



Business and Industry Advisory Committee to the **OECD**

Comité Consultatif Economique et Industriel Auprès de l' **OCDE**

Remarks on Competition Policy, Private Anti-competitive Conduct and Economic Growth and Development

**Presented by the
Business and Industry Advisory Committee (BIAC) to the OECD
To the OECD Global Forum on Competition, Session IV
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BIAC welcomes the opportunity to provide its views to the OECD Global Forum on Competition on the relationship between competition policy, private anti-competitive conduct, and economic growth and development. As in our submission to the Global Forum in 2002, we again suggest the following points for consideration:

- For the creation of competitive industries in market driven economies, new competition regimes should not introduce just another form of regulation of the market. A competition regime however will only bring positive results if it is part of a broader policy framework including deregulation, trade and investment liberalisation, and privatisation;
- A sound competition regime directed at alleged private anti-competitive conduct should give due regard to the fundamental fairness of enforcement actions. Essential internal procedural safeguards provided to private parties should include transparency of the process and non-discriminatory application regarding nationality of the parties concerned;
- Building a competition culture is of the essence, sufficient awareness of competition principles has to be created and maintained among other government agencies, academia, business, and the general public;
- Competition law enforcement in most developing countries should focus on horizontal price fixing, bid rigging, market allocation where enforcement action most likely is to protect consumers;
- For developing countries an effective competition law must be flexible enough to permit rationalisation and consolidation that are frequently essential in order to maximise efficiencies and economic welfare in the course of structural adjustment;
- An overly ambitious application of competition law risks deterring socially desirable investments in innovation and technology transfers which rely on protecting intellectual property rights;
- Co-operation with other competition authorities, ranging from exchanges of experiences, to discussions on areas of common interests, is fundamental as may be case specific co-operation

(subject to appropriate safeguards). Unilateral action regarding international business activities has limited effectiveness and may lead to jurisdictional conflicts.