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IDRC Pre-ICN Forum on Competition and Development
Alliance Building for A Culture of Compliance

Session 1: The general case for alliance building

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Key Issues

• What **should** be done? Value to the public?
• What **may** be done? Authorising environment requirements?
• What **can** be done? Operational and legal capabilities?
• What **cooperation** required?

These are separate but interrelated core challenges
Distinction Between Competition Law and Competition Policy

• Traditional antitrust law:
  – Cartels
  – Mergers
  – Abuse of dominance
  – (Possibly deceptive and misleading advertising)

• Comprehensive competition policy - all laws and government actions that directly or indirectly restrict competition
Alliance Building

• Requires adequate political analysis prior to recommending action

• Support of other parties is one element in seeking change

• Their support may be offset by opposition from others i.e. opponents build alliances
Political Issues

• Widespread antimonopoly laws and practices are harmful
• Deep seated political support for such practices and strong opposition to reform
• Some forces for reform
• Need for in depth analysis of political forces
Some Drivers of Reform

• Public concerns about prices and monopoly
• Scandals
• Media concerns
• Interest group concerns
• Crises
• Electoral mandates
• Sequencing
Sources of Support for Change

• Political leadership

• Good institutions
  – Independent
  – Competition culture
  – Competent
  – Able to carry public arguments

• Prior reforms
Complex Government Processes

- Many discussions fail to recognise complex government processes. Need to understand:
  - Policy processes
  - Policy cycle
  - Network interest intermediation
  - Other aspects of process
Engaging with Alliances

- Consumers
  - Weak
  - Diffused interests
  - Not necessarily supportive of competition

- The divided interests of businesses

- Big business: cost benefit equation may be negative

- Small business and farmers
  - Need education
  - Can be made to understand where their interests lie
  - May have concerns about the regulator attacking them
  - Can become somewhat dangerous supporters
Engaging with Alliances (2)

• Trade unions:
  – often have a proconsumer view
  – product market competition can have negative effects on union wages
  – can be driven by antimarket ideology

• Other parts of government can be helpful: central agencies especially important

• Some parts of government unhelpful
Constitutional Issues

• Competition law applies in over 100 countries
• It has the status of a basic law
• It is nearly always applied by an independent regulator and has judicial features
• Note the important role of prohibitions on restrictions on interregional competition in constitutions (e.g. US, Australia) and treaties (e.g. TFEU)
• The Chinese approach
Independence

- Symbolism
- From symbolism to substance?
- Thurman Arnold view of antitrust
- Credible commitment (and agency design)
- Independent of (a) political, (b) business interference
- Expertise in assessment and process
- The “conscious pilot” perspective
- Constitutional aspects of independence
- International policy transfer