

**CYNTHIA:** Welcome to ICN 2020. We are delighted that you are joining us this week for the ICN Annual Conference. Today through Wednesday, we'll see two plenary discussions and related working group videos each day. On Thursday, we have special programming on ICN work related to NGAs, younger agencies, and economists. Each day you'll find the link to these session posted on the conference web page, just like you did today.

If you have questions, suggestions, or just want to let us know that you're tuning in, you can email us at [icn2020@usdoj.gov](mailto:icn2020@usdoj.gov) and [icn2020@ftc.gov](mailto:icn2020@ftc.gov). Follow ICN on Twitter. This week using the special hashtag ICN2020. And now it is my great pleasure to turn it over to [INAUDIBLE] president and ICN chair Andreas Mundt.

**ANDREAS MUNDT:** Thanks a lot, Cynthia. Well, welcome to the 2020 ICN Annual Conference, a meeting of members of the ICN of our non-governmental advisors and many other people this time, because we take a chance and have more attendees than ever probably. We have four conference days ahead of us. We're going to have a host showcase. There will be working group plenaries. There will be special sessions for younger agencies for our non-governmental advisors for economists, and there will be a follow up program after the conference that will be organized by the working groups. There will be weekly events.

Well, this is our first virtual conference. A virtual organization like the ICN and a virtual conference sounds easy, but in fact, it was hard to do that, to set up the program adjusted to the virtual world. And all my thanks go to our colleagues from the Federal Trade Commission and the US Department of Justice in Washington. Many thanks to Joe Simons. Many thanks to Makan Delrahim and their teams who have made this possible, who have set up this great event.

In a way, ICN is coming home to the US. It was founded there almost 20 years ago on October 25, 2001 at a meeting in New York City by antitrust officials from 14 jurisdictions around the world. The US agencies throughout have been very involved and engaged in this multilateral and consensus driven organization ever since. And I'm very grateful, again, to my colleagues, Joe Simons and Makan Delrahim that they have made this possible and that we are with you today. We

cannot be in the US. We cannot be in LA, unfortunately. But thanks to your efforts.

I also would like to thank some of my colleagues in other parts of the world, like our secretariat, the secretariat of the ICN in Canada, our horizontal coordinator in Australia, our OECD and UNCTAD liaisons in Portugal and Italy, our vice chairs in Mexico and South Africa, and the working group co-chairs really around the globe. Just to mention all these colleagues who are with us during these upcoming days and who should have been with us in Los Angeles gives me a little bit of a feeling that you are all sitting in front of me as the ICN community.

Our initial plan was an in-person meeting in Los Angeles. 600 people in one room, impossible to do in these times. COVID-19 is having its shadow on everything. It has triggered economic crisis around the world. There are challenges for societies. There are new distortions. And it is an experience that we as competition agencies have made frequently that in such a crisis, nobody calls for more competition. Instead, most people call for a strong state.

And in this exceptional time, it is evident that the state cannot just stand at the sidelines, but they have to act in a certain way. They act with subsidies. They act with state aid. That is problematic, again, because this is distorting competition as well. So what is very important is that these state aid subsidies remain fast, focused, proportionate, and most of all, limited in time.

So if the state has to act, it is very clear that we as competition agencies had to act as well. We had to react to these unconventional circumstances. For example, when assessing cooperation agreements in our respective jurisdiction. Here we were very happy, at least here in Germany, and I think I can say this for many agencies around the world, that competition rules have been sufficiently flexible. It is important for me to say we have not been lenient with the application of competition law, but we took into account these exceptional circumstances, and we adjusted our application of the law to these circumstances that is much of a difference.

In crisis, an organization has to serve its members. That was so back in 2009 when we had the financial crisis. Here we saw a statement by the chair which said, the case for competition policy in difficult economic times. During the pandemic, we

have reacted very quickly in the framework of the ICN. We gave guidance to our members through a steering group statement. We did a webinar together with our colleagues from the OECD.

And our message was always twofold. One was, yes, we are ready to adopt our approach to these circumstances. But the other one always was also that competition in the future and now must be part of the solution, and competition is not part of the problem. And I think it was a good thing that we embedded our national efforts into these international initiatives.

Los Angeles is pretty close to the Silicon Valley, so that would have been a perfect fit for the overarching conference theme, the digital economy. It is the defining topic for agencies around the world. And this is where we as competition authorities have to prove ourselves, in a way. We need to deliver. And even more so in the COVID-19 crisis, the pandemic has accelerated some developments that have been ongoing already. So the expectations on us as competition agencies are high.

And we are acting in a challenging environment. We have a rapid technological development. Issues are sometimes embedded in far reaching policy considerations by policymakers. As I said, competition is not always favored in these times. There are strong calls for other measures. We have a slight touch of protectionism around the world. And last but not least, we as competition law enforcement are acting in the intersection with other areas of competition law, like consumer protection and data protection.

Meanwhile, we have some significant experience with a digital economy as competition agencies. There has been valuable groundwork, and there have been very successful cases around the world. Lots of reports, lots of successful cases. But our experience is as well at competition law might need, in some cases, some adjustment with regard to new business models, to new economic effects, to new digital parameters. So to tackle all these new business models, all these new platform cases, these gatekeeper considerations, there are legislative initiatives going on around the world, one can say, especially over here in Europe.

So what I do hope is that this conference is going to give some valuable input to

considerations, reports, legislative initiatives around the world. I think the ICN is extremely good, equipped to deal with these issues. I took care as the chairman of the steering group that we dealt early on with all these questions in the digital economy. We started early on 2015 at the Sydney conference. It went on through Singapore, Portugal, the New Delhi conference, and last year in 2019, the Cartagena conference where we were dealing with these issues. And if you look at the program for this year, you'll see that we have, in fact, one overarching topic. That is how to deal with the digital economy.

So let's carry the momentum in our agencies, and let's multiply that momentum in the ICN and to show we are very good on track. So I wish for all of us a wonderful conference, wonderful days, exciting discussions, and lively debates. Thank you very much. And having said this, I hand over to Makan Delrahim, one of the co-hosts of this year's conference. Makan, it's up to you.

**MAKAN**

**DELRAHIM:**

Well, thank you, President Mundt. Thank you for your leadership of the ICN during your chair of this organization. And I'll send my greetings from the Robert Kennedy main Justice Department building where I am sitting. And we're coming back to somewhat normal. Starting today, we started phase two of our recovery. It's a real pleasure to be here today to share this opening session with you and with my friend Chairman Simons. We welcome our competition enforcement colleagues from around the world.

Working together with ICN leadership and members, the Justice Department's Antitrust Division is proud to serve as the co-host of the ICN 2020 with our friends at the Federal Trade Commission. I'm proud of the dedicated staff of the antitrust division's international section and the Federal Trade Commission and most importantly, Cynthia, who kicked us off here, who she and I were colleagues together 16, 17 years ago, for all their hard work, for swiftly and effectively pivoting from the fantastic program we had planned for Los Angeles to this virtual conference.

We won't be able to enjoy the sun and the sand nor the food at Nobu or Spago or anywhere else in Los Angeles, but I look forward to hopefully hosting you all, all of our colleagues there, in another year when we're all through with this pandemic.

I would also like to thank you again, Andreas, and the team, Barbara and Olaf at the BKA and the ICN secretariat for their vision and their leadership. And last, certainly not least, ICN 2020 would not have been possible without the engagement of all of the ICN members, particularly the working group co-chairs. And thank you all for what you have contributed to what will be a fascinating discussion over the next coming days.

Let me also just take a moment personally to send a heartfelt thanks to our deputy assistant attorney general for international, Rene Augustine, and our chief of the international section, Linda Marshall, for their hard work and capable dedication in managing all of our important international engagement efforts. I'm pleased that we can join together in this conference, and perhaps especially it is fortuitously appropriate that we're doing this virtually to discuss the important and timely issue of antitrust enforcement in the digital economy.

The digital economy, as you know, has transformed the way we live and the way we work. Most recently, we have seen technology help us respond to challenges that the pandemic has presented us the last six, seven months, allowing many of us to work from home, hold meetings virtually, educate our children, and even attend this global conference without requiring any of us to travel.

Digitization has contributed to improvements in human condition on a once unimaginable and global scale. Nearly every industry, ranging from communications to medicine to agriculture has joined the digital economy. By protecting robust competition through sound antitrust policy and enforcement, we can ensure an environment conducive to innovation that benefits us all over the world.

While many other public policy issues and goals may be worthy, ranging from sustainability to equity, the antitrust laws are designed for and have worked effectively for more than a century in the United States to promote a single policy, and that's competition. When competition is at its strongest, good things follow for the consumer in the form of lower prices, higher quality, and enhanced innovation and its related dimensions such as data and privacy protection.

Historically, we have seen in the antitrust laws successfully applied to new and

transformative industries, whether oil, telephone, or computers. By timely using our existing laws to ensure robust competition in the digital marketplace, we can prevent having to resort to the blunt tools of government mandated technological solutions, which can stifle the very innovative atmospheres that our competition and laws seek to promote.

As antitrust enforcers, the onus is on all of us to continuously sharpen our tools in terms of our expertise in the digital arena. Our team at the Justice Department continues to build on its years of experience and stay abreast of the trends in this area, as challenging as they may be. We recently realigned the commodities of the antitrust division to enable attorneys in one of our sections to focus full time on technology markets and the competitive characteristics of platform technologies. We also recently announced a technology initiative to deepen our expertise and understanding of cutting edge technologies like blockchain, machine learning, and artificial intelligence.

I particularly look forward to the opportunities this conference provides for all of our ICN members to share insights with one another as we all remain vigilant in the protection of competition in the digital age. I know, Andreas, you have been a leader on a lot of these issues. Our friends in Australia, friends in Canada, friends all around the world have been focused on these issues, and we look forward to all of us learning from one another.

We all know when carbon is subjected to intense pressure and heat, it transforms into one of the hardest minerals on earth, the diamond. Like many things that become better and stronger in the face of adversity, we are dealing with challenges today that we could not possibly have imagined when the idea of the ICN 2020 was in its infancy. Thinking back to the start of the planning for this conference two years ago, we have some tremendous accomplishments together since that time, such as last year's framework on competition agency procedures and this year's guidance on enhancing cross-border leniency cooperation.

Many of these accomplishments would not have been possible without the camaraderie and the processes that we have in the ICN. As the ICN has consistently demonstrated since its inception, no difficulty we face is insurmountable. The upcoming third decade project offers a time of self

reflection for the ICN through which we can metabolize these challenges to form an even stronger ICN, which as we have in the years past, we will rise to today's challenges together and continue to transform all of our agencies within the international competition community for the better. Thank you. I look forward to hearing from our other colleagues and Joe. Thank you again.

**JOSEPH SIMONS:** Thank you, Makan. Hello, everybody. I'm sorry, good morning, good afternoon, and good evening, as the case may be. On behalf of the FTC, it is a pleasure to join Andreas and Makan and welcome you to ICN 2020. This year has been like no other, that's for sure. I wish all of our ICN community good health and strong resiliency.

I'd like to start by talking about how incredibly proud I am of the FTC staff. They have remained hard at work during the pandemic, and despite the difficult circumstances, the FTC's law enforcement policy, investigative and international work continues. I would also like to commend the ICN and our sister agencies in responding to the pandemic and its economic consequences. In this time of emergency with enormous strain on all of our domestic operations, it is a vote of confidence in the ICN and the value of international cooperation that we remain active in the network.

And this brings us to today's events. Let me begin with a few thank you's. This event was made possible by a wonderful collaboration between the FTC, the antitrust division, and so many of our friends and partners around the world. I want to thank Randy Tritell and his expert ICN team in our Office of International Affairs, including Liz Kraus, Cynthia Lagdameo, Maria Coppola, and Paul O'Brien. I would also like to thank the many other FTC and division staff and all of this week's panelists who make this conference happen. An incredible amount of work went into transitioning from the planned conference in LA to executing this virtual event, and I am very grateful for that effort.

The working groups have developed a great agenda for the next four days. An impressive slate of speakers from around the world will discuss our work across a wide range of timely competition issues. Importantly, this includes a running theme throughout the conference on competition and the digital economy. We also invite you to watch the recorded submissions from agencies and academics

that provide additional background and perspectives on this theme.

But as wonderful as it is to be able to gather virtually this year, boy, we certainly miss the in-person opportunities to meet and exchange new ideas. This year more than ever, I encourage everyone to embrace our shared connection as a network. Do not let the virtual nature of this event dampen our shared experience.

On a personal note, it is a real privilege for me to participate in the ICN. I was a director of the Bureau of Competition at the FTC way back in 2001 when the ICN was formed, and I attended the ICN second conference in Mexico in 2003. The FTC has been an active participant since the ICN's inception. The ICN has energized growing collaboration, cross-fertilization, and consensus building around sound antitrust principles. The ideas, guiding principles, and framework of what has become international antitrust was crafted and built by the ICN and sister organizations like the OECD Competition Committee.

Over the last two decades, the ICN has seen calls to relax antitrust standards and defer to industrial policies, and some people raise doubts as to whether the agencies can keep up with dynamic changes in the economy and new technologies. Throughout, the ICN's growth and shared commitment to consensus building have reaffirmed the value of the network and its antitrust mission as a counterweight to these challenges. As the ICN turns 20 next year, the network will conduct a comprehensive review to ensure and enhance its effectiveness as it enters its third decade. The FTC with our colleagues at the Dutch and German competition agencies will lead this project.

One topic we plan to discuss is the ICN's role as a global advocate for competition. Especially at a time when the values of competition policy is being challenged, the ICN can use its leading platform to help agencies advocate pro competitive policies and to speak out for competition as a driver of economic recovery, innovation, and growth. We will hear more about this project on Thursday, and I encourage everyone in the network to take part in the exercise.

As for today, we begin with the showcase panel on competition enforcement in the digital economy. First you will hear keynote remarks from antitrust scholar Herb Hovenkamp, and I want to thank Herb for his contribution to our discussion.

After that, I am pleased to join Assistant Attorney General Delrahim, Executive Vice President Vestager, Professor Bill Kovacic, and Cristina Caffarra for our panel discussion. With that, I would like to thank all of you for joining us this week, and I hope you enjoy the conference. Thank you.

**HERBERT  
HOVENKAMP:**

Good morning. Very happy to be here at the meeting of the international competition network. I want to spend some time today talking about platforms, competition, and particularly the problem of remedies. I'm going to talk a little bit less about particular exclusionary practices or anti-competitive practices and more about remedies. I don't like watching talking heads on these screens, and I'm assuming you don't either, so I'm going to use a fair number of PowerPoint slides, and I'm going to switch over to those. Just one second. Good. OK.

Today my topic is Remedies for Digital Platform Monopoly. This is extracted from an article I've got coming out in a couple of months, and I'll be happy to share it with you. You can either find it on my SSRN page for download or else send me an email and I'll be happy to send you the current draft. It's not out yet, but it's pretty close to being finished.

The issue I want to talk about today is what types of remedies are likely to work in antitrust platform markets. I'll begin with the premise that the goal of the antitrust laws is consumer welfare. That is, a remedy ought to be able to make the market more competitive, which we ordinarily would measure by increased output and lower prices. The remedy is not necessarily designed simply to make a firm smaller, although that's certainly a possibility.

Much of the debate over the platforms today is fueled over the question whether they are winner take all markets, which are basically natural monopolies. That is, markets that gravitate naturally toward a single firm. Those arguments come from both the left and the right, the right emphasizing that really antitrust can't do anything, certainly not anything structural, about these markets because they're natural monopolies. On the left are calls to do very aggressive things with the antitrust laws, but more particularly to regulate them, kind of like the way we regularly public utilities.

I think the position is simply wrongheaded. I think it remains to be seen whether a

few of the assets offered by the big platforms, I'm speaking here of Apple, Amazon, Facebook, and Google, whether the assets offered by the big platforms are natural monopolies. But I think for the most part they are not, and this is so for a number of reasons.

