



# Interconnection, Institutions, and Competition Network

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# Overview

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- Initial Conditions
- Institutional Responses
- Implications
- Acknowledgments:
  - FTC Office of General Counsel, Policy Studies Group



# Resources

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- Kovacic, "Toward a Domestic Competition Network," in Competition Laws in Conflict (AEI 2004)
- Kovacic, "Extraterritoriality, Institutions, and Convergence in International Competition Policy," 97 American Society of International Law Proceedings 309 (2003)



# Initial Conditions

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- Public Policymaking Fragmentation
  - Competition Agencies
  - Public Utility Regulators
  - Energy Authorities
  - Private Rights of Action
- Institutional Interconnections
  - Bilateral Cooperation Among Public Bodies
  - Academic/Professional Networks: NARUC, CRR
- International Experimentation: ACCC, OFT



# Convergence Models

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- *Top Down* Imposition of Binding Norms
- *Bottom Up* Evolution of Norms
  - Decentralized Experimentation
  - Identification of Better Practices
  - Opting In or Agreement on Norms
  - Note: Bottom Up Process as Basis for Top Down Solutions



# International Opting In

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- Pre-merger Notification: 1976
- Merger Guidelines: 1982 et seq.
- Leniency: 1993 et seq.



# Convergence Means

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- Public Bodies:
  - Bilateral: EU/US
  - Multilateral Global: OECD, WTO, ICN
  - Multinational Regional: e.g., Comesa
- Non-Government Institutions
  - Academics
  - Professional Associations



# Convergence by Opting In

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- Development of Analytical Models and Processes
- Identification of Better Practices
- Opting in to Better Practices





# Institutional Interconnection: Facilitating Devices

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- Bilateral Agency Agreement/Cooperation
- Multilateral Cooperation
- Exchanges
- Conferences
- Common Research Projects



# Domestic Competition Network

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- Public Instrumentalities
- Conferences, Seminars, Workshops, and Working Groups
  - Process
  - Substantive standards
- Exchanges
- Interconnection Focus: Energy, Natural Gas, Postal, Telecom



# Possible Agenda

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- Education
- Information Exchanges
- Empirical Work
- Allocation of Responsibilities
- Implementation Costs
- Substantive Standards
- Advocacy and Government Intervention



# Domestic/International Links

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- Compliance with Best Practices Identified in International Forums
- Comparative Assessment



# Implications

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- More Attention to Institutional Design
- “Competition Policy” vs. “Antitrust”
- Policy R&D and Role of Competition Agencies: E.g., FTC 2002 Study
- Comparative Analysis
- Institutional Capacity: Regulators and Competition Agencies