



U.S. Federal Trade Commission's And
Department of Justice's Experience With
Technical Assistance
For The Effective Application of Competition
Laws*

February 6, 2008

* The views expressed in this paper are those of Staff of the FTC and do not necessarily reflect the views of the Federal Trade Commission or any individual Commissioner.

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I. OVERVIEW

The U.S. Federal Trade Commission (FTC) and the U.S. Department of Justice's Antitrust Division (DOJ) have provided international technical assistance on competition law-policy matters to countries with developing and transition economies since 1991. The funding for this assistance has been provided principally by the U.S. Agency for International Development (USAID). Over the past fifteen years, the program has reached more than 50 countries in Central and Eastern Europe, the former Soviet Union, South America and the Caribbean, South Africa and, more recently, Asia. It is important to note that our technical assistance work begins only after a country expresses an interest in developing competition laws and enforcement institutions.

Our experience suggests, and much of the literature on the topic agrees, that technical assistance programs must take into account the country and culture, local concerns and conditions, and the body of domestic law.¹ DOJ and FTC, in providing technical assistance, share their experience and the know-how that they have accumulated over a century of enforcement. Our technical assistance programs draw on our institutional strengths to provide assistance that is comprehensive in scope, and fosters relationships that continue after the particular project has ended. They emphasize the pragmatic over the theoretical, and focus on transferring institutional skills and experience in investigating, analyzing and remedying anticompetitive behavior. Our program focuses on the development of sound competition policy principles and institutions, recognizing that no single model of substantive commands and institutions is suitable for all circumstances.

We have concluded based on our experience that the most effective method for delivering technical assistance to competition authorities after they have begun operation is the use of resident advisors. The next most useful method of training is through interactive investigative skills workshops. Other short-term assistance can be targeted to a specific purpose or as an adjunct or follow up.

II. FOUR FEATURES OF THE FTC/DOJ TECHNICAL ASSISTANCE PROGRAM

There have been four main features of the FTC/DOJ program: resident advisors, short-term missions (one-two weeks), regional conferences, and internships in the United States for foreign personnel. Tailored to the specific requirements of the host economies, programs may assist in developing framework laws, creating enforcement agencies, educating supporting institutions (other government agencies, academia, business groups, consumer associations and the press), and training personnel in the substantive legal principles, analytical framework, and investigative techniques needed for the success of a competition law enforcement regime.

¹ E.g., William E. Kovacic, *Institutional Foundations for Economic Legal Reform in Transition Economies: The Case of Competition Policy and Antitrust Enforcement*, 77 CHICAGO-KENT L. REV. 101 (2001); *Assessing Aid: What Works, What Doesn't and Why*, World Bank Policy Research Report; Cohn, Stuart R., *Teaching in a Developing Country: Mistakes Made and Lesson Learned in Uganda*, 48 J. LEGAL EDUC. 101, 107-108 (1998).

The FTC/DOJ program supports foreign policy goals, particularly expanding world trade, lowering barriers to investment, and promoting economic growth and development. Because USAID is an agency of the U.S. government, its priorities and funding have tracked the most significant developments and priorities in our foreign policy in recent years. Also, competition law is but one branch of a larger body of commercial law with which states characterized by central economic planning lack familiarity. In securing USAID funding for our activities, we have emphasized the need for an operating effective competition law system within a larger structure of reformed commercial law. In developing this theme, however, we have had to recognize that in many developing or transitional economies there exists no "culture of competition." Our general approach has been first to point out that competition is an engine of economic growth and development, spawning entrepreneurship. Competition law and policy need to facilitate sound business practices and not impede them.

The focus of the FTC/DOJ technical assistance program is on the development of sound competition policy principles and institutions. Our program takes into account that no single model is suitable for all circumstances. Many countries use civil law systems, which may require greater specificity than is characteristic of most U.S. antitrust laws. We adjust our advice accordingly. Likewise, we encourage nations to solicit the views of other nations.