One of them is the availability of their products. That is to say, you can buy the products from more than one source. And that ranges for things like ride sharing like Uber to anything, pretty much, that Amazon sells. There are stable situations in which you can buy these products from multiple firms, and market shares among them have come and gone. If you look at questions about durability, over the history of the antitrust laws, we've had lots and lots of monopolies, ranging from Standard Oil early in the century to Alcoa in the middle of the century.

The monopoly that provoked the wrath of Congress during the new deal was A&P, the largest grocery store chain in the country and for many years the largest retailer in the country. There was IBM that provoked a very famous antitrust complaint in the 1960s and '70s. Kodak, a storied monopolist for practically a century. Xerox, whose dominance in the '60s and '70s was the consequence of patents.

And then of course Microsoft, which was the subject of a big antitrust-- very late in the 20th century. None of those companies is a monopolist today anymore, for various reasons, some of which may have been the product of an antitrust breakup, Standard Oil, perhaps. Many of them for reasons that have nothing to do whatsoever with the antitrust laws.

The reason people tend to see the antitrust platforms as winner take all or natural monopoly markets, I think, is mainly myopia. That is you're looking at the current situation, you see what you see, and you think that what you see is going to last pretty much forever. So if you'd look at the bottom of this slide, you'll see the title of a well-known article written in 2007 in *The Guardian* entitled, "Will Myspace Ever Lose Its Monopoly?" Well, Myspace was a predecessor to Facebook. And at the time, it had such a dominant position that people thought it would last forever. And of course, clearly it didn't.

I think one of the biggest reasons the platforms are not natural monopolies is

product differentiation. We speak of natural monopolies, we are talking mainly about firms that produce undifferentiated products and that face the same demand curve. For example, electric utilities might be natural monopolies, because they all offer power, which is pretty much the same thing for everybody. One of the characteristics of the large digital platforms, however, is fairly extreme product differentiation. And that means that they face different demands. And as a result, there's room for some customers even against the very large firms.

I give us an example here, internet dating sites. Dating sites are two sided markets. They benefit from a large number of traders on one side, call those the seekers, a very large number of traders on the other side, call those the sought, and externalities which suggest that the dating platform would become more and more attractive until pretty much all of the seekers and all of the sought would be on the same platform. In fact, that's not what we've had. We've had 25 years of experience with dating sites today. Competition among them is robust. The number of them continues to grow. There has been a lot of merger activity.

The dominant firm today is Match Group that owns several dating sites. Importantly, when it acquires multiple dating sites, it doesn't aggregate them, doesn't put them all together. If this were a natural monopoly market, you expect them to blend the dating sites together. No, it maintains their separate membership. And that's because as a result, I think, mainly of high search costs.

That's quite valuable to have separate membership. So as long as we've got substantial product differentiation, and I think all of the platforms are subject to that to one degree or another. I'm going to hold out one possibility where that may now be working so well, and that is Google search, which has been a dominant firm now for some time.

The existence of natural monopoly status is important with respect to remedies. If a platform is not a natural monopoly, then ordinarily we think it will keep its monopoly status only by engaging in exclusionary practices. That is to say, if you're not a natural monopoly, that means there is room for competition, and you're going to have to engage in exclusionary practices in order to prolong or preserve your natural monopoly status. And as a result, number one, I think antitrust has a role to play. And number two, I think there is room for increased

competition among the digital platforms.

The one place where I think a case can be made for natural monopoly here is Google Search. Product differentiation has been attempted repeatedly in the search engine market. We've got search engines that use different algorithms that protect customer data in different ways, that rank search results differently. Nevertheless, Google has been able to maintain 90% plus share in search pretty much everywhere in the world, even though there are many alternative search engines out there.

Why that's true, I'm frankly not sure. Search bias is probably not the reason. That is, search bias might explain why Google can get more revenue out of the way it ranks certain hits. But that would actually serve to reduce its market share to the extent that bias was unattractive to customers. I think the other possibility, which has more credibility, is that Google profits from doing things like tying Google Search to Android or to other devices.

But one thing I think is worth pursuing is the possibility that Google Search is a natural monopoly firm and that it might be helpful and effective to actually spin Google Search off from the rest of Alphabet, that's Google's parents, many subsidiaries. I don't think the other Google subsidiaries, including the operating system, Waymo for self-driving cars, I don't think these other-- there's no evidence that these other subsidiaries are natural monopolies.

In the first instance, it seems that the best remedy for platform monopoly remains injunctive relief. In general, the antitrust history of breaking up dominant firms has not been very pretty. I mean, famously in 1911, we broke standard oil up into 34 companies, and immediately the price of gas went up. We've put companies like United Shoe Machinery out of business, or at least severely crippled them through break ups. The record of antitrust breakups that have actually benefited consumers, I'm talking about now monopoly break ups, not break ups of recent mergers, but monopoly break ups.

The record of those break ups that have actually benefited consumers is very thin. I think probably the outstanding example of a beneficial breakup was AT&T in the early 1980s, in which AT&T was broken up into its regional operating

systems, Long Lines, which was the long distance portion of the business, and Western Electric for instruments. But I think AT&T is the exception that proves the rule, because what happened in the AT&T case was technological change, particularly the emergence of wireless, that made the monopoly system for AT&T unsustainable.

Indeed, if AT&T ever was a natural monopoly, it certainly was not a natural monopoly once MCI and others came in with wireless technology that permitted competitive operation. And significantly when the breakup occurred, the local operating companies largely remained intact but subject to interconnection, which I'm going to talk about a little bit later. Beyond that, I think the best remedy for monopolistic practices is litigation that identifies those practices, determines why those practices harm consumers, and then tries to tailor injunctive relief to stop those practices.

I think one remedy that received a fair amount of attention early in the current presidential campaign, although it's more or less fallen off the radar screen today, was the separation of Amazon's inside sales from its third party sales. The proposal that Amazon ought to be able to operate the platform but not sell third party vendors' products on the same website. I think that remedy is wrongheaded if the goal of antitrust is welfare of consumers. The principle impact of Amazon's house brands, like Amazon Basics batteries, for example, is to provide more competition for name brands.

So there's a slide suggests here Amazon Basics batteries are sold in competition with Duracell. Well, Duracell is a very large company owned by Berkshire Hathaway. Amazon Basic small appliances compete with the likes of Black & Decker, the largest small appliance manufacturer in the United States. Its consumable office supplies compete with 3M.

The principle impact of Amazon Basics products on the Amazon website is to force the prices of these name brand products down. That is, it increases rather than decreases the amount of competition. And I don't see any prospect of improving consumer welfare by forcing the segregation of name brand and house brand products on Amazon.

The other remedies for-- structural remedies for monopolization have been classical asset divestiture, starting with Standard Oil, where we actually identify different constituents, that could be different lines of business, different plants, different geographical areas, and break the companies up. We did that with Standard Oil. We did it with Grinnell. We debated doing it with Microsoft, but the DC Circuit disapproved a structural remedy, and we settled for a conduct remedy instead, which in my view, actually turned out to work fairly well.

The one exception to this is relatively recent mergers, which really fall into the rubric of merger policy. Significantly segregating non-competing units in a monopoly really don't do very much to increase competition unless there's some backstory about leverage or cross subsidization that has to go along with it.

I mean, for example, if you've got a company that makes 80% of the world's toasters and 80% of the world's blenders and you divest the blender business, well, now you've got two companies, each one of which makes-- one of which makes 80% of the world's toasters and the other of which makes 80% of the world's blenders. In order to solve the monopoly problem, you have to be able to break into those areas rather than segregating them from each other.

Interoperability has been a remedy and a very successful one, and I think it worked very well in the AT&T case. Interoperability basically meant permit smaller firms to interconnect on the network so that customers can access multiple portions of the network provided by multiple companies at the same time. And I think there are areas, such as cellular phones, where interoperability can work, although we already have it, for the most part.

The problem facing interoperability as a remedy for a traditional internet platform, say Facebook, where it's been discussed, is that in order for interoperability to work, you need to have at least one asset that is capable of being monetized. I mean, we've got interoperability in the cell phone market, but that's because we've got individual networks.

You subscribe to, say, Verizon for your cell phone service. And we've got individual instruments. Facebook, however, is sold on a commons. It's sold across the internet. It's not attached to a particular device. And as a result, I think

interoperability is structurally much more difficult to achieve.

I think a remedy that really requires some serious thought is reorganization of ownership and management rather than assets. Today we assume that platforms are single companies. We have to treat them as single entities. And as a result, we regard most of their practices as unilateral. But the fact is there's a long and storied history in US antitrust policy of regarding firms as cartels. And that situation arises when the individual members, they can be shareholders, they can be directors, they can be others with authority, have outside businesses and compete with each other.

Perhaps the most storied example in the United States is a Terminal Railroad case in which the Terminal Railroad bridge and terminals was owned by a single Missouri corporation with 38 shareholders. Each of those shareholders was a railroad, a railroad terminal, a ferry, or the bridge. And they cooperated with each other, and the Supreme Court dealt with them as a cartel rather than as a single entity.

I think that's a solution that is worth pursuing. That is, reconstitute firms like Amazon, Facebook into constituent decision makers. Need not be shareholders. In fact, federal antitrust law is quite indifferent to the state law corporate structure of the firm in question. They don't need to be shareholders, but they do need to be people with decision making power who compete with each other. So in the case of Amazon, for example, it could be large merchants. It could be some consumers.

In Facebook, it could be advertisers. If these were placed on boards in such a fashion that we could regard the arrangements that they make as collaborative rather than individual, antitrust policy would have the opportunity for dealing with them as joint ventures or cartels, as the case may be, and that would permit much more successful and much more aggressive antitrust treatment.

Anyway, I've developed that quite a bit more in the piece I've written. I welcome you to read it. Send me an email if you want a copy of it. And I wish you all well for this conference, and thank you very much for allowing me a few minutes to speak.

**KOVACIC:**

virtual conference. I'm Bill Kovacic with the law school at George Washington University, and I'm delighted to moderate this session with Cristina Caffarra. Earlier you heard Makan describing how diamonds are formed. Well, we have a gem of a panel today, to be sure.

We have the Executive Vice President of the European Commission, Margrethe Vestager. We've got the Assistant Attorney General for Antitrust at the US Department of Justice, Makan, who you saw earlier, Makan Delrahim. Also you saw earlier Joe Simons, the chairman of the US Federal Trade Commission. Welcome to our speakers.

As you heard Andreas mention, ICN is entering its 20th year. I recall being at Fordham in October of 2001 when ICN launched with 14 jurisdictions. We had at the time, just to think about things that changed, Apple later in the same week just launched the iPod around the beginning of their ascent back into prominence. Amazon in the fourth quarter of 2001 realized its first profit. Google still had largely a cute name but a growing presence in the middle of a Dot Com bubble. And Facebook, well, Mark Zuckerberg was still in high school. And oil was still oil and very big oil at the time.

A lot has changed in 20 years. Just a couple of highlights. One is the breathtaking ascent of all for these companies, along with a number of others that have transformed commerce and breathtaking ways and in such a short period of time. Second, we've had two substantial economic shocks, one more distant in 2008.

I think we still feel the residue of the global financial crisis and the way in which it hurled so many citizens in our countries from positions of at least modest wealth, middle class, down into lower middle class or worse. We still feel the bitterness of that, I think, throughout society. And now more recently, the COVID crisis, which again, has turned the economies upside down. And as we grope without absolute assurance about what the way out of the tunnel is going to be here. A most disturbing and unsettling time.

There are four challenges I think from all of this, these developments to agencies. And our colleagues earlier today have already flagged them. First, [INAUDIBLE] about what objectives we should pursue, especially at a time when the emphasis

is not focused simply on citizens as purchasers of goods and services but as workers, residents of communities have been turned upside down by the latest economic shock. So what is the aim of what we do?

Second, what tools should we use? Force of law, new studies, rule making, some hybrid of these. What's the right tool to do the job? Third, which institutions should do what? Do we keep the existing framework that we have? Do we make changes and adjustments? Especially in a world where we have to deal with so many overlapping sectors of regulatory activity, as well as massive government efforts out of sheer desperation, in many instances, to find solutions using public resources to try to keep the economy alive.

And last, the multiplicity that Andreas started us out with this morning. That is, across jurisdictions, we have many more agencies. We've got 30 more since ICN started in 2001, including some pretty big ones, and the retooling of older jurisdictions. Those jurisdictions are also trying to experiment with new techniques. How do you coordinate this massive activity? The coordination, standards setting, interoperability, it was such a key focus of what ICN sought to do in the fall of 2001. How does one go about that? What's worked so far and what hasn't?

It's my great pleasure to moderate this, as I said, with Cristina Caffarra. Advisor in a variety of competition policy matters, the convener of events that have helped build a community globally for what we do, and unsurpassed as a student of what's going on in this field, where it's been, where it is now, and where it might go, and where it should go. Cristina, over to you.

**CRISTINA**

**CAFFARRA:**

Thank you, Bill. It's my honor and pleasure to be co-moderating this with you and, of course, to be part of this panel. My task is to frame this panel. We, of course, want to hear from the speakers as soon as possible, but I want to give a little framing.

So to the showcase which is about digital. The digital economy and digital giants, of course, have played a major positive role in these times of upheaval. They've connected us. They've made things easier, in some sense, for many of us during lockdown. They've also been rewarded with a huge rally on their shares. They

account for 20% of the US stock market these days, more than the entire value of European stock markets. At some point a few weeks ago, Apple and others were adding the entire value of companies like Boeing to their valuation each day.

So this fuels concern. We are faced with corporate entities that are almost like states. The size that is larger than the GDP of some countries, enormous influence, not just on the economy but on the political discourse and democracy. So there is a worry not just amongst politicians but also serious scholars that technology actually does not seem to generate the [INAUDIBLE] economic growth that it used to. Startup firms do not grow as quickly, productivity improvements do not appear to diffuse in the economy as rapidly, so there are economic disparities that are growing between firms, [INAUDIBLE] between regions, and concerns about the pace of economic growth and innovation.

So closer to home in the antitrust sphere, of course we face the persistent market dominance of these incumbents and the question of how this market power is being wielded in multiple dimensions. One, how does this play out in the relationship between the counterparties that rely on the giant platforms that are dependent on them to operate the business, given the huge inequality in bargaining power?

How does this play out when we see continuous expansion in adjacent fields, sometimes through acquisition that are strategic on a chessboard of further data collection, exploitation, closing access point. How do we deal with this enormous data accumulation for purposes that we see and we don't see and the huge implications for privacy? And it's a global problem that needs global solutions. So at a time when words like multilateralism are not very popular, this is when they matter most.

So agencies like you have to deal with these questions at the sharp end and sharply now. Competition has been kind of thought of as the residual factor, to maybe a contributor when we talk about the big debate on why is economic dynamism falling. But there is no question that there is a persistent concern that there has been under enforcement and perhaps the tools that we have are not powerful enough, the efficacy is not good enough.

So we need new legislation. Do we need new courts? In Europe, there is significant movement towards ex ante regulation as a complement to antitrust enforcement, and we talk about this on this panel. So the starting question is really does the range of tools that we have, is antitrust enforcement that you have match the problems that we're confronted with? If not, why not, and what do you want to do about it?

Let me start off with Margrethe Vestager, and following her there will be others making an initial statement. Thank you.

**MARGRETHE  
VESTAGER:**

Well, thank you. Thank you very much. I think this is an excellent framing. And good morning to all, and thank you for hosting this event. I think it's very timely. It's a very good debate. And of course, it's good that we can meet virtually even though it's smoother and smoother. I still make the rookie mistakes of not unmuting myself. We'll see how it goes. I do hope that we can meet in real life next year. I like that we have been able to do this for months and months, but I don't think that it can replace the real thing.

