment around the world. Automated detection tools, selected databases, software toolkits, and other mechanisms will enrich the expertise of anti-cartel enforcers.</i></p> <ul style="list-style-type: none"> - Mr. Juan Correa (Moderator) – National Economic Prosecutor of Chile (FNE) <i>Head, Anti-Cartels Division</i> - Mr. Anders Wiberg – Danish Competition and Consumer Authority <i>Chief Special Advisor</i> - Mr. Joseph Walser – Ireland Competition and Consumer Protection Commission <i>Deputy Director of Criminal Enforcement & Product Safety</i> - Ms. Thembekile Tshabalala – Competition Commission of South Africa <i>Senior Investigator</i> <p>Breakout Session 5: Effective leniency resource management and</p>
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	<p>evidence assessment</p> <p>📍 Naipi Room</p> <p><i>The state of the art of cartel detection structures is based on a robust ex-officio structure and a reliable leniency program. We have witnessed the increase use of intelligence and screening tools on the ex-officio investigations is evident However not much has been said about their use for leniency programs. Which of those tools can be used or adapted to speed up investigations originated from leniency applications? How can authority-independent surveys confirm or complement information fragments provided by the applicants? How can information systems enhance leniency programs?</i></p> <ul style="list-style-type: none"> - Mr. Evgeny Bolshakov (Moderator) – FAS Russia NGA, Egorov, Puginskiy, Afanasiev & Partners <i>Partner</i> - Mr. Jean-Sebastien Rivard – Canada Competition Bureau <i>Acting Assistant Deputy Commissioner, Cartels Directorate</i> - Ms. Maria Luisa Tierno Centella – Directorate-General for Competition, European Commission <i>Deputy Head of Unit G1</i> - Mr. Satoshi Ogawa – Japan Fair Trade Commission NGA, Nagashima Ohno & Tsunematsu <i>Lawyer</i>
	<p>Breakout Session 6: Open Source Intelligence (OSINT): best tools for antitrust investigation – (practical exercise) AGENCY ONLY</p> <p>📍 Guaira Room</p> <p><i>OSINT is often used to gather information from online public sources. Based on a practical exercise, this panel of enforcers will share lessons learned from techniques, methods and tools that can be used by competition authorities to monitor ongoing trends or a specific online objective that can potentially characterize a cartel conduct.</i></p> <ul style="list-style-type: none"> - Mr. Felipe Leitão Valadares Roquete (Resource person) – Administrative Council for Economic Defense (CADE) <i>Head of Intelligence Unit</i> - Mr. Flavio Laina (Resource person) – Directorate-General for Competition, European Commission <i>Head of Unit G5</i>
10:15 – 10:40	Break
10:40 – 11:10	<p>Show case of the Brain Project (Projeto Cérebro) AGENCY ONLY</p> <p>📍 (Location TBD)</p>
11:15 – 12:30	<p>Plenary Session 3: Due Process</p> <p>📍 Cataratas Room</p>

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	<p><i>Transparency and a fair process are fundamental pillars of a healthy competition enforcement system. Such kinds of processes aim to establish impartial and consistent investigations, as well as providing economic agents with legal certainty and predictability. This session will address the different approaches that different governmental bodies applies on relevant due process topics such as professional privilege, management of confidential information, among others.</i></p> <ul style="list-style-type: none"> - Ms. Despina Pachnou (Moderator) – Organisation for Economic Co-operation and Development <i>Competition Expert</i> - Mr. Eric Van Ginderachter – Directorate-General for Competition, European Commission <i>Director of Cartels</i> - Mr. Juan Pablo Herrera Saavedra – Colombian Superintendence of Industry and Commerce <i>Deputy-Superintendent for Competition Protection</i> - Mr. Sergio López Rodríguez – Federal Economic Competition Commission (COFECE) <i>Head of the Investigative Authority</i>
12:30 – 14:00	Lunch Break
14:00 – 15:15	<p>Mini Plenary 5: Public Procurement: Cooperation between antitrust authorities and other public entities</p> <p>📍 Cataratas Room</p> <p><i>Bid rigging is one of the most important challenges that competition authorities face since it involves the misuse of public resources directly harming the trust of the population toward the authorities as a whole. One way to address this problem is to involve other law enforcers in the investigative process, since it has been proved that collaboration between competition authorities and other public entities contribute to the improvement of the investigative results. This panel aim to provide insights on how to enhance the relationships between competition authorities and other public entities as a key tool to encourage and enable the reporting of suspected bid-riggings on traditional and digital markets.</i></p> <ul style="list-style-type: none"> - Ms. Mariana Vital (Moderator) – Portuguese Competition Authority <i>Adviser</i> - Mr. Or Belkin – Israel Competition Authority <i>Criminal Prosecutor</i> - Ms. Trudie Enks – Australian Competition and Consumer Commission <i>Assistant Director, Cartels Branch</i> - Mr. Yonghee Shin – Korea Fair Trade Commission <i>Director of Bid-rigging Investigations</i>