Despite differences in legal environments in different countries, three types of conduct characterize most competition laws worldwide: anticompetitive agreements, especially cartels; single-firm conduct, referred to as "monopolization" in the U.S. and "abuse of dominance" in many other countries; and anticompetitive mergers and acquisitions. Our technical assistance focuses on these common concerns. We do not purport to be policy planners in terms of suggesting which industries or factual situations should be investigated and do not profess specific knowledge of other nations' conditions. Nonetheless, our experience informs us in ways that may have value to the recipients of our technical assistance.

- For example, we frequently suggest that countries consider cartels the most important component of the law. Cartels result in unambiguous harm, and do not require detailed economic analysis. A cartel case by a new authority in a developing country that results in lower prices to everyday consumers can demonstrate the value of competition and competition law enforcement to the public and to the other institutions, inside and outside the government, that are interested parties in the results of the reform process.
- Mergers and acquisitions frequently require investigations that are quite resource-intensive. Merger investigations run the risk of overwhelming the scarce resources of a new competition law enforcement authority, diverting them from being used actively to uncover and stop very harmful cartel behavior. Nonetheless, most new competition agencies do review mergers and require training in how to go about such reviews. Sometimes, a proposed acquisition is seen as a threat to incumbent firms or employment, rather than something that might enhance efficiency, increase consumer welfare, and expand output in the long run. Concerns about employment or the closing of antiquated facilities may be a political reality, but sound competitive analysis is essential in all merger reviews.
- Careful analysis is needed in the monopolization/abuse of dominance area. It is with respect to this type of conduct that it may be most difficult to differentiate between healthy competition on the merits and harmful exclusionary conduct and where the potential for causing harm through intervention is greater than in other areas. We

have counselled against selection of enforcement targets based on dominance or pricing criteria alone.²

Finally, we are mindful of the fact that governments themselves through laws and regulations sometimes erect barriers to competition. Here we would look to the host authority to examine such realities, either as an enforcement matter or, more likely, as an advocate of procompetitive policies. The idea of promoting competition advocacy also readily lends itself to larger issues, such as privatization policy and whether, and how, to reform policies towards regulated industry sectors of the economy.

For over a century, we have accumulated many effective and creative investigative techniques. It is this experience that we seek to impart to the recipients of our technical assistance. We have seen there is a strong desire to identify practical, operational criteria by which general substantive directives (e.g., "don't fix prices") are translated into enforcement initiatives. We provide that know-how in great detail.

III. TECHNICAL ASSISTANCE PROGRAMS ADDRESS RECIPIENTS' DIFFERENT NEEDS AS THEY ARISE

We offer technical assistance to countries with many different economic histories. Our competition law and policy technical assistance program commenced when the state-controlled economic systems of Central and Eastern Europe began the transition to market-based systems. Since then, we have also provided assistance to many countries that are trying to create better commercial environments for investment and entrepreneurship. These countries are usually developing countries, but some countries are already fairly well developed before they see the need for competition law enforcement. Regardless of its economic history, it is when a country has determined that it has the political will to adopt and enforce competition laws that our technical assistance becomes most useful. If a country asks us to work with them, then a dialogue begins for assessing and outlining a strategy to work on some or all of the following aspects of building capacity.

A. DRAFTING FRAMEWORK LAWS

Since 1991, our agencies have provided advice on the drafting or redrafting of over 50 laws. Domestic law enforcement experience, coupled with experience in observing what works and what does not work in transition and developing economies, gives us a unique perspective in helping to draft competition laws. We are able to offer to the drafters the insights and suggestions that we have learned from experience in several discrete areas of legal drafting: forging definitions of the conduct being addressed, helping formulate the legal requirements for competitive injury, fashioning remedies, and helping design the enforcement infrastructure.