And that is because the ICN is more than a network. Of course, it's the discussions, as we have them today, but it's also a place to meet, to exchange idea, to foster cooperation, because you get to know each other, and you build trust. You build trust that you have the same mission. You build trust that even though sometimes we have different tools. We have the same fundamental missions, to make sure that markets serve customers and consumers. And we need to meet I think actually more than ever, because markets are changing.

And nothing has shown that better than the coronavirus. In Europe, as elsewhere, it has changed lives in ways we didn't see coming. One of the obvious ones is that it has accelerated everything digital to the extreme. Of course, it's a trend. It has been with us for a long time. We knew that the '20s would bring more digital changes, obviously, but we didn't know that it would come this fast.

And I think, basically, we should welcome it, because it brings a lot of the benefits that we would like a market to bring. It brings speed, gives us instant access to buy, for instance, the latest movie. It gives us access to buy things that would otherwise be very, very difficult to find from a seller half the way around the

world. But the problem is that the same features that makes this an excellent development for consumers also make it hard to keep digital markets competitive.

They lead to tipping, where the winners may be able to capture dominant market shares, then put up barriers to keep competitors out. And as digital moves from being just another sector to being a part of every sector, we can expect this winner takes it all dynamic to play out more and more. This will not change the fundamentals of good competition policy, but it does mean taking the right approach.

I see three main elements. The first is obvious. Well, let's use our existing powers better. This could mean taking interim measures when an investigation is still ongoing or requiring remedies to restore competition in a market that has already tipped. Last year, for example, we ordered Broadcom to temporarily halt its enforcement for contract provisions, which prevents customers from buying chipsets from other suppliers pending our investigation of that case.

Second, we may need new tools. An issue we face is that the EU law is focused on companies, agreement between them that harm competition or abuse of market power. The current rules do not cover situations where it's the structure or the features of the market that are bad for competition, like network effects or the importance of large amounts of data in a 0 price market. And these are issues that we see in a broad range of online markets.

Other cases could arise because of the pricing algorithms. Machine pricing can mean that even markets with a small number of players, none of whom is dominant, can lead to bad outcomes for consumers, amounting to tacit collusion. But under current rules, it could pass [INAUDIBLE] parallel conduct, making it very difficult for us, actually, to make the case.

And this is why we have been working on what has the working title new competition tool, a legislative change that would allow us to investigate markets and assess whether they have features that are bad for competition. And if so, to introduce appropriate and proportionate remedies. A number of jurisdictions already use this tool. The United Kingdom and Mexico are two obvious examples.

It's still a bit too early to give exact details as to what it would look like. The public consultation has just been closed with positive results. There is support for a tool of this kind to deal with digital markets.

The third element in our approach addresses the digital gatekeepers. From experience, we know that they can engage in harmful practices. For example, where big players use their dominance in one market to gain an unfair advantage in other markets. We saw that in Google shopping. Our decision on that case opened the door for a discussion on whether this behavior needed to be addressed, and if so, how best to do that.

Another example is unfair business terms, such as contracts with business users and platforms are prohibited from complaining to the authorities. What we are considering is a list of do's and don'ts for a clearly identified set of large gatekeeper platforms. The consultation is so-called ex ante regulation. That just closed, and we are currently assessing the results.

So these two instruments, the ex ante regulation and the new competition tool, they take a different approach, and that's a strength. Having complementary tools mean that we are better equipped to face challenges that we know are coming or even those that we don't know about yet. And it will make us better equipped to ensure that we have a digital economy that works for all consumers and businesses alike. Thank you.

**CRISTINA**

Makan, do you want to go next?

**CAFFARRA:**

**MAKAN**

**DELRAHIM:**

Cristina, thank you so much, and let me add my thanks to everybody who helped organize this and what a privilege it is to be with you and Professor Kovacic on this panel along with my esteemed colleagues, Margrethe and Joe.

I wanted to open up by briefly commenting on digital markets and whether the current enforcement framework is sufficient to address the competition issues that are associated with the digital economy. Margrethe laid out some of the, incredibly eloquently, some of the more important issues and challenges that we face and our consumers in both continents face with respect to digital markets. The markets in the digital economy are complicated. No question about how they

operate. Often they feature aspects of network effects and issues of scale and scope.

The scale of these markets in turn require the companies to rely on data in order to automate the transactions. The data in this sense can determine a company's efficiency, how it sorts results, bids, or performs automated functions like driving, even, coming up. To add complication to this, digital is just not one thing, and that's one of the biggest challenges for us as enforcers is to really peel the onion and figure out exactly what it is we're talking about with respect to the behavior.

Companies employ very different business models that are often reflective of how they monetize their service, which in turn modifies their business incentives. For example, whether a business's primary monetization method is advertising or hardware sales may significantly influence how that company operates and what kind of rules it sets for the consumers. This market complexity makes the job of us as competition enforcers much more difficult. That, however, is not an excuse for throwing our hands up. And I commend the folks around the world, including Margrethe, to leading some of the debate and the efforts to try to address it.

And it's not always changing the laws that makes it easier for us. It is we have to really look and sharpen our tools and look at what we need to do to address the core issues that we're faced with after we understand exactly how those companies behave. While the enforcement context is always more difficult, the Justice Department, I believe, the antitrust division has been up and is facing the challenge.

I believe the laws that we currently have in the US are open and flexible enough to reach the conduct that undermines the competition as we have seen it more recently. But I also recognize that to be successful in the space, none of us can sit still and sit on our hands. As I mentioned, we got to take it. We have to take a look to understand the issues that we face.

To that end, within the antitrust division, we've also engaged in some changes to our organization to ensure that we can effectively enforce the antitrust laws. And within our Congress, our legislative branch, there have been a series of hearings. And my understanding is our legislative branch may propose some legislative

solutions, but we have to be careful to understand the effects that those new laws might have.

Within the division, we did some commodities changes. We modified the responsibilities of our technology and financial services section to focus only on technology and on new platforms. We created a new section to deal with financial technologies, new technologies that tend to possibly upend the current system of our banking and financial services that every consumer has access to or needs to have access to.

And as these new technologies come to upend possibly the old business models, we want to be sure that we're vigilant so that the incumbents do not snuff out the new technologies that will provide greater efficiencies. We've also created a couple of new offices as just some of our innovations internally so that we can focus on conduct that happens within not only digital but other industries as they are displaced by some of the digital innovations that come about. And these folks will be dedicated to enforce specifically conduct rather than, because it doesn't have deadlines, being pushed back to the end after mergers that might have deadlines to focus on that.

So our hope is that a dedicated group of 15, 16 attorneys could constantly be looking at conduct and not wait towards the end when we have problems but more vigilantly address the issues with our current laws. And then finally, we created the dedicated office to enforce the decrees, the consent that the parties provide so that we are ensuring that we're sticking their feet to the fire and enforcing the commitments they've made to the Justice Department but more importantly to the public rather than waiting for complaints to come in.

These are some of the challenges that we have and enforcement approach that we have taken with respect to the challenges posed by the digital economy. But I'm sure that there'll be more. We're constantly thinking within our competition policy and advocacy section of efforts whether to look at private actions in the United States or think about are there any new changes we need to make internally to continue to make sure that we're sharp enough to address the competition concerns raised within the digital economy. Thank you for that.

**CRISTINA** Thank you, Makan. Chairman Simons?

**CAFFARRA:**

**JOSEPH SIMONS:** Thank you, Cristina. It is my pleasure to join my esteemed colleagues for this panel. I also want to thank our moderators, Bill and Cristina. I'm really looking forward to what I am expecting will be a very lively discussion.

The virtual nature of this discussion and this entire conference is yet another reminder of how powerful technology can be and how it can change the way that we live and the way that we work. If you had asked me before this public health crisis started whether we could move the entire FTC into a virtual environment without encountering significant problems, I would have been highly skeptical. And in fact, if this had happened two years earlier, I'm pretty confident it would have been pretty difficult, maybe a disaster.

But our staff, our agency, has proven that now we can handle it and we can even thrive. We've carried out our mission without any perceptible drop off in productivity. In fact, we have already had more merger enforcement actions this fiscal year than any year since the year 2000. And as we all become more reliant on technology to carry out our ordinary tasks, people are taking a closer look at these companies that operate these technologies, and rightly so.

Many of the major technology companies that we rely on to search for answers to our questions, define goods, to connect us to our friends, and to carry out other fundamental tasks dominate their respective domains. Policymakers, academics, and other stakeholders, of course, are engaged in a lively and thoughtful debate on how we can properly ensure that these large firms do not inappropriately dominate our daily lives. Some people are proposing regulatory solutions designed to curb or change the way these companies compete, as both Makan and Margrethe described.

I would advise strong caution before adopting any type of a regulatory regime rather than relying on a competition regime. History, at least in the United States, shows that regulatory regimes are often subject to what we call regulatory capture and political influence, resulting in entrenched dominant firms and artificial barriers to new competition. And of course, when these things happen,

you get less, not more competition.

My view is that the best way to keep dominant companies in line is through vigorous antitrust enforcement. Thankfully, our antitrust framework is flexible and capable of adapting to unique business models of these big technology companies. And the antitrust law is generally capable of sorting out business practices that benefit consumers from those business practices that result in harm. Of course, that's not to say that antitrust law or even antitrust enforcement has been perfect. Of course not. Courts and antitrust enforcement agencies have made mistakes, we're all humans, both in terms of over enforcement and under enforcement.

But the great thing about US antitrust law is its evolutionary tradition. Through research, self-critical examination, and public dialogue we have been able to change course when antitrust doctrine has gone down the wrong path. And the FTC with its unique structure has served as an invaluable complement to this evolutionary tradition. That's because we not only have enforcement authority, we also have powerful tools at our disposal that enable us to study markets.

Through our 6(b) authority, we are able to issue special orders to gather information about industries without opening up an investigation. Indeed, we currently have underway a study of the five major technology companies, Alphabet, including Google, Amazon, Apple, Facebook, and Microsoft. We initiated this study to better understand the acquisitions that some of these technology companies are making that are not subject to pre-merger reporting requirements. In particular, we are looking at the possible acquisition of nascent or potential competitors at transaction values well below our filing thresholds.

One potential outcome of this study is that we may decide to issue an additional special order requiring pre-merger filings for acquisitions by these companies at levels well below the normal statutory threshold. And of course, we always have--excuse me. We always have the option of taking enforcement action where warranted.

We also have a robust tradition at the FTC of carrying out merger retrospective studies. These are a powerful way of engaging in self-critical examination to see if

our enforcement is working correctly, whether were under enforcing or over enforcing, whether our remedies are good or not. And we are currently in the process of making our retrospective program more robust and more formal and committing additional resources to the program, although in my view not nearly enough. We need more money in our budget.

We are developing a website that will host links to our retrospective studies, and we'll hopefully encourage others to carry out more of these studies as well. When our new site goes public, which I believe will be quite soon, I hope all of you will take a look and consider initiating these types of programs of your own. Thanks for your attention, and I'm looking forward to the discussion.

**CRISTINA**

Thank you. Bill?

**CAFFARRA:**

**WILLIAM**

**KOVACIC:**

To come back to the panelists, this is a great survey of possible adjustments going ahead. Use what you've got more effectively. Consider refinements that maybe take existing tools and use them in a somewhat bolder, more elaborate way. Add new tools to the mix. I'd like to give you all a chance, perhaps, to react for a moment to what you've heard.

To the vice president first. You heard Joe and Makan express a bit of skepticism about adding new regulatory mechanisms. And of course, this is a judgment for each jurisdiction. Can you tell us a bit more about what's guiding your thinking about adding the new competition tool? And you mentioned the ability to look comprehensively at industry phenomena.

But also the ex ante regulatory mechanism, can you tell us a bit more about how this can be useful for the European Commission, its member states for the whole community, and how you see it perhaps aligning with the existing mechanisms and instruments that you already have?

**MARGRETHE**

**VESTAGER:**

Obviously we have thought about it for some time. And we also realize that we are not alone in the world when it comes to data. The three authorities that we represent today, we organize them in different ways. But I think the important thing is not only to look at your own tools, it's also to see what can data protection regulation and agencies give consumers. What can consumer protection do in

order to protect consumers? And I think those sort of three different elements can make sure that we have a market that serves the consumers and the customer in the best possible way.

The reason why we have been thinking about these two complementary tools is a sense of our speed. Because when we see the characteristics of a digital market or a market where digital becomes more and more dominant, we see features the winner takes it all, the network effects, marginal cost going to 0. So we both have markets that are de facto monopolized by gatekeepers where it's very difficult to do business without the gatekeepers.

So we would like to frame that in a pro competitive manner. This is the role of the ex ante regulation built on the experience that we have, what will be damaging in those that can be said of retaining your data, but using it for the purpose of the [INAUDIBLE]. And the new competition tools have then the purpose of preventing more gatekeepers from arising.

So we want to have this double approach, both to say that while we, of course, maintain our pressure to do competition law enforcement, we have very, very launch investigations both into Amazon, Google, and Facebook. Well, we also need to make sure that everyone knows what's the rule of the game when the market characteristics change. And this is why we want to frame sort of the de facto monopolized markets where the gatekeepers reign. But also to say, well, we believe that more and more and more markets will be digital. So the characteristics that we see will prevail.

So now let's figure out how to make sure that we do not just slide into more and more markets being so extremely concentrated. You just mentioned it in your introduction. I think that will be sort of a way of future proofing digitization. Because we believe in digitization, we think that we can make that serve a lot of human purposes. But we need to get the market functionality right. Of course, only as appropriate. Of course, always proportionate. But that we need these tools in order to be able to follow digitization as it's happening.

**WILLIAM  
KOVACIC:**

Do you have a thought, and I'm sure it's a very preliminary stage of assessment. You mentioned you've had the consultations. This is a work in progress at the

moment. You have an initial thought about where this is seated in the framework of the commission, where the ex ante mechanism goes, and how you draw in these other competencies you referred to? That is, this is an intersection, arguably, of competition, consumer protection, data protection. How are these disciplines already located, of course, within the commission? How are these going to be brought to bear in solving the problems?

**MARGRETHE  
VESTAGER:**

Well, we have made no decisions on the new tools. But as said, we have a very active cooperation with the consumer protection agency, with the data protection agencies. Because we reckon that what they do is extremely important for consumers. And also because we don't want to use competition tools on something that is not a competition issue.

And I think that is the other important thing, while we move forward, that everything is not seen as a competition issue. Because sometimes it may be straightforward consumer protection or that data protection is simply not upheld. Of course, sometimes there may be something in common, where everything comes down. You see what the [INAUDIBLE] has been doing in that respect. So this is why we organize ourselves with a close cooperation, but in a fundamental respect of the fact that we share the same sort of overall mission, but we had very specific mandates.

**CRISTINA  
CAFFARRA:**

Yeah, let me jump in and ask both Makan and Joe to comment on what they heard. But in particular, I think you heard a strong message from Margrethe, which is channeling the view strongly held in Europe that there is actually something to be done about powering up the tool. There is significant complementarity with ex ante regulation, which she described.

Both of you, as Bill said, expressed a skepticism, a real skepticism that that is the way to go. Makan, you said we need to be careful because digital is not one single block. We need to think about differences in business model and peel the onion and be quite subtle in the way we do this. And Joe, you said you strongly cautioned against a regulatory solution with all of the negative implications potentially also on innovation and livelihood.

So how do you see this need that is being felt by others for a complement. Do you

think that they need to think about it in an ex ante sort of way [INAUDIBLE] for with the tools that you have? I am sure that you do. But it would be interesting to hear your reaction to what Margrethe said.

**JOSEPH SIMONS:** Sure, can I go or do you want Makan to go? OK. So a couple of things. One is that what we're concerned about when you start to have this kind of ex ante regulation is you have it in your mind that you kind of ignore kind of the difficulties a little bit sometimes, because they're not front and center, and maybe you don't have a history with it. But the thing to keep in mind here is that you want to make sure that the remedy isn't worse-- the cure isn't worse than the remedy. And so you worry about two things.