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	<p>Mini Plenary 6: Digital Evidence: reliability and due process</p> <p>📍 Naipi Room</p> <p><i>Gathering and selecting of reliable and useful information is one of the most valuable skills that authorities can develop in order to enhance their decision-making capabilities. This panel will focus on effective ways to standardize processes regarding resource-management, safekeeping digital and sensitive information and administer electronic evidence, such as to respect due process and promote legal certainty and predictability.</i></p> <ul style="list-style-type: none"> - Mr. Fatih Ciroglu (Moderator) – Turkish Competition Authority <i>Competition Expert</i> - Mr. Gideon Mokaya – Competition Authority of Kenya <i>Manager, Enforcement and Compliance</i> - Ms. Paula Azevedo – Administrative Council for Economic Defense (CADE) <i>Commissioner</i> - Ms. Sophie Bresny – Autorité de la Concurrence <i>Head of the Inspections Unit</i>
<p>15:15 – 15:45</p>	<p>Break</p>
<p>15:45 – 17:00</p>	<p>Breakout Session 7: How to foster private enforcement - success stories</p> <p>📍 Tarobá Room</p> <p><i>An efficient private enforcement system can reduce some of the administrative burden that competition authorities face in cartel investigations and promote a healthy antitrust environment. This panel will address the growth of private damage claims in countries after the introduction of legal provisions for private enforcement, as well as its limitations. It is critical to discuss the mechanisms that have been put forth by competition authorities to offset the disincentives to apply for leniency.</i></p> <ul style="list-style-type: none"> - Ms. Claudia De los Ríos (Moderator) – COFECE NGA, Ledesma y Rodríguez Rivero <i>Partner</i> - Mr. Marcelo Calliari – CADE NGA, TozziniFreire Advogados <i>Partner</i> - Ms. Marguerite Sullivan – US DOJ NGA, Latham & Watkins LLP <i>Partner</i> - Mr. Pascal Hildebrand – DG COMP NGA, European Economic & Marketing Consultants <i>Consultant</i>
	<p>Breakout Session 8: Effective communication towards the Judiciary – on being persuasive</p> <p>📍 Naipi Room</p> <p><i>What are the essential elements of successful communication</i></p>



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	<p><i>methods? What are the key practices to foster trust, credibility, and empathy? What is the impact of enhancing communication and influence towards the Judiciary? Participants will discuss the common challenges on the subject and share success stories, emphasizing the key aspects to building a persuasive case.</i></p> <ul style="list-style-type: none"> - Ms. Kalina Tulley (Moderator) – US Department of Justice <i>Chief, Chicago Field Office</i> - Mr. Eugenio Ruiz-Tagle – National Economic Prosecutor of Chile (FNE) <i>Deputy Chief - Anticartel Division</i> - Mr. João Carlos Mayer Soares – Brazilian Judiciary <i>Federal Judge</i> - Mr. Victor Meyer – Federal Economic Competition Commission (COFECE) <i>Executive Director of Cartel Investigation</i>
	<p>Breakout Session 9: The new ICN Framework on Competition Agency Procedures (CAP) and its relevance for International cartel investigations (TBC)</p> <p>📍 Guaira Room</p> <p><i>Based on the ICN’s framework on Competition Agency Procedures, this session will discuss how cartel investigation practices that are built on fundamental principles of fair and effective procedures are essential to perform sound competition law enforcement and how the relevance of the ICN CAP for international cartel investigations.</i></p> <ul style="list-style-type: none"> - Mr. Kazuhiro Hara (Moderator) – Japan Fair Trade Commission <i>Director of Investigation Bureau</i> - Ms. Jutta Wimmer – Bundeskartellamt <i>Special Unit for Combating Cartels</i> - Mr. Rob Ghali – Australian Competition and Consumer Commission <i>General Manager - Cartels Branch</i> - Mr. Ryan Danks – US Department of Justice <i>Chief, Washington Criminal 1 Section</i>
17:05 – 17:50	<p>Side Session: Lusophone session (It will be carried out in Portuguese)</p> <p>📍 Tarobá Room</p>