We have found that legislation drafted without input from experienced competition law enforcement authorities often overlooks some important practical issues. Examples include:

- Failure to provide effective remedies for refusing to cooperate with legal requests for information. Competition laws typically provide that the competition authority may compel businesses to produce necessary documents. They do not always provide clear guidance as to what the authority may do when its request for documents is rebuffed. In addition, many laws provide only for fines of a minimal amount as a

² Particularly troublesome have been cases based on legislation that declares "excessive" prices to be an abuse of dominance. Some agencies have been tempted to use this as a vehicle to impose "back-door" price regulation in response to rising consumer prices.

sanction in such cases. In the absence of more effective remedies, companies may choose simply to pay the fine as a cost of doing business.

- Failure to design the enforcement institution to be most effective. In some jurisdictions, for example, the term of each member of the multi-member body responsible for the application or enforcement of the competition laws expires at the same time. This can lead to a loss of institutional continuity if all members are replaced simultaneously.
- Failure to take into consideration the relative strengths and weaknesses of competition authorities and the judiciary. In some systems, the judiciary is given a role in all cases but lacks adequate training and experience. Judges may have difficulty with the unusual role of deciding cases based on likely future market effects as opposed to the more familiar task of judging past conduct. In other systems, competition authorities are empowered to decide cases, but lack power to impose effective remedies and sanctions. It can be difficult to strike appropriate balances between the authority's role as expert in competition and the judiciary's role of imposing effective remedies and ensuring fairness through independent review.
- Failure to provide for prosecutorial discretion. Some laws can be interpreted to mean that the authority is required to address in writing every complaint, no matter how minor or ill-founded. This can lead agencies to waste time on cases that should never have been opened or, worse, to be used by weak competitors who wish to use the competition law to harass more efficient competitors.
- Failure to provide appropriate and realistic deadlines for official action. If a competition authority is forced to reach a decision before it can conduct an adequate investigation, the result may be ill-informed; conversely, overgenerous deadlines may result in unneeded delay to business.
- Failure to appreciate institutional demands created by legislative mandate. A merger notification program with unreasonably low reporting thresholds or that covers transactions that do not have a local nexus to the jurisdiction imposes unnecessary transaction costs and a commitment of competition agency resources without any corresponding enforcement benefit. A new competition agency can become overwhelmed with notifications and have no time to analyze them, let alone address more serious matters, such as cartels.

Problems such as these can be avoided if pragmatic assistance is provided during the drafting process. We advise the drafters on past experience and the implications of choosing one course of action over another. We also advise the drafters on the extent to which approaches being considered are consistent with international norms.³ We provide options and identify the possible benefits and consequences of the choices under consideration.

B. CREATING IMPLEMENTING INSTITUTIONS

In a similar vein, we can assist officials responsible for setting up a competition authority. Typically this is done through short-term missions before the authority is created but after the country

³ See e.g., International Competition Network's Recommended Practices for Merger Notification and Procedures at <http://www.internationalcompetitionnetwork.org/media/archive0611/mnprecpractices.pdf>.

has decided to establish an authority. This work can also be done on an ongoing basis by long-term advisors, especially those who are present during the early days of an authority's life.

Internal operating procedures, authority structure, and internal guidelines can have a significant impact on the quality of a competition enforcement authority's work. Institutional issues are quite numerous: Who holds the power to initiate investigations and to make decisions? Who within the authority will have the power to compel testimony and require documents? What form will staff recommendations take, and will they be subject to any sort of critical internal review before being presented to the decision-maker? What means will be used to assure that agency actions are based on the facts and the law, and not on political considerations? What will be the authority's advocacy and public education functions, and what measures will be in place to ensure that its voice is heard? What will be the organizational and procedural rules, and how transparent will they be? What are the appropriate staff skills mix, authority size, budget, and technical support systems? What should be staff educational requirements, and how can appropriate training be implemented?

C. EDUCATING SUPPORTING INSTITUTIONS

A competition authority cannot function in a vacuum. For it to do its job, it must work with other institutions – the legislature, regulators, courts, and other government bodies – to build what is often referred to as a “culture of competition.”