One is in our experience, at least in the US, and maybe your experience is different, these things take a long time to do on a regulatory basis. To conduct a regulatory investigation takes as long as an enforcement regular investigation under the antitrust laws. So ideally, you'd like it to be quick. But in reality, at least in our experience, and yours might be different, it usually isn't.

The other thing you have to worry about is that you're going to have some kind of a threshold at which somebody becomes a gatekeeper or some other kind of dominance threshold that triggers the regulation. And what you have to worry about there is creating an incentive to stop competing before or to pull your punches before you hit that threshold. And that is very damaging to the consumer welfare. And then the final thing is, you have to worry about whether you're going to chill innovation through these regulations or not.

The other thing I would like to comment on is that Makan, the antitrust division and the FTC have moved kind of in the same direction on this technology front. We both have formed on our side a technology enforcement division, and he's got something similar which he recently did. And also, we also have a strong sense of needing compliance sections. We've had one for quite a while, and Makan just created one, which is a wonderful thing to do, because it's really important that you enforce your orders and you make sure the orders are good to begin with. And having folks who specialize in that is really important.

The other thing I want to say is in terms of the data security and the privacy

issues, you are much far advanced than we are in this effort in the European Union. You have the GDPR. We at the FTC, and we're the primary privacy and data security enforcers in the US, we have a 100 year old statute, the FTC Act, which clearly no one when they passed that law had anything in mind even remotely close to what we're seeing today in the digital world.

So we have largely relied on our authority on deception to regulate privacy in the US. And we've told the Congress that we don't really have the tools that we think are necessary or certainly that other people think are necessary. And so we've very strongly and actively encouraged our Congress to develop a federal privacy law as well as a data security law.

**CRISTINA**

Thank you. Makan?

**CAFFARRA:**

**MAKAN**

**DELRAHIM:**

Well, I think as Joe said, our forefathers were so brilliant 100 years ago when they put the FTC Act Section 5 in place, they fully anticipated Mark Zuckerberg and Apple and Google to be in here. But on a serious note, I echo Joe's-- what he mentioned about a general concern that we have in the United States about hopefully not creating a solution that might be worse than the problem itself. But that's the MO under which we operate.

We have many markets where we have a regulatory system because of a structural problem that was created, whether it was the Interstate Railroad Commissions, the Federal Communication Commissions dealing with telecom or the energy sectors, that address issues outside of competition, that are related to competition. Our Supreme Court has said that the Federal Communications Commission's authorities, certainly one element of them is a consideration of competition, but they also look at other things, universal access, freedom of speech, and other considerations, that the antitrust laws are appropriately blind to.

Otherwise we would be doing what some of the folks who are advocating in the US the changes in the laws would be doing, whether it is looking at things. Last week I heard a colleague talk about it's time for antitrust laws to address racial equality. And as incredibly important of a goal and rule that is on both sides of the Atlantic,

or frankly around the world, competition law is not the tool to be used for any kind of racial inequities that unfortunately have plagued both of our continents.

So with respect to competition, I'm a believer that we should ensure that the enforcement agencies, mine and Joe's, although he has the consumer protection authorities they're also concerned about, but the competition enforcement should really stick with the competition concerns. Now, that won't solve all of the problems. And we're all, I think, seeing the effects of the data, the network effects that it has potential barriers to entry. Now, could some of those been addressed with vigorous enforcement earlier? Perhaps.

Are the concerns now at a place where we need a new regulatory regime with ex ante rules? For the US, I don't think we are there yet. But more importantly, given the separation of powers we have, that's something that our Congress-- and it's a difficult process. I've served some time on the staff in the Senate. And it is appropriately difficult for legislation to pass, because you want the best ideas. You want to look at the effects of various legislative regimes. Sometimes they get there later than they should, but the real goal is that you hope to avoid a problem.

And we're seeing that in the regulatory regime. We're seeing that I see within energy and communications markets where some of the rules are outdated. The agencies get captured by the industries they regulate. The rules cannot adapt. And what happens is that businesses innovate to those rules rather than innovating for the consumer, ultimately. And so that's one of the areas.

Some thought we have given internally is are there other mechanisms? Is there something short of pure antitrust enforcement? And then on the other side of that spectrum, a regulatory regime that we have that we're used to in the United States, which then becomes difficult for it to change. And we're looking at different possible models for [INAUDIBLE]. I think the really important part here is to make sure that the tools that would be proposed don't expand beyond the reach of competition law, in the guise of competition law, because we know that in almost-- I don't pretend to be an economist. Cristina, I defer this to you.

But they would tell us that a lot of these rules, they don't address the perfect competition in the real world context. There could be within the net of some of

these rules, there would be pro competitive conduct that could be captured and inhibited. And that's why I think we need to, in the United States, we are taking it slowly, and we got to take a look to see are we addressing a competition issue or are we addressing a data security issue, a racial issue, or a privacy issue. And let's look at the effects of that as we do that.

**CRISTINA  
CAFFARRA:**

Thank you. I want to pursue this a bit further with Margrethe and really just give her the opportunity to expand a bit further on this new competition tool, which continues to be a source of great fascination, of course, in Europe and beyond. So I heard you saying, Margrethe, of course, that you are worried about the speed at which your current tools allow you to move.

And of course, you have a range of tools which is already vast. You have merger control, you have single firm conduct, you have agreements, you have also sector inquiries. Yet you're worried about speed. You're worried about, I think, the [INAUDIBLE] of the remedies. But I think what really motivates the thinking about this is also the notion that you want to be able to deal with markets in which you have structural lack of competition, features and factors that make outcomes not good for consumers, but also perhaps the structural risk to competition in a forward looking sense, not in a backward looking stance, which is the way in which antitrust tends to be typically pursued.

You are interested in anticipating developments that are adverse to consumers. And that is almost a quasi ex ante regulatory function that is possibly attached to this new tool. So how do you see the interplay, the complexity, inevitably, perhaps the overlap with some of the ex ante regulation that you yourself mentioned?

**MARGRETHE  
VESTAGER:**

First of all, I think it's important not to over-complicate things. Because I think we know what we're dealing with when we're talking about gatekeepers. I think it is not sort of rocket science to identify either alone or together turnover, number of users, number of transaction alone, or any combination that. I would say, well, these are companies that face a very special role.

And it is not a new thing to competition law enforcement to say that with size comes responsibility. At least I hope that's not just a European idea. I think it's a very strong idea that the more power you have, the more responsibility you have.

It's not a new thing. And I think it will simplify matters if we have these sort of very straightforward things.

For instance, don't self preference. You are a giant. Don't self preference. What the little guy may try to do, it has no markets effect whatsoever. The minute you just breathe in that direction, it can change the market. And I think it's very important to be aware of this, because we also want competition in innovation. And that is another thing which could also be that you cannot have an anti-competitive data policy. You cannot say to some of your own customers, you cannot have your data, but I will use your data for my own purposes. So I think it is relatively clear what we're talking about.

And the second thing is that we should make sure that there is a market functionality that provides for competition also in markets that are prone to tipping. And this is not something that we have invented in an ivory tower. We have seen it work in real life. I admire the courageous colleagues in the UK, in the Mexican authorities who use their tools to do exactly that. To say, well, yes, there may be features that comes with technology, but the fundamentals that exactly goes 100 years back, and we took the inspiration from the US, those fundamental features, we need tools to make sure that they actually take place.

And I think now is the time to say while we vigorously enforce competition law, and as Joe said, maybe we should make better use of interim measures. Maybe we should make better use of remedies for competition to come back, restorative remedies in our case work. While we do that, we should make sure that we get the tools that allows us to have a marketplace that really serves consumers well. Of course, it takes a long time.

I completely share that with Joe. I feel the impatient-- it's a long thing, but of course, legislation will have to be thorough. Public consultation, impact assessment, the discussion between the co-legislators, all of that, it will have to take its time, because it's important. It is thorough. It is everything that legislation should be.

But that shouldn't prevent us from doing that while at the same time, of course, maintaining our daily work and using the tools that we have already. Because I

think a lot is at stake, because we believe that the entire marketplace will digitalize eventually. And this is why this is the time to get the good habits, so that you know what it is that society is expecting from you. And within that framework, then of course, go compete.

**CRISTINA** Thank you.

**CAFFARRA:**

**WILLIAM** Now, we're coming up on about 10 minutes for this session, despite our pleading.  
**KOVACIC:** We asked for 10 hours. We only got one. So we could probably just keep on talking anyway. With miracle technology, we can hijack the whole process. That can be done too. There are people who can do that, but we won't do that.

**JOSEPH SIMONS:** Yeah, we have our own hackers, Bill.

**WILLIAM** I know. And good ones too. Really good ones. A good forensics lab. I want to offer each of you a general question, that is a question for all, and then maybe Cristina could take us to the finish line, perhaps, with a COVID question about steps ahead.

**KOVACIC:**

But you've been talking about different policy responses. Some of them involve changing the organization chart, which is an important adaptation. Some of them involve adding new policy instruments to carry out policy. Here's a question. You have the right people to do this. From my own experience at the CMA on the board, I think the CMA's MAR tool, the tool that the vice president is referring to, is very important, very useful. But I've become keenly aware of how you have to staff this in order to make it work.

And a question is, how many technologists are you hiring to be part of the team? How many computer scientists? How many people who are really on the frontier of understanding these industries? Because my experience in going to conferences, when they see you're a lawyer or an economist, they start laughing at you and say, you have a primitive understanding of what's going on in our business. It's moving really quickly.

So do we have the right teams to do these kinds of ambitious and difficult tasks? And I think the history of our field is that there's been a lot of adaptation that's very healthy. So one question for the whole group is the team.

And the second is in many ways, if we did a Venn diagram, you're all talking about similar projects and interests. Assessing what worked in the past and doing studies. Is there room here for more collaboration among you? And there's a reason you're on the panel. You are not insignificant players in this area, as you know.

More room for you to cooperate in areas of common interest that involve building knowledge and, indeed, with our larger membership, which has an extraordinary interest in this area. Is there a way for authorities to work more together to get the benefit of what each is learning in the process? And I offer that question to the whole group.

**JOSEPH SIMONS:** Bill, that's what the ICN is all about. That's why it was created, and it's done a terrific job. We can do better, but I think this organization has really done spectacular things in that.

**MAKAN**

**DELRAHIM:**

I agree with that. And not only that, but I think once we are able to get back into our regular mode, the personal interactions we have. I think like any other interaction in life, when you have a trust based relationship, you can have honest discussions about disagreements about any issue. Of course, some of us may have different just statutory mandates and within our systems of government and the law. But regardless, we're all facing the same challenge, I think, with respect to competition and the challenges that competition is facing from the market power the digital economy imposes.

And so I think the more of these discussions the OECD, the ICN, the bilateral meetings that we have, the trilateral meetings that we have, the multilaterals that we have, those are all, I think, efforts to do that. But I think we could do more of it. I think we have several projects within the ICN, one on data on privacy and competition and others, where we continue to learn from each other. But these are really important challenges.

And one of my old favorite justices and former heads of the antitrust division, I often quote Robert Jackson. Probably one of the greatest legal influencers in this country and perhaps around the world. He once said the antitrust laws represent an effort to avoid detailed government regulation of business by keeping

competition in control of the prices. It was hoped to let government confine its responsibility to seeing that a true competitive economy functions. And then he said, it is the lowest degree of government control that businesses can expect.

Now, this was 82 years ago where he said this. Whether or not the antitrust laws should remain exactly as he had hoped they would be is to keep detailed government regulations out of business but allow competition to control price and quality or whether it's time, because of how fast things move and how many consumers a particular conduct touches, whether or not it should remain the lowest degree of government control that addresses this. Or should we advance this? And again, we have seen other areas.

So I think we all will learn from the degree that each of our governments advance to control business conduct for the health and safety of our consumers. So I think we will continue to learn from each other just as our two agencies in the United States across the street between Joe and I, we learn from each other. We improve each other's processes. And I hope that through the ICN, we continue to learn more.

**WILLIAM**

Margrethe.

**KOVACIC:**

**MARGRETHE**

**VESTAGER:**

Well, the question, I completely confer. And also I think one can learn from one another without having the same tools, because there may be different solutions to the same problem. That may be the case. And this is why even though sometimes we develop new things, it still makes a lot of sense within the framework of the ICN to dig in and figure out what works on what problems, what solutions can be found with different tools. I very much look forward to taking even more efforts within everything that has to do with data, because we really need to understand what is the effect, how can it be used.

But the question you ask about staffing, that is, of course, a tricky one. We have hired a few people with sort of more technical skills to help us prepare sort of [INAUDIBLE] cases, that kind of stuff. But that being said, and I know some my colleagues here, they will not believe me saying this. I really admire how lawyers adapt to very different markets.

If you look at the merger work we do, I am impressed on a daily basis on the market understanding in very, very different markets with very tricky products, very tricky market conditions. Can be banking. Can be real stuff. Can be digital. And I think it's very important not to lose the connection between the legal framework and sort of the substance of the case.

Because we need these roles to meet, otherwise we cannot with pride say that due process, the right to protect yourself, the thoroughness of cases, the access to our evidence, all of that is our bread and butter. That connection will have to be there. And this is why I'm so proud to see how our teams, they push themselves to understand things that I definitely do not think was part of the textbook when they went to university.

**CRISTINA** Thank you.

**CAFFARRA:**

**WILLIAM** Cristina.

**KOVACIC:**

**CRISTINA** Yeah, I'll take us to the finishing line. I think it's very good to hear you, Margrethe, say that there can be coordination and joint purpose even with different tools. **CAFFARRA:** Because the impression one gets is that, of course, Europe is developing a view which is focused on the ex ante regulation and also is an important complement we're hearing from Makan and Joe that the US is still not quite there. But this is going to be an important question when we come to thinking about remedies that apply globally and that you collectively need to somehow take forward.

But on the last segment, we wanted to just leave-- we couldn't leave without a brief mention of the backdrop against which we all operate and which is motivating the kind of format that we have today, it's virtual. So the notion of what is being the implication of COVID, very briefly. You will have a minute each. But clearly it has been an opportunity for all of us but certainly for you to rethink in many areas about what you do, both for the short term and for the longer term, because the structures we're putting in place are going to be staying in place for another 20 years today.

So concepts like resilience, like sustainability have become more center stage.

Just briefly, a minute and a half each, can you just leave us with a few final thoughts on how COVID and the rethinking has affected the way you do go about the job? Has any of it engendered changes in the way you think that you think would be staying with you going forward? Do we need more or less enforcement? I guess more. But let's hear from you. Margrethe, do you want to start?

**MARGRETHE  
VESTAGER:**

Yes, because I completely agree with you. This is not the time to step down. This is the time to insist that in order to recover, in order, for instance, to break chains that makes us vulnerable, single supplier dependency, in order to spread that out, to have more suppliers to help you get where you need, in order to make world trade more fair and to make sure that things are balanced, here we need more competition. We need the market to be a completely integrated part of how we think.

In Europe, a lot of state aid is handed out for very, very good reasons, both in general, but also sort of specifically that we're looking at. But I think we have been watching the history. The last big crisis of this parameter was the Great Depression. And here, I think you saw that relaxing competition law enforcement is not the way to go.

You need to be there. You need the private sector. You need the market to help you when you are in a situation like this where you need to preserve jobs, build jobs, and also transition into a world that is green and that is digital. This is our ambition is not just to recover or built back. It is to renew our societies while we do that. And here competition law enforcement should indeed play its role.

Even though under these very, very difficult conditions, as Joe mentioned, everyone is working from home. The teams will have to do incredible things from their living room while teaching children and keeping up with their spouse. So no, I think this is really the time for competition law enforcers to do our part and to come together to show each other that it's effective.

**CRISTINA  
CAFFARRA:**

Joe, you want to go next?