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09:00 – 10:15	<p>Plenary Session 4: International Cooperation Tools</p> <p>📍 Cataratas Room</p> <p><i>The global economic landscape of ever more dynamic and transnational markets has incentivized cooperation among competition authorities. This session will address the tools</i></p>
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	<p><i>available to build institutional relationships with other competition authorities as a key factor to increase the effectiveness of international cartel investigations. What are the most common setbacks and misunderstandings that competition authorities face, and how they work to overcome them? How the guidelines and recommendations by the ICN and OECD are implemented and how they help to avoid confusion about terminology?</i></p> <ul style="list-style-type: none"> - Mr. Frank Montag (Moderator) – Bundeskartellamt NGA, Freshfields Bruckhaus Deringer <i>Partner</i> - Ms. Beatriz de Guindos Talavera – Spanish National Commission on Markets and Competition <i>Competition Director</i> - Ms. Noemy Colin – Administrative Council for Economic Defense (CADE) <i>Head of the International Unit</i> - Mr. Richard Powers – US Department of Justice <i>Deputy Assistant Attorney General for Criminal Enforcement</i>
<p>10:15 – 10:40</p>	<p>Break</p>
<p>10:45 – 11:55</p>	<p>Breakout Session 10: Work product of the ICN Cartel WG SG1: “Enhancing Coordination on Leniency Matters” 📍 Tarobá Room</p> <p><i>In the 2019-2020 ICN year, CWG SG1 works on a guidance document, which plans to address key areas of coordination of competition agencies with the two parallel objectives of producing more-effective enforcement and helping to reduce disincentives for leniency applicants. The session intends to showcase the work which has been made in the framework of the project so far and to inspire the participants to provide further input to the finalisation of the guidance document.</i></p> <ul style="list-style-type: none"> - Ms. Leah McCoy (Moderator) – US Department of Justice <i>International Counsel</i> - Ms. Chris Cook – Canada Competition Bureau <i>Senior Competition Law Office, Cartels Directorate</i> - Ms. Tímea Pálos – Directorate-General for Competition, European Commission <i>Case Handler</i>
	<p>Breakout Session 11: Balancing incentives to leniency applications 📍 Naipi Room</p> <p><i>Leniency continues to be an important tool for cartel detection. The backbone of any successful leniency program is a predictable and consistent set of incentives. However, the balance of incentives can be delicate: it depends, at least, on the perceived risk of detection, on the current technology and reputation of ex-officio detection,</i></p>

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	<p><i>and on the relative severity of consequences and on the expected costs of cooperation. Considering the worldwide decrease in the number of leniency applications and the evolution of criminal, civil and antitrust law around the world, how can be possible to overcome individual and company incentives in favor of cooperation through leniency program?</i></p> <ul style="list-style-type: none"> - Mr. Kris Van Hove (Moderator) – DG COMP NGA, Van Bael & Bellis Partner - Ms. Candice Lee – Competition and Consumer Commission of Singapore <i>Deputy Director/Legal and Enforcement</i> - Mr. Howard Cartledge – UK Competition and Markets Authority <i>Senior Director for Cartels</i> - Mr. Mário Marques Mendes – Portugal Competition Authority NGA
	<p>Breakout Session 12: Co-existence of different antitrust authority-firm cooperation systems and the impacts on international cartel investigation. AGENCY-ONLY</p> <p>📍 Guaira Room</p> <p><i>The session will address how different antitrust authority-firm cooperation systems can impact international cartel investigations and which incentives and solutions may be bring a more balanced and healthy co-existence between them.</i></p> <ul style="list-style-type: none"> - Mr. Esteban Greco (Moderator) – Argentina Competition Authority <i>President</i> - Mr. Anton Teslenko – Russian Federal Antimonopoly Service <i>Deputy Head of the Anti-Cartel Department</i> - Ms. Ayako Tanaka – Japan Fair Trade Commission <i>Official at the International Affairs Division</i> - Mr. Ravvi Augusto Madruga – Administrative Council for Economic Defense (CADE) <i>Head of Unit</i>
12:00 – 12:15	<p>Cartel Working Group Work Plan and Next Steps</p> <p>📍 Cataratas Room</p>
12:15 – 12:30	<p>Summary and Closing Remarks</p> <p>📍 Cataratas Room</p>
12:30	<p>Social Events and Tours</p>