Our working experience in building and maintaining these kinds of relationships with related institutions in the United States, as well as with our counterpart institutions at the state and local level, helps us to counsel the need for such relationships elsewhere and to convey the techniques for building them.

Support for competition policy also needs to come from non-governmental institutions. This can be done, for example, by encouraging appropriate economics and law course development. In the U.S., the antitrust agencies have found it useful to maintain healthy dialogues with lawyers' bar associations and consumer organizations and business groups such as chambers of commerce. Finally, public education through the media also plays a critical role. We work to encourage competition authorities to develop these relationships and educate these institutions, and on occasion directly assist those efforts.

Linkages exist between competition and consumer protection, and if the competition authority does not itself handle this function (as the FTC has authority over both competition and consumer protection in the U.S.), a competition authority should have a healthy relationship with the consumer protection authority. Both should understand that consumer protection should complement, not replace, competition in a market economy.

D. TRAINING THE STAFF TO ANALYZE, INVESTIGATE & REMEDY CONDUCT

These groundwork steps lead to the final and most significant stage of competition law development: creating an effective functioning competition authority. Once a law is drafted and an enforcement entity created, the most difficult work is to help train the new authority in how to apply the law. New enforcement authorities and new staff must learn how to conduct investigations, select appropriate enforcement cases, shape prosecutions, and craft remedies. Success in accomplishing this work is the basis for judging the success of a competition law regime, and is one of the most difficult undertakings by our domestic agency staffs. Our inherent strength as antitrust agencies is in assisting staff to develop the skills necessary to identify cases where competition authority intervention might benefit the development of a market economy and to develop the skills necessary to investigate those cases, analyze the results, and develop appropriate remedies. This is a long process. At the FTC and DOJ, experienced lawyers and economists rarely begin with skills fully developed. They acquire skills, techniques, and judgment from working with more experienced attorneys and economists over many years. It should not be surprising that the staff at new competition agencies can benefit from the

same time and opportunity to work with experienced senior staff, but those new agencies lack experienced senior staff. Experienced enforcement staff from the FTC and DOJ can help fill that gap.

Many skills need to be imparted. How do staff members identify promising potential cases, and perhaps as important, how do they identify those that should be quickly closed? What elements must be proven to establish a case? What information is needed to satisfy those elements, and what might suggest that the case should be closed? Where can that information be found, and how can it be obtained? What are the evidentiary standards required by the decision maker, and how may it be ensured that the information gathered will satisfy those standards? What remedies are appropriate, and what will be their impact on the marketplace? How should the results of the investigation and recommendations be presented to the decision maker? How can investigations be effectively supervised and reviewed to ensure that the right issues are identified, investigated, and discussed and time not wasted on superfluous issues? The list goes on. Given the high turnover in personnel, our biggest challenge is as much the teaching of skills to individual staff members as the creation of a knowledge base that will survive turnover.

IV. LONG-TERM ADVISORS

In our experience, placing advisors in competition agencies on a long-term basis is the most effective way to effectuate the goals of technical assistance.⁴ No amount of lecturing, simulation exercises or retrospective case analysis can better train staff and promote development of a competition culture than having advisors present to work with the staff on their own investigations. Being resident at a competition authority over a sustained period and utilizing the actual mechanisms and procedures of an agency's own laws, is the best way to learn what the authority's true needs are and to address those needs. Competition authority officials may be unwilling, or indeed unable, to identify their needs and shortcomings to those they do not know well and trust. There is also no substitute for engaging staff at that point in an investigation when their energies and attention are intensely focused on a given issue, and they are most motivated to learn — what some have called "the teachable moment." Having an advisor on the scene at those times is ideal, from the point of view of pedagogy and learning. Advisors who have become familiar with a country's competition law and institutions and market developments can also give much more focused counselling. Moreover, over the course of time, resident advisors earn the respect, trust, and confidence of foreign agency staff, who are then more likely to solicit, listen to, and implement their advice.⁵ When a relationship of mutual trust develops advice is more readily absorbed and applied. These relationships often continue long after the advisor leaves a country, are especially strong among fellow law enforcers, and lead to informal consulting among peers.

