

2010 ICN Cartel Workshop

October 7th

Settlements and Alternative Case Resolutions

benefits / appropriateness;
how to decide

Goals of antitrust enforcement and litigation

- **Promoting competition in the market; minimizing antitrust infringements.**
- **Deterrence:**
 1. **Deterrence of the specific violator (person or corporation).**
 2. **Deterrence of potential violators (general public).**
- **Retaliation; punishment for a forbidden act.**
- **Educating the market on antitrust law and principals.**
- **Compensation of victims.**
- **Predictability and consistency.**

Settlements & Alternative case resolutions

- **Alternative solutions to prevent infringements**
- *ex ante*

enforcement actions that can prevent future infringements.

- **Settlements & Alternative Case Resolutions –**
ex post

enforcement tools to address an infringement that has already occurred.

Alternatives to prevent infringements - *ex ante*

- **Public statements / guidelines** : clarification of the authority's position on specific practice
- **Pre ruling**
- **Compliance programs**
- **Information letters**
- **Visits**

Settlements & Alternative Case Resolutions **– *ex post***

- **Settlements**
- **Consent decree / consent agreement / consent order**
- **Plea bargains**
- **Mediation**
- **Facilitated settlement negotiations**
- **Administrative fines**
- **Warnings**

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Settlements and Alternative Case Resolutions

benefits / appropriateness; how to decide

- Costs and Resources - Internal capacity
- Characteristics of the competition agency and the legal system
- Timeliness
- Characteristics of the violators and the market
- The kind of violation
- The impact of various “sanctions” on the violators
- The effect in the market
- International aspects
- Barriers to expansion, entry or exit