**JOSEPH SIMONS:** Yeah, sure. So completely agree with Margrethe that we don't step down. We, in

fact, if we do anything, we step up. The telework thing is a remarkable thing. I think this isn't a huge natural experiment which has taught us that telework is actually much more feasible on a much broader scale than at least I or a lot of other people thought. And so this has lots of implications for recruiting people, how we work, how we do things at work, how we conduct litigation.

We're conducting a lot of our litigation virtually. We have virtual depositions. We had hybrid trials where part of it is virtual and part of it is in person. So this whole episode is demonstrating how flexible things can be and kind of expanding our thoughts in terms of how to go forward and what's possible.

**CRISTINA**

OK, Makan, you want to wrap it up? I think we've got literally a minute.

**CAFFARRA:**

**MAKAN**

I'll take hopefully 45 seconds. Hard to disagree with either of our colleagues. The most important thing is the fact that I think where we were headed with digital transformation of all of our economy has now moved up. I think the pandemic forced us into a lot of the functions, whether it's health care. We do our children's medical appointments online. We do our education online. So it's going to disrupt a number of just regular functions. We've seen that.

**DELRAHIM:**

Which then translates into the importance of what we're talking about, making sure that we're vigilant and on top of the issues so that the handful of big digital technology companies are not inappropriately using conduct to then get into new markets, but rather we are opening up new opportunities for innovation to come in. Who had ever heard of Zoom that we're using today two years ago, three years ago? Maybe some folks had. I hadn't. And what is happened.

And more importantly, I think the theory that we've had about allocation of resources globally, which is important, is that some areas, as we've seen with respect to the first responder supplies and protective equipment and other matters of national security, that's becoming, I think, more and more of an important issue rather than just pure unfettered competition globally.

And we need to factor in self-sustainability on some of the more critical issues. And that also feeds right into digital. And we're seeing that play out over the next probably couple of days with other issues of big importance dealing with one of

the major social media companies that we're seeing. So with that, I cannot tell you how grateful I am for the timely discussion that you guys have conducted today.

**WILLIAM  
KOVACIC:**

Let me wrap up with a couple of thank you's. First to our speakers, to Margrethe, to Makan, to Joe. Your thoughtful forthcoming discussion of where we are and where we're going, enormously refreshing. Gives us all confidence that we're in good hands going ahead. Second, several people who put this together. Cynthia, Phillip, Tim, Paul, McKayla, and Michelle. Thank you all. Anyone who thinks this is easy to do has never done one. And we are the beneficiaries of their heroic efforts to make this work so well.

And last, thank you to Cristina. I mean, if I were at the US Open and I were playing mixed doubles and I got to pick my partner, I'd pick Serena Williams. Well, I got to do it here with Cristina. Thank you very much. And we wish the entire conference and our participants the best of success for the rest of the program. Thank you.

**CRISTINA  
CAFFARRA:**

Thank you all. Bye bye.

**MARGRETHE  
VESTAGER:**

Bye bye. Thank you.

**WILLIAM  
KOVACIC:**

Thanks.

**UNIDENTIFIED  
CO.  
REPRESENTATIVE  
1:**

Welcome. From ICN Virtual Studios, this is the ICN's 2020 annual conference, virtual edition. We have a great week ahead. Let's start with a little context. Today, Tuesday, and Wednesday, we'll hear from each of the ICN's five working groups in two segments.

First we'll get a sense of each of the working groups and what they've been up to over the past year or more through a brief video overview. Each one of these video introductions was virtually handcrafted by our working group chairs. Then the main event. Each working group has organized an expert panel on important and timely topics, often related to the conference theme of enforcement in the

digital economy.

On Thursday, we have four sessions on significant work across the ICN. First, a preview of this year's third decade network wide review. Then three sessions addressing ICN's work with NGAs, younger agencies, and economists. So something for everyone to close out this year's event. But up next, the advocacy working group. Enjoy, and we'll see you tomorrow.

[MUSIC PLAYING]

**UNIDENTIFIED** Welcome to the advocacy working group our dear friends from the Colombian  
**CO.** superintendents of industry and commerce. We are really, really glad to have you  
**REPRESENTATIVE** on board.

**2:**

**UNIDENTIFIED** Well, thank you, Matthew. Hello dear colleagues. It's an honor for us to be a part  
**CO.** of the advocacy working group. I should say you will be watching me have a  
**REPRESENTATIVE** morning coffee offering. It's a pleasure to work with you from now on.

**3:**

**UNIDENTIFIED** Actually, before we were really, really excited to work with you, Juan Pablo, and of  
**CO.** course also with our colleague from Norway, Kjell. Despite this very different time  
**REPRESENTATIVE** zones that we are at, at the moment with the technology, I'm sure that we can  
**2:** work very seamlessly going forward.

Before we all started, actually, the first thing that is we wanted to give you a very quick tour and show you the AWG's treasure trove of resources. Because all of our responses can be easily found and also stored on the ICN websites. So we would like to give you a quick tour on that. Let me share a screen with you on the website.

As you can see, all working group, including the advocacy working group, we have our own dedicated websites. And the first project that I wanted to share with you is about our multi-year projects, cost strategy projects. Many thanks to our former co-chairs as well as many contributing agencies. We have produced two reports for these multi-year projects.

Competition agencies often would plan out their focuses, initiatives, and strategies. Some agencies would adopt a more formal approach, and some agencies may take more informal steps to define the advocacy objectives, set out their strategies details. Some would even include an assessment mechanisms to evaluate the effectiveness of their specific advocacy strategies and initiatives.

So we have produced two report, as you can see here. One is about the strategies planning stage where we have summarized and provide different steps and process that our fellow agencies have undertaken in their planning process. And the second report here is about the assessment mechanisms our competition agencies would adopt to evaluate their advocacy strategies. They are extremely useful documents for our friends to take references from others agencies.

In addition to these strategy projects, there is another very useful online resources call ICN studies market studies information store. So this is a web based catalog where one can easily find the market studies that have been done by our overseas peers. They are sorted by jurisdiction as well as by the industrial sectors.

Over the last year, we have updated the info store, this info store. We have added a number of digital economy related market studies in this info store. One can also make the best use of the store together with our previously published booklet, which is called The Guiding Principle For Market Studies. This can also easily found on our AWG website. And I know our colleague Kjell also have other products that we wanted to show you very quickly.

**KJELL**

**SUNNEVAG:**

OK. Thank you, Matthew. I mean, the ICN market studies work by the Advocacy Working Group is really, really impressive, and, as you said, a treasure trove of really valuable work. So I really encourage you to take a look at that.

Well, the latest addition to the ICN advocacy handbook is titled "Approaches to Identify Policies for Competition Assessment." I'll try to share some screen here if I manage so that you can get an impression. And as you know, an important advocacy task is to push the regulatory framework in a competition friendly direction. But how do we identify all those so regulations potentially hampering competition is a question we asked when we initially did this project.

I mean, we respond to public hearings, but what if we want to be more proactive?

I mean, we are all very impressed by the work that [INAUDIBLE] has done in collaboration with, for instance, Greece and Portugal. But the resources required are beyond reach for most agencies. So in this project, we aim to identify innovative approaches, approaches most agencies can use.

One prominent example here is from Mexico, which arranged a contest to identify the most absurd regulation with very good results. And the new addition to the handbook can be found at the website. And I encourage my co-chairs and new co-chairs to take a look and all of you to be inspired. Thank you.

**UNIDENTIFIED CO. REPRESENTATIVE 3:** Well, excellent. We have heard of some inspiring stories that show how the advocacy working group products and projects have been implemented and that are definitely worth sharing. They come from younger and emerging agencies who have best used advocacy tools to promote competition. Let's hear from them.

**SARAH LIVESTRO:** My name's Sarah Livestro, and I'm the legal director of the [INAUDIBLE] Competition and Regulatory Authority. [INAUDIBLE] is a small community of just over 63,000 people, and we introduced competition law here in 2012. This means advocacy work is a really important part of what we do. But because our agency is so small, with just four staff members, we need to make sure that our advocacy strategy is carefully designed to target it so that we make the best use of our time and resources.

In designing our effective advocacy strategy for small jurisdiction, we drew really heavily on ICN AWG materials. We put together a matrix that asked four questions to determine where we would focus our advocacy efforts. The questions are aim. What are we trying to achieve? Target. Who are the key stakeholder groups you need to hear this message? When and which practical situations could this objective be relevant? And how? Which will we use.

We used the answers to create a menu of targeted micro interventions, including training sessions, publication of short leaflets for businesses, quarterly newsletters, and informal sessions with key stakeholder groups and individuals. We carefully monitored levels of understanding of competition law, both before and after each intervention. Results have been really very promising, showing improved levels of understanding in our target groups. We were very pleased to

share our strategy with our colleagues at the AWG Conference in Kiev and hope that our experience will help other small agencies to define effective advocacy programs for their jurisdictions.

**JANIS RACKO:** Dear colleagues, it is an honor to be here with you today in the digital forum. We have participated in advocacy contest organized by the World Bank Group and the National Competition Network for the past few years. I want to especially highlight in the year 2019 when we received Competition Advocacy Award for our proposal to open the [INAUDIBLE] control market [INAUDIBLE].

In our eyes, this advocacy award is a symbol of quality and [INAUDIBLE]. It is a great platform to learn from the best efforts of others and share our experience. Overall, the Competition Council of Latvia is really grateful for a long term cooperation with International Competition Network. It has given us opportunity to expand the range of cooperation, to gain international experience and represent Latvia in important annual events.

**LUIS HUMBERTO GUZMAN:** Through the ICN [INAUDIBLE] project and the support of the Competition Commission of Colombia, we [INAUDIBLE] in this project [INAUDIBLE] to the ICN advocacy [INAUDIBLE]. That we found useful to identify the key stakeholders that [INAUDIBLE] to improve the work [INAUDIBLE].

**KJELL SUNNEVAG:** Well, we have a productive and active period behind us, obviously. And it's always wonderful to hear the feedback from our members agencies and that the work we have done is so useful. Now we are looking ahead, and we are really excited about our work for the coming ICN year and the second half of 2020 and early next year. So we are really looking forward to work on these projects.

A really topical project that we'll start working on is the competition advocacy in times of crisis. Here we aim to identify advocacy measures that supports a speedy economic recovery and that safeguards a competitive environment after the crisis. So I'll just let you know that we plan a webinar in this project in the last part of this year.

**UNIDENTIFIED CO. REPRESENTATIVE** Well, definitely. As you said, Kjell, one remarkable project for the upcoming year is the update of the ICN advocacy toolkit. This tool is a practical guide for competition advocacy work and was last updated years ago. We believe it is a

**3:** timely task to carry out even the ongoing dynamism of several markets and even the reality that we have faced during these years and days.

We hope to build on some of successful advocacy stories that we have had the opportunity to know of through the competition advocacy contest. And also we plan on collecting input from ICN members, agencies, and non-government advisors on the steps of effective advocacy projects. And we will also ask for [INAUDIBLE] case studies.

**UNIDENTIFIED** That's excellent. We have already two project, and that third one that we are  
**CO.** planning on is about the competition compliance. Through this project, we aim to  
**REPRESENTATIVE** stimulate and also facilitate our members' discussions on how the competition  
**2:** agencies could assist the business sector in building their compliance program as well as culture.

We also hope to gain the insights from our NGAs, especially those with a background in business on how compliance culture could be best and most effectively planted and cultivated within a company. For example, how can we sell the compliance competition compliance to our companies or members and their top executives? There will be webinars as well as sections in the upcoming advocacy workshop that allows the members to hold a very in depth dialogue on this subject.

Of course, we shouldn't forget that our very long running ICN World Bank advocacy contest. Our working group is entering into seven years of partnership with the Italian Competition Authority as well as the World Bank Group. With this very popular contest, we hope to recognize and showcase the success stories of the advocacy programs.

We have invited our friends from the Italian Competition Authorities as well as the World Bank Group to tell us a bit more about what is happening with the contest this year. I pass it over to our friends in Italy and also in the World Bank.

**ALESSANDRA** Welcome. It's Alessandra Tonazzi from the Italian Competition Authority. The ICN is  
**TONAZZI:** very proud of the advocacy contest, a joint initiative with the World Bank Group, to the benefits of all the members of the ICN. Every year a panel of distinguished experts select the winning advocacy initiatives with respect to a theme previously

selected by two organizations. Then the winners and the honorable mention are presented and awarded in our ceremony during the ICN Annual Conference. This year due to the pandemic, for the first time the award ceremony will take place virtually.

**GEORGIANA POP:** Hi. This is Georgiana Pop from the World Bank group. We are also very happy about this amazing cooperation with the ICN. I think one of the secrets for the success of the advocacy contest has been the selection of topics, which are relevant to the competition authorities in their efforts to promote a better society all over the world.

This year's main topic is competition as a tool to reap the benefits and mitigate the costs of the new economy, jobs, industry, and data, which attracted the participation of 25 competition authorities. Don't miss the 2020 award ceremony, which will be on live streaming on September 22nd at 8:00 AM Washington, DC time. More information on the ICN website. Stay tuned.

**UNIDENTIFIED** Well, apart from this annual contest, I know that there are advocacy workshops,  
**CO.** which are hosted every two years. Actually, Matthew, Kjell, and I remember that  
**REPRESENTATIVE** the first time that we met was in the award show in Kiev, Ukraine, back in  
**3:** February 2019.

**UNIDENTIFIED** Yes. Actually, time really flies. It has been a while since our AWG members and  
**CO.** NGAs were able to actually gather in person and have in-depth discussions about  
**REPRESENTATIVE** various advocacy issues. It is very unfortunate that the plan for advocacy  
**2:** workshop gets a bit disrupted because of the pandemic. Nonetheless, we have not  
put a stop to the preparation work. In February, the working group has called for  
expression of interest to host the next advocacy workshop. We have received  
very encouraging responses with a few extremely high quality proposal.

After rounds of careful deliberations and discussions with the chairs [INAUDIBLE], we are very pleased to confirm and announce here the Spanish National Authority for Markets and Competition, CNMC, is going to host the workshop in 2021, and the Competition Authority of Kenya will be our host of the advocacy workshop in 2022. I know our friends from Spain and Kenya also have a few words for everyone.

**CANI  
FERNANDEZ:**

Dear ICN colleagues, it is my pleasure to address the ICN community for the first time following my recent appointment as chairman of the Spanish CNMC. I am very glad to invite you all to the 2021 meeting of the Advocacy Working Group that will take place in Madrid in the second half of next year. This meeting will succeed the one in Kiev in 2019, and we hope to keep up with the great job done by our predecessors.

We are living in uncertain times under the COVID-19. While I believe the spread of the illness will be controlled soon, our economies will take longer to recover. We as competition authorities have a very important role to play for the achieving of an economic recovery that will be stable, sustainable, inclusive, and done rapidly.

**FRANCIS  
WANG'OMBE  
KARIUKI:**

The Competition Authority of Kenya is excited to be hosting the Advocacy Working Group workshop in 2022. In doing so, Kenya shall bring ICN to eastern central Africa, and in addition become the fifth country in the continent to host [INAUDIBLE] ICN event.

The authority has over the years used the ICN [INAUDIBLE] such as [INAUDIBLE] handbook and ICN and cartel enforcement [INAUDIBLE] and processes with international best practice. We have also consistently participated in workshops and conferences, including the 2019 annual conference in Cartagena, Colombia, where we highlighted our interventions in the digital financial services and [INAUDIBLE] sectors, among others.

2022 will be a critical year, since all factors held constant, the world will have overcome the COVID-19 pandemic. The workshop will therefore be an opportunity for us to take stock of our intervention during the COVID-19 pandemic and chart our way forward in terms of our regulatory capacity, institutional dispensation, and our relationship with stakeholders [INAUDIBLE].

**KJELL  
SUNNEVAG:**

Well, I'll really, really look forward to working together with Spain and Kenya in planning these workshops. It's a lot of work, but it's really, really worthwhile. And I know that both Spain and Kenya, they are agencies with a longstanding experience and they have a lot of really good and valuable work in the advocacy area that we look forward to hear about and also all the other [INAUDIBLE] experiences that will be presented in these workshops. So I really look forward to

that.