A. GENERAL DESCRIPTION OF LONG-TERM PROGRAMS

The FTC/DOJ began sending its personnel on long-term missions to Eastern Europe in 1991, and continued through 2001. In the late 1990s, resident advisors were also serving in Argentina and began to serve South Africa. Beginning in 2001, the FTC/DOJ has sent several resident advisors to the KPPU in Indonesia, and to the ASEAN Secretariat and its members. Typically, an individual advisor's residency overseas lasts between six months and a year. By having several resident advisors in succession, the FTC/DOJ has provided resident advisors to some agencies for two or more years.

⁴ See also, William E. Kovacic, *Antitrust and Competition Policy in Transition Economies: A Preliminary Assessment*, in ANNUAL PROCEEDINGS OF THE FORDHAM CORPORATE LAW INSTITUTE 537 (Barry Hawk ed., 2000, Ch. 23) ("The best assistance programs are anchored by the presence of long-term advisors who reside in-country and work directly with the host country's policy officials").

⁵ See also, DevTech Systems, Inc., Final Evaluation of the Federal Trade Commission and Department of Justice Component of the Project on Competition Policy, Laws and Regulations 7-9 (Jan. 24, 1996).

The FTC/DOJ usually staffs these missions with one experienced staff member. When the FTC/DOJ can fund a team of two, we strive to have a lawyer and an economist, one from the FTC and one from the DOJ. They live in-country and work on a daily basis within the offices of the institution responsible for implementing competition policy, supported by an interpreter.⁶ Some advisors have a mandate to provide assistance to more than one country in a region or to or through a regional entity such as ASEAN. These regional resident advisors have a base of operations in the region, for example, Bucharest or Jakarta, and travel to nearby countries.

Advisors review and comment on both the substance of matters under investigation and the investigative tools that are being used. While FTC/DOJ personnel perform an active advisory role, they do not actually conduct investigations or argue the merits of cases. Instead, they help identify options and the strength, weaknesses, and likely consequences of the various choices under consideration.

B. ASSISTANCE TO INVESTIGATING STAFF

Some of long-term advisors' most important work is imparting experience to the investigating staff. When the long-term advisor programs began in the early 1990's, few of the staff at the authorities we worked with had any training in competition law or industrial economics.

Long-term advice by seasoned lawyers and economists on the practical application of these new concepts helps build on and coalesce some of the fragmented knowledge that the staff picks up from other sources. For example, it is one thing to know that there is such an idea as a small but significant non-transitory price increase, but it is quite another to learn how to ascertain how this concept is applied during the market definition analysis of an actual merger.

Often a long-term advisor extends his or her own reach by calling on the U.S.-based resources of the FTC or DOJ when confronted with a specialized problem outside of his or her own experience. Specialists at FTC and DOJ headquarters are easily consulted by telephone or e-mail, and can send written materials as needed. In addition, as discussed below, long-term advisors can identify and coordinate short-term missions by industry experts from Washington.

C. ASSISTANCE TO DECISION MAKERS

When cases reach the decision-making level, long-term advisors consult with staff and help them in sorting through possible recommendations. They sometimes review staff's memoranda and recommendations and, as appropriate, meet with more senior officials to discuss the matter.

V. SHORT-TERM MISSIONS

While we have found that the use of long-term resident advisors is the best way to provide technical assistance to new competition agencies, short-term advisors can also be very effective. We have found that short-term advisors are effective in the legislative drafting and institutional design stages, discussed above, in targeted support of long-term missions, and for conducting interactive investigational skills workshops.

⁶ The importance of the interpreter's role cannot be overstated. In most countries we hire an interpreter who usually remains with the program throughout, and who becomes a full-fledged member of the team, not just translating, but helping us understand the basis and context of a concern or question. The interpreter, as a fellow national, often becomes a conduit for news and identifies issues needing our help about which we might not have been approached directly.