I think with that, I think we're ready to wrap up. And with wishes for a continued good morning in Colombia and a good night in Hong Kong, I'll just say thanks to all of you for a very productive and enlightening meeting with time zones across the world. And as usual, very nice to see you.

[MUSIC PLAYING]

Together with my advocacy working group co-chairs from Hong Kong and Colombia, I'm very happy to welcome you to this Advocacy Working Group plenary. My name is Kjell Sunnevag, and I work at the Norwegian Competition Authority. I will be the moderator for this panel. The mission of the advocacy working group is to discuss and exchange experiences among ICN members on how to advocate competition principles and to promote the development of a competition culture.

In this plenary, we will explore competition advocacy challenges in the digital age. The digital markets within new and fast growing business platforms launched every day, we see sophisticated use of artificial intelligence and algorithms to boost business uses, which must also comply with competition law. We see consumer or personal data as an important business asset, and we're seeing new regulations aimed at caretaking privacy and consumer data rights regulations, which intersect with competition and policy in various ways.

And we also see new commerce facing various strategies by incumbents to preserve their strong and often protected position. And for some markets, we see anachronistic regulatory framework, effectively protecting the incumbents and delaying a development, potentially enhancing competition to the benefit of consumers.

This plenary will explore the advocacy challenges of the digital age, the strategies and the tactics agencies can use for effective advocacy, the alliances can be built, and the best ways to communicate ideas and to promote competition culture. To do so, we have invited a distinguished panel with first Dr. Martha Licetti. She is the manager of the markets and technology at the World Bank Group.

We have Sia Kor, the chief executive of the Competition and Consumer Commission of Singapore. We have general director Michal Halperin from the Israel Competition Authority. We have Superintendent Andreas Barreto Gonzalez from the Superintendents of Industry and Commerce of Colombia. And we have Director General Rikard Jermsten from the Swedish Competition Authority.

So let me now move to the first issue of the discussion, how to get a message through in the digital age. The concept of competition advocacy is directed towards strengthening the competitive environment without enforcement measures. To achieve this goal, we must get the message through. Otherwise, our work is futile. So how do we succeed?

We will start this plenary with an outside view. We have invited Dr. Martha Licetti from the World Bank Group to present her views on the role of advocacy in fostering efficient market dynamics and open markets and how to get the message through, especially using tech solutions, social media, and other platforms to boost advocacy effectiveness. Martha is the manager of the markets and technology of the World Bank Group where, among other topics, she leads both the competition policy as well as the digital agenda this institution.

She will present an outside view, but it's not entirely true that it's outside. The World Bank has together with the Italian Competition Authority been in charge of the ICN World Bank contest for many years. While the content winners will be presented in a separate event later on September the 22nd, Martha will in her remarks also build on the experiences from previous award winners regarding how to get the message through. So please, Martha, the virtual floor is yours. Go head.

**MARTHA LICETTI:** [INAUDIBLE] And first of all, thank you very much to the ICN and this year's organizer for the invitation, and congratulations for [INAUDIBLE] the event during these difficult times. I'm actually very pleased to represent the World Bank Group today. And in the next minutes, I will focus on providing key insights regarding advocacy strategies in the digital age, exactly as you said, based on the experience on the ICN World Bank advocacy contest. If it's possible, if you can bring the presentation that is in the [INAUDIBLE], please. I have a few slides that I

would like to share with all of the participants.

So the three key messages that I want to focus based on the analysis of the bank regarding the advocacy contest that we're seeing on the ground is this increase in focus on [INAUDIBLE] which changes both markets, the type of stakeholders, and the problems that advocacy tackles. Then in the second stage, also the increased use of digital tools in the context of [INAUDIBLE] advocacy.

And finally, in the need to understand the differing implications and interactions across different digital markets to balance [INAUDIBLE] enforcement but also to try to think in terms of public policy making in the digital space. Can you confirm that you are looking at the presentation? Excellent. So let's the start with the second slide these.

So as mentioned, I think the contest started as a World Bank initiative back in 2014, and then since 2015, we have been [INAUDIBLE] in partnership with the ICN Advocacy Working Group represented by the Italian Competition Authority [INAUDIBLE] outreach. Throughout these seven years and seven editions, [INAUDIBLE] more than 200 applications, around 220 eligible contributions from 61 jurisdictions. Many of these organizations from both more developed and less developed markets have been awarded with at least one of the winning prizes, around 40 winning prizes and honorable mentions.

And I think what you can see in these two sides, starting with the map on the left and then the increase on advocacy cases on the right, is that on the one hand, you have a series of countries that actually have been looking at advocacy cases [INAUDIBLE] markets. This is a case of the slide you have blue countries.

But then there is a small part of these countries that increasingly have been trying to use also the [INAUDIBLE] in the [INAUDIBLE] advocacy cases. Technology as a key for advocacy. And then if you think about in terms of the last seven years, we started with almost 0 cases of advocacy entries in terms of the digital markets to actually around 25% of [INAUDIBLE] focusing on markets that absolutely are related to digital. So next slide, please.

If we can see, and I think these are two key ideas. On the one hand, these technology solutions have been widely used [INAUDIBLE] competition advocacy.

Since 2014, at least 13 cases submitted to the contest have used technology and digital solutions. And it has been different ways in which the [INAUDIBLE] have been used. On the one hand, we have cases in the use of data science to actually gather and analyze information to identify sources of competition constrains, guiding policy prioritization, for instance, [INAUDIBLE].

We have also seen the use of [INAUDIBLE] stakeholder engagement, regulatory review, and antitrust compliance. For instance, in some cases like [INAUDIBLE] assessments of regulations on competition. And on the other hand, we have seen other set of countries in which they have leveraged social media and online resources to promote stakeholder outreach, building consensus, and facilitating [INAUDIBLE]. For example, e-learning platforms, websites, [INAUDIBLE] applications.

So that's where they are, in order to reach out consumers and citizens. This has also been across the board independently even on the, I will say the size of the agency or the budget of the agency has been also a very useful tool for agencies that maybe don't have enough budget, but they are actually through their digital technology [INAUDIBLE] significant proportions of the population.

And even now in response to COVID-19, we're also seeing that the [INAUDIBLE] have [INAUDIBLE] more variety, including through private [INAUDIBLE] to guide by public policy. So in the context of COVID-19, we see also large platforms like Alibaba, Amazon, Google, Microsoft offering their computer resources to [INAUDIBLE] researchers to improve policy making. So I think I want to highlight this. It's not part of the advocacy contest, per se, but just to think about how this will play out in the post COVID world going forward.

On the other hand, several challenge have also been evaluated in the context of [INAUDIBLE]. We can see on the other side of the slide. So looking at the broad impacts of digital economy markets and the need to create awareness about recent opportunities for [INAUDIBLE] challenges, we see that the type advocacy initiative [INAUDIBLE] competitive regulation in platforms to really try to regulate access to [INAUDIBLE] facilities [INAUDIBLE], mandating their connection and interoperability, promote increased transparency in the case of digital market.

So even though the topics are really similar if you think about in terms of what has been advocacy in some of key industries that require [INAUDIBLE] intervention. But in a way, I think what has changed is most of this initiative leading to concrete reforms have [INAUDIBLE] focuses when three sectors really [INAUDIBLE]-- transport, [INAUDIBLE], finance, fintech, payment assistance, [INAUDIBLE], money transfers, and wholesale retail, e-commerce. So those are the three sectors in which we have received multi advocacy entries.

At the same time, I think there is a combination of the type of government interactions that change. In some of the [INAUDIBLE] applications, [INAUDIBLE] regulations to all the way to federal or central government. [INAUDIBLE] and then a combination of regulators with actually ministers and at the same time also involvement of private sector stakeholders. So [INAUDIBLE] like the type of and the number of stakeholders that need to be, I will say, create consensus in the context of the [INAUDIBLE]. Accommodation services and data services has also been covered but to a lesser extent.

And I think in that way, if you think about the type of improvements in the regulatory frameworks in these sectors, we have seen that in many cases it's around [INAUDIBLE] to a place, like in the case of [INAUDIBLE] applications. Removing anti-competitive regulation that was there, for instance, preventing certain goods to be sold to e-commerce [INAUDIBLE] too, like [INAUDIBLE] like this in a way that you can actually look at regulating [INAUDIBLE] data sandboxes for fintech and promoting online and offline regulatory harmonization. And this is very important, because many of these cases, the new digital platforms but also digital technologies are changing the dynamics between online and offline markets. And next slide, please.

And I think this analysis that we have done with the ICN and the World Bank Group we have complemented with our own finding from a new antitrust and digital economy [INAUDIBLE] we're about to launch in the bank where we are compiling information across the world of what different competition agencies are going in this space. And we see in this case that policy makers are really searching for a balance between ex ante regulation and [INAUDIBLE].

And at the same time, [INAUDIBLE] understand interactions between, I think, not

only a stakeholder but really understanding the business models, how these interact with several market features that change and vary from those business models, and then finally go into how these might actually changing the markets that were offline before-- we call it offline, but [INAUDIBLE] markets [INAUDIBLE] technologies. [INAUDIBLE] versus a digital platform [INAUDIBLE].

And when we think about business models, I think what is important to understand is that from understanding finally the user side is worth talking about business to business, business to consumer. The transactions we are talking about physical goods, digital goods, remote services. In which a specific industry, like the focus of the markets as I said before, in some cases, is very localized. In others, we're talking about global markets. How is pricing strategies done? What type of technology and the impact of those technology?

For instance, one of the things that we are seeing too is the use of AI across different sectors very significantly and the importance and value of data also in that case varies. And then at the end of the day, what the revenue strategy in this case? And then you have to combine it with the market features that go from multi-sided markets and really using data as an input of production, I will say, and then building in that intangible asset.

So most common examples of these cases we're seeing from preferential treatment to actually predatory pricing tie-in. And then the same time, I think there is also a need to understand how this can be happening in economies that are less developed in which precisely some of these [INAUDIBLE] are actually happening in key markets, such as [INAUDIBLE] business, logistics, and transportation.

So with this in mind, I think what I wanted to highlight in the next slide, please, is that in reality, there is a need to understand fully the implications in each market. In the next slide, what we see is the responses of a survey that we did across fintech regulator, some private sector players. As you know, fintech is having low impact on the provision of financial services, mobile payments having a key early developer with broad implications for inclusion. New entrants are challenging incumbents who are responding at the same time and balancing competition policy priorities [INAUDIBLE] are raising your risk to financial instability

[INAUDIBLE].

So what we see in this particular case is that even in that overall sector that you think is unique, like fintech, in many of the cases, there is also a distinction between the role of competition [INAUDIBLE] from payments, [INAUDIBLE] to actually capital growth service or insurance. So we need to understand the different implications of that. And then if that's the case, what type of financial infrastructure really need to be relevant for fintech development and adoption.

And then if that's the case, if we expect a change in the competition policy framework in the next five years based on that, we can see from this survey that we conducted globally is that really many of the countries see high income and also lower income [INAUDIBLE] are expecting changes in the competition policy framework based on the different impacts of these new technologies in the respective markets.

So non-bank money issuers such as e-commerce platform [INAUDIBLE] for example, [INAUDIBLE] are enabling [INAUDIBLE] payments and simply savings instruments using mobile phones, QR codes, and [INAUDIBLE]. The ability to securely send a small payment cheaply has been [INAUDIBLE] available, such as pay as you go [INAUDIBLE] customers in remote areas. Third parties such as budgeting apps can now initiate payments of user bank and payment card accounts or obtain financial transaction data through open APIs, establish consumer consent and promote competition.

And these payments needs to be supported also by upgraded payment infrastructure [INAUDIBLE] to offer near real time payments. All of these by itself generate a whole set of policy implications in markets where I think competition authorities [INAUDIBLE] have a role to play in terms of understanding them. But also at the same time, [INAUDIBLE] for policymakers.

And let me stop here, because I think I thought that, and next slide, please, at the end of the day, I think this is something that in the case of advocacy and we are seeing also in the bank is increasing, is a need to actually understand that these new technologies for sure will absolutely have positive effects in terms of inclusion and efficiency. We have access to markets and jobs in [INAUDIBLE]

regions for [INAUDIBLE] population and small and medium enterprises.

You have productivity gains [INAUDIBLE] participation international trade with e-commerce, et cetera. But then you have the negative which is [INAUDIBLE] market distortion and these new disruptive behaviors and potentially certain job displacement, particularly in some industries rather than others. And I think that competition authorities [INAUDIBLE] advocacy [INAUDIBLE] understanding markets can help, I will say, fill in this public policy equation and really shape it in terms of trying to see what's the optimal or I will say or what's the more pro competition type of public policy that can be in place.

And the equation is really different in each particular market because of the [INAUDIBLE] that you will see across these technologies. So I think that's a key role for competition authorities. And I hope to look at the next seven years or the next 10 years of the ICN advocacy World Bank [INAUDIBLE] and see how this has played out. A lot of things to do, but really a thinking of these going forward will be key. And I look forward to see how these contributions play out in the future. Thank you very much, Kjell.

**KJELL**

**SUNNEVAG:**

Thank you. Thank you, Martha, for this really interesting presentation. I mean, I noticed your clear message on having a sort of real understanding of markets and to really understand the business models. And I also noticed that the central focus of transport finance. And I hope we will be able to return to some of those issues in due course during our plenary.

Now to the second issue, new technology and [INAUDIBLE] relations. We know that the digital world is fast moving and raises issues that are multifaceted beyond competition. But what are the new issues and the new relationships an agency needs to consider, and how can we work with new and existing partners to become better positioned to deal with the challenges? To

Address this issue, I'm very happy to introduce Miss Sia Aik Kor. From October 2019, she's the chief executive of the Competition Commission of Singapore. She will share the commission's experiences in working together with experts and government agencies through market studies and other platforms to adjust competition and other overlapping issues in the digital age. So please, Sia, go

ahead.

**SIA AIK KOR:**

Thank you, Kjell. Good morning, good afternoon, and evening to friends and colleagues in the competition community around the world. My name is Sia Kor, and I'm the Chief Executive of the Competition and Consumer Commission of Singapore. Thank you for inviting me to speak on this panel today. I'm very privileged to share with you our journey of making new friends and forming new relationships in advancing competition advocacy in the digital age. Next slide, please.

One undeniable feature of the digital world is that it is fast moving. To keep in step with developments in digital markets, we've conducted a number of market studies to keep close tabs on the concerns that may arise. Over the years, the scope of our market studies have evolved from looking at the competition impact of e-commerce in 2015 to studying the role of data in digital markets focusing specifically on firms that are sharing data and using analytics in 2017.

Then in 2019, we focus on online platforms for the travel sector and related consumer protection issues. And most recently in 2020, we examined the rise of digital platforms, also called super apps, that compete across multiple market segments that offer distinct products and/or services.

These market studies allow us to zoom into issues of concern for digital markets and to also tap on expertise of consultants and other government agencies to address complex and overlapping issues. For example, in the 2020 digital platform study, we engaged assistance of an economic consultant as well as interviewing a specialist consultancy that advises platform companies on business strategy. Market studies also allow us to engage the relevant industry players for a deeper understanding of how digital markets work. They lay the foundation for future opportunities for outreach and collaboration. Next slide, please.

Besides engaging industry players, market studies also provide the platform for a whole government and cross agency approach of dealing with overlapping issues in the relevant markets. For example, our study in 2017, data engine for growth, was done in collaboration with two other agencies, the Personal Data Protection Commission and the Intellectual Property Office of Singapore. This collaboration

led to further cooperation and coordination on the issues that arose.

After the study, we supported the Personal Data Protection Commission to explore and introduce the data portability obligation, which levels the playing field with respect to data access. We also contributed to their work on artificial intelligence, providing inputs to its discussion paper on artificial intelligence and personal data.

As for the Intellectual Property Office, following the study in 2017, it proposed in 2019 a new exception to allow copying of copyrighted materials for the purpose of data analysis where the user already has lawful access to the copyrighted materials. This allows the use of automated techniques to analyze text, data, and other content to generate insights and promotes applications of data analytics and big data across a gamut of industries.

On our end, we obtained inputs from the Intellectual Property Office to update our competition guidelines on intellectual property, such as how the refusal to provide access to data may raise competition concerns. For example, where a dominant company disallows its competitors access to data, whether data is a key competitive input in the relevant market. Next slide, please.

Aside from market studies, we also used various platforms to engage other government agencies on digital markets. We provide advice to other government agencies on the likely impact of the initiatives and advise them on alternative options that can reduce the adverse impact of their initiatives on market competition. In other words, we move upstream so that we try to address competition issues ex ante.

For example, we worked with the Media Authority, which is in charge of regulating the postal sector, to support its initiative to implement a federated locker system in Singapore. Federated lockers are lockers that are located in public spaces for consumers to pick up their delivery at any time by entering an authentication code.

This initiative seeks to ease last mile fulfillment challenges through aggregated deliveries to a single local location instead of to many individual homes, thus making last mile delivery process more efficient. We provide the inputs to the media authority as to how such a system should be implemented from

competition angle so as to ensure fair and open access to the locker network.

Through government advisories, we find that we are most able to influence initiatives when we engage with government agencies early. Hence for our recent formulation, our five year strategic framework from 2021 to 2025, we engaged other government agencies, business associations, as well as competition practitioners to find out their perspectives of what will impact the competition landscape in the years to come. This enables us to have an early indication of the concerns and issues that may arise and deepen our engagement with our stakeholders. As a result, we hope we are better able to anticipate issues that may arise in digital markets.

On a regular basis, we also facilitate a forum known as Copcomer, which stands for Community of Practice for Competition and Economic Regulations. This forum allows government agencies to share the best competition and regulatory practices, including those for digital markets. In 2019, we organized the regulator's [INAUDIBLE]. We invited speakers from the industry, a digital marketplace player, and also a speaker from the [INAUDIBLE] Development Authority to speak about the development and regulation of Singapore's digital industry.

We were also privileged to have with us at that session Mr. [INAUDIBLE], Deputy Chair of the Australian Competition and Consumer Commission, who delivered the keynote address. So besides benefiting from Mr. [INAUDIBLE] sharing of ACCC's extensive work on the digital platforms inquiry, there was an international exchange of views on the overlapping issues of competition, consumer protection, and data privacy issues arising from digital platforms. Next slide, please.

Even as we watch our digital markets internally, we also watch and learn from the experience of other competition authorities externally to learn and draw inspiration. In February this year, we were honored to host a visit from Miss Isabelle de Silva President, of France Competition Authority, who was very kind to share with us the work they did in algorithms and the various approaches in dealing with competition related challenges in the digital economy.

Multilaterally and regionally, we've also been involved in various projects. You may recall that Singapore led the 2016 ICN special project on disruptive innovations and government advocacy to study how competition authorities advocate for regulation that promotes competition in the digital sphere. At the regional level, we worked with RCN competition authorities to produce a handbook on e-commerce and competition, which provides a reference for competition authorities when assessing anti-competitive conduct related to e-commerce. We also organized a roundtable discussion between senior officials from RCN competition authorities on the challenges faced and potential areas of future cooperation on e-commerce related cases.

Bilaterally, in 2018, we worked with Indonesia to organize an RCN workshop on big data and competition law. And this provides guidance on how to better respond to antitrust challenges arising from the use of big data and algorithms. These projects enable us to learn from the experience and perspectives of other competition authorities and economies, keep abreast of latest developments, and adopt best practices for competition advocacy in the digital age.

In summary, we have used market studies as a platform to engage other government agencies, industry experts, as well as market players to better understand digital markets and built relationships so as to better address overlapping issues together. We found early engagement is key. And so we've instituted regular platforms, such as government advisories and interagency communities of practice, to deepen our engagement with other parts of government.

In developing the tools and skills to shape the regulatory framework of digital markets, we've also benefited from regular exchanges with our international counterparts on forums such as these. Though we may face different circumstances and setups in our own economies, we face similar concerns on digital markets. But I'm confident as we learn from one another, we'll be able to strive for more effective competition advocacy in digital markets. Thank you.

**KJELL**

**SUNNEVAG:**

Thank you, Sia. It was really interesting to hear about how you use market studies to get inside but also as a platform for a sort of holistic approach via the whole of government and also the importance of early engagement and also how you

interact with the purpose to learn and to also draw experience. So I also know that some other participants in the plenary have some experiences on this issue. So hopefully we'll be able to return to that in the discussion at the end.

Now moving on to our third issue, new technology and new adversaries. As I mentioned in my introduction, new platforms and business models are surfacing continuously in digital markets. In this context, an important goal of competition advocacy is to unleash the potential for enhanced competition through promoting an adapted modern regulatory framework. But this happens in an environment law of fierce resistance and conflicting interests among different interest groups. The incumbents use different strategies to block new entrants and new regulation. So how do we promote competition in fast moving markets where incumbents use all their powers to block adopted regulation and to prevent entry?

So in this part of the plenary, the Israeli and Colombian competition authorities will present their experiences. First, Director General Michal Halperin will present the Israeli competition authorities experienced in advancing disruptive technology vis-a-vis various voices through advocacy means.

After Miss Halperin, Superintendent Andres Barreto from the Colombian Competition Authority will specifically focus on their experiences dealing with those regulatory projects that could have been problematic over time, for instance, by creating unjustified barriers to entry to future potential participants. I think all of you that attended the fantastic 2019 Annual Conference in Cartagena will recognize him and recall with gratitude a fantastic event. But first, please Michael.

**MICHAL  
HALPERIN:**

Thank you, Kjell. And of course, I want to start by thanking and congratulating the DOJ and the FTC for making the ICN Annual Conference come true. This is really a great event considering the very special circumstances that were tackled. So really thank you very much DOJ and the FTC. Really appreciate it.

So to the subject at hand. Like many other competition authorities worldwide, the Israeli Competition Authority has been investing considerable resources and thought into facing the challenges brought by the digital economy. And this is, of course, a very lively issue in Israel. When we discuss digital economies, the

discussion contains inherently a duality.

On the one hand, the Israel Competition Authority is no exception to worldwide raising concern on the growing dominance of the internet giants and the digital platforms. We are certainly not hesitant to fight the battle of the Israeli consumer and where harm to [INAUDIBLE] consumer is found or caused or where competition is blocked by digital platforms, we can intervene.

On the other hand, and I think this is a focus of our discussion today, our duty is also to allow, to encourage, and to support the entrance of advanced and innovative technologies to the Israeli market. And we believe that when we are doing so, we are also fighting the fight of the Israeli consumer. I emphasize the term allowing the entrance of advanced technology, since Israel is clearly not where it should be in many industries in terms of offering advanced new technologies to the local consumers. And this is where our advocacy efforts are concentrated.

In opposition to the flourishing high tech sector in Israel, Israel is actually far behind in adopting advanced technologies in practice. We find ourselves dealing with both regulation and traditional incumbents, which often are not prone to advancing such technologies. Both these elements play key factor in our reality.

In all my years of experience, I haven't met an incumbent that welcomes the entrance of competition, let alone disruptive competition. The incumbents usually bring with them to their help different public arguments. We have to admit, in some cases, these arguments are with some merits and need to be seriously dealt with.

I'll address three examples. And Martha, I think they very much fit to what you said are the most frequent examples of advocacy in the digital market. And the first one I'll address is, of course, the banking and finance industry. So traditionally, the banking finance sector in Israel suffers from high concentration, limited innovation, and significant barriers to entry. Consumers usually purchase wide range of financial services solely from the bank where they manage their accounts. This behavior, of course, limits competition for fintechs.

So although Israel has a thriving fintech sector with recognized local expertise, a

significant majority of such startups mainly target at the US, the European, and the Far East markets. Essentially, they do not offer their services to the Israeli customer and are not relevant for them. For example, EMV payment protocol is not yet fully integrated in Israel. Mobile payments to businesses are just beginning to be launched. Insurtech, peer to peer lending platform, and virtual currencies are also extremely limited in the Israeli market.

The biggest obstacle in this area is often specific anti money laundering regulation. This regulation impedes feasibility of fintech company to enter these fields and compete. In addition, entry of disruptive players is often dependent on their ability to open bank account. This is a good example of cases where anti money laundering regulation coming to the rescue of the incumbents in delaying the entry of disruptive technologies and new competition.

The second example that I would refer to is the transportation sector. Public transportation does not adequately serve the needs of the Israeli customer. There are many reasons for this, but one of the main reason is that we don't have any shared transportation. Shared transportation almost does not exist here in Israel. This is directly attributed to specific regulation which de facto safeguards the position of the incumbents in the sector. In this case, arguments that we frequently hear is congestion in the roads in addition to the political supports of the incumbents, mainly the taxi drivers, enjoy. All this assist to delay the entrance of disruptive platforms.

The last example that I will give is e-commerce, and particularly retail e-commerce. E-commerce is also not where it should be in Israel. Not at all. Amazon has only recently started to enter the Israeli market. We believe that the entrance of Amazon to the Israeli market is a huge opportunity for the Israeli consumer. It will force the local retailers to roll up their sleeves and start competing over services, over variety, and over prices. We don't have the privilege to stop Amazon or limit its entrance to the Israeli market. However, Amazon is also a threat to the traditional commercial centers and brick and mortar shops.

Here the concern of the incumbents and the arguments that they are raising in order to try and block entrance of Amazon is almost purely a competitive one.

The incumbents raise concerns of predation and monopolization. This is a situation where the competition authority can really make a difference. It is our role to assure the traditional brick and mortar shops that the competition authority is well-equipped to stop anti-competitive practices and that it will be alert and will be willing to do so if the situation requires.

So what are the main things that we're doing in terms of advocacy? I'll talk about it very briefly. We've been investing a lot of resources to learn from the experience of other agencies. And I will take this opportunity really to thank other agencies that took the time and effort to educate us and to share with us their experience and their huge knowledge on the subjects. We also published a request for comments on regulations that limit competition. We received more than 90 comments on more than 50 different issues. The most popular subjects were finance, transportation, and food. We have learned also and met the different issues and we're starting to tackle them one by one.

The issue of promoting competition in the finance sector is in the heart of our doing for several years now. We have been a part of several intergovernmental committees. We published a few reports on research we conducted. We promoted the EMV protocol and legislation regarding open banking and payment services while working with the financial regulators on a daily basis to try and solve regulatory problems.

This is an ongoing effort. In this battle, I cannot say that we have only successes. For example, I mentioned earlier on the transportation section. This is a case where our efforts to allow new technology to enter are not fruitful yet. But even when we are not successful, we believe that we should continue to engage in advocacy to introduce new technology. Thank you.

**KJELL**

**SUNNEVAG:**

Thank you, Michal. And with that, we'll move directly to Superintendent Andres Barreto from the Colombian Competition Authority from the superintendency. Please, Andres.

**ANDRES**

**BARRETO**

**GONZALEZ:**

Thank you, Joe, for your kind words and the remembrance of the conference last year in Cartagena in Colombia. Certainly [INAUDIBLE] for the DOJ under the FTC to host this one, so I thank you very much for your invitation and for the tremendous

efforts in order to achieve this fantastic [INAUDIBLE] virtual conference. And thank you so much as well to let us share the Colombian experience regarding some of the challenges that we have been raising in digital economy as competition authorities. We believe this is a very interesting time to discuss many of the issues that have arose here in Colombia from the advocacy perspective.

How do we promote competition for the incumbents in such an emerging market and changing market? And how should authorities prevent not to be a barrier for development and any technology development but be a tool in order to permit this new competition in the digital arena? And we face a complex task truly starting for a [INAUDIBLE] new issues. So Colombia has had many interesting developments in platforms e-commerce.

But the case I would like to bring to you today has to do with the concerns that we have about electronic security devices for the Domestic Taxes and Customs Office in Colombia about how to trace cargo in order to prevent contraband and in order to effectively enforce the tax law here in Colombia. So this has to do with a resolution, a regulation enforced by the tax authority that was given to us once it has entered [INAUDIBLE] in order to make our advocacy comments or concept as Colombian law suggests.

And prior to the issuance of this regulation, the market of electronic security devices [INAUDIBLE] in response to the interest of individuals. That meant that [INAUDIBLE] cargo consider it essential to monitor its merchandise, it could freely restore to any provider of such services that could meet its particular needs. For instance, using GPS, opening and monitoring, among other tools that were available in the market.

The market operated in a scenery of free competition, since there was no regulatory restrictions to offer the service inherent to electronic security devices. But in this context, the Office of Customs in Colombia did not have an active role in these operations. It did not follow up the information derived from the monitoring that individuals could perform on the cargo nor intervene in a contractual basis.

So what is the issue [INAUDIBLE] of cargo and customs transit through electronic

security devices that was established by these regulations? And what was the purpose in the end of the Office of Tax and Customs in Colombia? Cargo traceability services are very compromised. On one hand, the operator selected by the Office of Customs through the [INAUDIBLE] process are in charge of installing these electronic devices in containers to ensure the integrity of the cargo on transmission of its positioning and to the other hand, the [INAUDIBLE] in the foreign trade operations.

After the regulation, the Office of Customs got involved in the service. It was in charge of evaluating [INAUDIBLE] operators and of the monitoring and control of the system of the cargo. With the relation of the Office of Customs aimed at modernizing the customs operations as well as ensuring the electronic security devices, the integrity of the cargo, and the control of the merchandise under constant control, effectively having a 24 hour guarantee of tracing this cargo. This would reduce [INAUDIBLE] and other problems.

The resolution was also issued based on the need to produce information that could support the work of the customs agency in relation to the monitoring of the movements of the cargo. This merchandise is transported mainly in vehicles through very difficult routes and highways in Colombia. For these reasons, it was necessary to ensure that the service providers had the necessary skills and qualifications in order to be effective in the monitoring of the cargo and the integrity of merchandise.

The competition authority reviewed this resolution and what we reviewed in this process was as the Office of costumes, we note these various issues regarding the asymmetry of information that could affect the competitive process. First, the Customs Office has established a resolution in their resolution technical conditions that electronic security devices have to meet but without specifying the scope of the application of the device. These mean that they had not been identified clearly with customs operation or what will they have to require to comply with the use of these devices. They do not specify the areas of national customs territory over which this rule would apply.

Secondly, the Office of Customs indicated the terms of capability between the operators of the devices, the users of these traceability devices, and the goods

and customs they were going to be using. So the process of installation, follow up monitoring, and utilizations of the electronic security device was framed in a regulatory decree made by the Office of Customs.

Then we started the procurement process that we observed that after the resolution came into force and the Customs Office issue [INAUDIBLE] invitation addressed to [INAUDIBLE] interested in providing the service of [INAUDIBLE] of this cargo and goods. 32 applicants presented to this process, which 10 of them met the requirements establishing the resolution. From these 10 selected companies, we were subjected to technical tests and in the end only four operators were selected.

It should be noted for this situation that we informed the Ministry of Finance to our request of concept of resolution about this situation using our advocacy powers in ex post mechanism. The ministry argued that this resolution was not backed by any economic or market study that would justify the requirements demanded.

Also we noted that there was an important issue in this resolution, because there was a justification purely based on the interpretation of the Office of Customs and the Ministry of Finance to have a five year period that the regulation determined as the period of reopening [INAUDIBLE], which meant in other words that at the time of the restriction of entry, possible new competitors in these dynamic market were not technically supporting or participating in this dynamic market. In this sense, the competition authority started the selection process of operation and determination of the exclusive process of five years providing the service.

So [INAUDIBLE] we clearly identified [INAUDIBLE] the service of five years will be [INAUDIBLE] in order to ensure upcoming competition or upcoming incumbent actors in this new field of electronic monitoring the cargo. The superintendent of the competition authority warned that this specific case had a multiplicity of [INAUDIBLE] to operate in the market and that, in fact, [INAUDIBLE] five year operation period in order to [INAUDIBLE] public bidding would be anti-competitive and in the end will affect, of course, the market.

So in the end, putting a framework or a time frame for five years will benefit the small number of incumbent agencies [INAUDIBLE] and the second one will, of

course, cause the restrict of capacity of the wide array of [INAUDIBLE] to effectively try to enter later on in that market. The Office of Customs considered the conclusions from the competition authority and revoked the problematic resolutions. The resolution was issued [INAUDIBLE] was reviewed by ex ante mechanism by the competition authority.

And at this moment, the competition authority made these considerations. First, for this competition authority, the generational barriers to entry and the potential tipping of market power of incumbents by regulations has negative effects over the future incentives to innovate of the incumbents themselves and other potential entrants and also over the possibility of other market players to enter the market offering the services with better qualities. Secondly, we established that there is a dynamic of innovation and technological neutrality that market understudy. So the non-imposition of deadlines for access to the provision of the service encourages technological development.

Thirdly, we also recognize that any type of technical specifications published in the future should be reviewed periodically in order to incorporate the technological [INAUDIBLE] that are being continuously developed [INAUDIBLE] promote competition and innovation. And finally, that the challenges related to the digital [INAUDIBLE] are not limited to e-commerce market or digital platforms. Experience indicates that many markets have been subject to technological transformation. In most cases, technological advances seem to be one step ahead of regulation. [INAUDIBLE] the value of the advocacy function all through the economy.

In the end, our regulation or our constitutional framework allows us to act ex ante and ex post with our advocacy powers. And we're even strengthening these powers in order to try to positively influence the regulation that is being upheld by other departments and other municipalities and different other actors here in Colombia in order to prevent such barriers of the market specifically in electronics and what we're calling now digital [INAUDIBLE]. Thank you so much, Kjell, for the time.

**KJELL**  
**SUNNEVAG:**

Thank, you Andres, and also thank you for this really illuminating example highlighting the importance of the work we do sort of ex ante and ex post to

influence the regulatory framework in a competition friendly direction. And also thanks to Michal for also highly interesting example showing that this is a tough struggle and to tackle one issue at a time. First focusing on fintech is a good strategy, but also the challenges relating to transport and also shared transport is something that I think most agencies share. We'll maybe return to that later on.

Now we are turning to sort of non-competition issues and how an agency should leverage on non-competition issues. We know that by breaking the rules in other areas, for instance, relating to data protection rules, digital firms can get a competitive edge over law abiding firms. Obviously, unfortunately, such cases require close cooperation with data protection authorities in clarifying the data protection issues involved.

However, close cooperation is also crucial with regard to effective advocacy in digital markets, for instance, to strike the right balance between competition and consumer data right policies. Now we ask how a competition agency can leverage on such non-competition issues to strengthen the competition advocacy.

To address that issue, I will now turn to the last speaker, Director General Rikard Jermsten from the Swedish Competition Authority. He will talk about their cooperation with the Swedish Data Protection and Consumer Agencies with regard to data issues. In common with these agencies, the Swedish Competition Authority have faced various challenges related to the transition to the data driven economy and the digitalization of markets. So please Rikard, go ahead.

**RIKARD**

**JERMSTEN:**

Well, thank you, Kjell. Also many thanks to our colleagues at DOJ and FTC for arranging and hosting this event in an excellent way. Well, I believe it's very important to take a proactive approach to analyzing complex and sophisticated digital markets. And digital [INAUDIBLE] has been a strategic focus for the SCA for several years now in our advocacy work.

Back in 2017, we published a report on e-commerce and the sharing economy, and we have returned to the topic of digitalization in various reports, seminars, and research [INAUDIBLE]. As we speak, we are in the latter stages of a sector inquiry into digital markets in Sweden launched in November last year, which aims to investigate whether there are structural competition problems related to

digital platforms, and if so, whether our current [INAUDIBLE] is sufficient to address these problems efficiently. Our findings will be summarized in a report that will be published by the end of the year.

In addition to this, the SCA together with other Nordic competition authorities, we are working on a joint Nordic report with policy proposals on the topic of digital platforms. And the report should be published shortly. At the same time, together with our Nordic colleagues, we are also writing a more sector specific report on e-commerce or medicines.

And as has been said, some of the perceived competition issues closely related to digital markets have highlighted the need to initiate cooperation with other national authorities. And this is why the SCA has started a close collaboration with the Swedish Consumer Agency and the Swedish Data Protection Authority, which also face various challenges of the data driven economy.

And the goal of this partnership is to improve our knowledge and bridge potentially gaps between our respective fields. If we as the competition agency want to find more effective solutions to tackle competition within the digital economy, it is important to have a dialogue with our peers.

To give one specific example, the Swedish Consumer Agency and the Swedish Data Protection Authority have a lot of special expertise in how companies collect and use personal data. Both authorities tend to look at these questions primarily for from an individual perspective, while we, of course, usually analyze things from a slightly broader market perspective. However, we can still learn a great deal and take advantage of their extensive knowledge and experience with applying data legislation and, as a result, improve our understanding about how, for example, data can affect market conditions or firms [INAUDIBLE].

In other countries, it is not uncommon to have dual function competition authorities that work with both competition and consumer questions. This is not the case in Sweden, though. Our dual functions are competition and public procurement. And it is always important that we conduct our advocacy work within the parameters of the mandate that has been given and the area of expertise that we can bring to the policy debate.

But competition advocacy, particularly when it comes to digitalization, cannot function in total isolation from other policy areas. So although we have no ambitions to become a consumer or data protection authority, at the same time, we realize that these questions can no longer be addressed entirely separately from each other.

As noted by the ICN steering group in its recently published scoping paper on the intersection between the competition, consumer protection, and privacy, the changes in data practices and business models which have been facilitated by information technology raise, or at least emphasize, a host of interconnected legal and policy issues that involve the relationship between the competition, consumer, and privacy regimes. As we all in one way or another are affected by the challenges raised by the new technologies and digital transformation, it should be a joint team effort to understand these issues so that we are able to address them in the most efficient way in our respective policy areas.

Our more formalized dialogue with the Swedish Consumer Agency and the Swedish Data Protection Authority began in 2019. We then decided to collaborate on a joint contribution to the government on its research policy and the forthcoming research policy bill. In our joint letters with the government, we highlighted the importance of integrated and interdisciplinary research into digital platforms and how they use personal data as well as data driven markets.

The digital transformation offers a number of new possibilities. Digital platforms can contribute to increased competition and consumer choice. At the same time, digitization generates new risks. The platforms can use their consumers' data in a way that creates lock in effects, for example. And with this in mind, we thought that more research was needed when it comes to the functioning of digital platforms as well as effects they have for consumers and other players who wish to enter the markets.

And since we can find many common denominators between each authority's assignments and work areas, we all face similar challenges arising from digital transformation, we recognized there was a common need to focus on research and increasing our knowledge in order to be more successful in addressing these new challenges efficiently in our respective fields.

And this dialogue with our sister authorities focused in particular on the opportunities and challenges brought about digitalization. And the intention is, among other things, to contribute to increased knowledge and experience sharing through various forms of collaboration and joint events. We hope that this will help us raise common issues, and it already has, as well as identify and better understand the points of intersection between the three authorities' respective tasks.

And within the framework of this cooperation, the authorities are organizing a joint seminar open to the public later in November this year. The purpose of the seminar is to enhance knowledge and to shed light on our work with respect to privacy, consumer protection, and competition in the data driven society.

In particular, we hope this event will provide a forum for dialogue between our three authorities and other stakeholders on the role of data, the possibilities, and the challenges the data collection poses in the digital economy and ultimately increase our awareness about how the digital changes affect our authorities' tasks and policy approaches. The seminar is one step we have taken towards a more structured cooperation, which we hope over time would reap in even more dividends in terms of joint projects and research.

I want to conclude briefly with a few lessons learned from collaboration in the advocacy field. For competition authorities that do not have combined functions under the same roof, collaboration with other regulators can be a powerful tool to boost their strength and give more power and weight to their [INAUDIBLE] voices. It can create synergies when there are real areas of common interest.

In this respect, I can draw parallels with our experience with the Nordic competition collaboration. We have a very long history of cross-border cooperation with other Nordic competition authorities when it comes to advocacy, stretching back over a dozen or so reports over a number of years. And we have seen very clearly that collaborating can amplify your voice in the policy debates when there are issues of common concern and bring attention to the points that you're trying to make.

On the other hand, from a purely practical perspective, one should always keep in mind that the collaboration on advocacy work poses a number of new potential challenges in terms of more complex project management, different decision making procedures, different working methods, and so on. There is always a risk that too many cooks spoil the broth.

What we have ultimately learned from collaboration in the field of advocacy is that it is crucial to show respect for each other's priorities. All our respective fields are equally important, and we must be mindful of each other's starting points. It is also important that we all focus on the advantages of such cooperation. We as competition authorities sometimes are more obsessed with discussing problems. But in order to reap the benefits of our partnership, we must be generous and concentrate on the positive aspects of the collaboration.

Ultimately, I'm convinced that recognizing our intersections with other policy areas and acknowledging that competition offers many important solutions but not all solutions to questions posed by digitalization. It will help us to achieve better outcomes for consumers. Thank you.

**KJELL  
SUNNEVAG:**

Thank you, Rikard. I like your angle with sort of choosing the positive or solution oriented approach. I think also your example with sort of the joint Nordic report illuminates how we can sort of share resources in order to amplify our voice. And also your message on sort of the need to have expertise and also to be able to understand, to be able to adjust the issues effectively and the importance of cooperation in that regard.

We are, sorry to say, running out of time, but I think we will take time for a little sort of follow up issue. I mean, returning now to Israel, I mean, my impression is that there is a lot of innovators in Israel, but they have problems getting their innovations to the market. And I also know that the Israel Competition Authority, they have really put a huge effort into promoting new regulations to allow newcomers.

But in this work, and you alluded to this work, Michal, but this work you also have relied heavily on cooperation with other agencies and government institutions. So could you please allude a little bit to that and thus supplementing also the

presentation by Sia and also Rikard? Please, Michal.

**MICHAL  
HALPERIN:**

Yes. Thank you, Kjell. I will say the following. First of all, I want to echo on what Rikard mentioned before and what Sia mentioned also in her presentation. We, very much like the Sweden agency, we do not have authority over privacy issue and consumer protection issues. I know in other jurisdictions, they are under the same roof and under the same authority, but we have only authority regarding competition issues.

And we also found the need to initiate a joint team of the three different regulators in order to cooperate and to, first of all, to brainstorm together on the issues, which is really very important. And also to try and produce some recommendation to the government and how to go forward on different issues. So our experience is very much similar to the experience of my Singapore colleagues and my Swedish colleagues.

We also found that cooperating with other regulators, whether they are the bank regulator or the insurance companies regulators or the Ministry of Transportation, is essential in order to succeed in advocacy. We need to convince them that they can go forward with the interest they are in line to promote and not harm competition at the same time. That they have the pro competitive way to protect the consumer in regard the interests they must preserve. So this is a very important lesson that we learned. Thank you.

**KJELL  
SUNNEVAG:**

Thank you, Michal. And then I'll just finish up with one question to Martha that sort of started with her outside view. Listening to the presentations and also given your advice that we really need to understand the business models and to understand the markets, what kind of advice would you give to the competition agencies in order to be in that position, to understand markets, to understand business models in order to do effective advocacy work?

**MARTHA LICETTI:** Thank you, Kjell. And I think that I will be a bit arrogant [INAUDIBLE] advice in the sense that I think we have all recognized realization that this is a very complex market and many things we don't know. And technology sometimes is even more advanced than what we can actually achieve from our desk.

But I think one key area [INAUDIBLE] is also to look outside. I think really trying to

understand [INAUDIBLE] these technologies and look into each specific market across what the private sector is doing, that's an important role that the competition agencies kind of start. Also in a way, outsourcing. You need to learn in a very fast way this.

So how to best achieve that even though you know by a fact that really the private sector knows more about this than you by default. So how do we early on capture these different business models and changes? I think what I have seen very useful is when you actually do conduct surveys, do adopt significantly with the private sector [INAUDIBLE]. And across the board. And particularly seeing this difference across markets.

Then the other aspect, I think, is important is just by start recognizing that business models are different. And I have heard that a lot from our participants today that they are looking into specific into e-commerce or into fintech, et cetera. I also think that through the work that we are doing, what helps a lot is the interconnection of all these markets.

And I think through the ICN, competition authorities can hopefully share what's happening in the respective markets. Many of these markets are actually global in a way, or at least some of the business models and strategies come from global have implications at the domestic level from some of the authorities.

So also trying to see this multi-market I will say from ownership to actually strategies is important. We are [INAUDIBLE] many of these cases, and going back to the startups ecosystem, that there is some sort of also way in which some of the largest players are also acquiring smaller players.

In particular, [INAUDIBLE] developers. There is a lot of vertical [INAUDIBLE], I will say, to form a conglomerate on this. I think that's something that you can see from [INAUDIBLE] of this information at the global level. That's another way. And the ICN also can help with that, with the knowledge sharing on that.

And I think a third point on this is really thinking which are the priority sectors that you should have start understanding? At the end of the day, e-commerce and fintech are very connected, because some of the things that happen-- and then you need for e-commerce to happen. You need the payment systems in place.

[INAUDIBLE] So how do you manage to [INAUDIBLE] so maybe that way to always actually understanding these interactions. For other circumstances, it might be the case that the issue [INAUDIBLE] a lot of emphasis I think in the [INAUDIBLE] transportation.

But I think we might be, for some countries, maybe the issues are more related to into the agri business sectors, the changes that are happening there. You can even see right now [INAUDIBLE], blockchain technology. So in some circumstances, allowing to reduce market [INAUDIBLE]. Are we [INAUDIBLE] those enough?

For some countries, that might be the case. Also trying to understand what is the-- you don't have enough capacity to actually look at those markets. So in a way, try to prioritize those that are either connected or those that are more important for the overall economy given how [INAUDIBLE] or not.

So I think those are ideas. You put me on the spot with this question. But I think that definitely there is a larger role, particularly because many of the policy making is just being done as we speak. And then the only players across the government that actually going to be thinking about how to look into the market dynamics are the competition agencies. So I think that's where you can also think about how you selectively choose your battles, in that sense.

**KJELL**

Well, thank you, Martha, and also thank you for some very good pieces of advice.

**SUNNEVAG:**

And I'm sorry for taking you by surprise.

**MARTHA LICETTI:** I love that. I love that. So I think that's fantastic.

**KJELL**

But I'm sorry to say that time is running out. But firstly, I would like to warmly

**SUNNEVAG:**

thank all the panelists for contributing to this highly interesting and topical panel. Listening to the panelists and their valuable reflections and experiences, I'm sure I'm not alone in the frustration of wanting to continue.

But please follow the work of the Advocacy Working Group led by the competition authorities in Hong Kong, Colombia, and Norway, and stay tuned for our upcoming webinars and workshops where the discussion of these issues that we have discussed today will continue. And if you're not following the work of the group,

please register to do so.

And please tune in tomorrow for another interesting day at the ICN Annual Conference with highly topical panels by the Agency Effectiveness Working Group on digital strategy of competition agencies and the Merger Working Group on digital mergers. So please note that the program tomorrow starts at 7:00 Eastern Daylight Time. So please note the time.

Finally, I want to thank the organizers at the Federal Trade Commission and the US Department of Justice for the tremendous work they have done making this plenary and the ICN Annual real by this virtual event. So thank you, and thank you all for listening up. And have a nice day, a nice evening, a nice night, and a nice day. Bye bye.