A. TARGETED MISSIONS IN SUPPORT OF LONG-TERM MISSIONS

Short-term missions have a role in support of long-term missions. They can supplement and extend the skills of the long-term advisors once they are in place, and can provide follow-up assistance after a long-term mission ends. Although the long-term advisor will doubtless have his or her own areas of specialized expertise, the long-term advisor is necessarily a competition generalist and cannot be expert in all of the disciplines of competition law. When an important issue requiring specialized expertise arises, we have found that sending staff from FTC or DOJ with the appropriate expertise can make a big difference. After our long-term advisor leaves, there are often significant unfinished projects. Follow-up short-term missions by the long-term advisor can help complete the work.

B. INTERACTIVE REGIONAL TRAINING PROGRAMS

We have also used short-term missions successfully to conduct interactive investigational skills training workshops based on hypothetical cases. We have developed hypothetical merger, abuse of dominance, and cartel cases. These cases raise many issues one might expect to encounter while investigating a real case. For jurisdictions that also have consumer protection laws, we have other hypothetical case exercises, such as a deceptive advertising cases and internet investigations.⁷ In these exercises, participants are initially presented with some background information and the kind of documents that might trigger an investigation in the real world: a competitor or consumer complaint or a pre-merger notification. Participants are then guided through the identification of appropriate issues for investigation and the formulation of an investigational plan.⁸ They formulate a document request. This, in turn, results in purportedly responsive documents (prepared in advance) being produced. Simulated interviews are conducted. Interspersed with the practical exercise are lectures on substantive issues and investigational skills based on our staffs' own experience. Participants from numerous agencies have told us that these seminars are of great value because they convey real-world investigational experience in the context of an actual case. These interactive exercises were designed by experienced former long-term advisors with extensive domestic experience and expertise with the type of investigation at issue. They are designed to approximate, as closely as possible, actual investigations that competition law enforcement staff anywhere might encounter. We have modified each "case" to fit the facts of the countries in which they are employed.

We have found that training exercises conducted on a regional basis are also desirable and have a special place in technical assistance. Regional training workshops have permitted the sharing of experiences and a broader approach to conveying the most important message, which is how to conduct an actual competition investigation. In particular, regional programs create other synergies that ultimately lead to more effective law enforcement. They promote regional networking. Staffs often receive little opportunity to meet with their counterparts in other countries, and in some cases, contacts formed at regional conferences have led to cooperation on investigations. We have also structured conferences so that more advanced agencies in the region can develop mentoring relationships with less experienced agencies, such as by co-hosting events with the FTC/DOJ, and offer approaches that are indigenous to conditions within a region. At the end of the conference, participants leave with a full set of materials so that they can present the hypothetical case in their own offices.

⁷ The FTC has broad jurisdiction over the U.S. consumer protection laws, including those directed at marketing fraud and deceptive or false advertising and can offer technical assistance in those areas as well.

⁸ See also, William E. Kovacic, *Antitrust and Competition Policy in Transition Economies: A Preliminary Assessment*, *supra* n. 4 (advantage of short-term missions focused on hypothetical cases and role playing).

C. OTHER SHORT-TERM MISSIONS

High-Level Regional Conferences

In addition to single-country and region-wide staff training workshops, the FTC/DOJ has sponsored or assisted in sponsoring several regional meetings and conferences of high-level competition authority officials, regulatory officials that deal with competition issues, academics and judges. These conferences serve a different function from the training workshops. They focus on the continued dialogue needed to promote convergence or competition law enforcement and policy and enforcement cooperation. In Southeast Asia competition authorities in ASEAN member countries have created the ASEAN Consultative Forum for Competition to meet annually as a means of insuring that this type of dialogue continues and to insure that competition policy and law enforcement issues are not neglected in discussions of economic integration.

Lectures and Consultations On Selected Topics

We have offered programs consisting primarily of lectures. These programs may focus, for example, on competition issues such as the interface between competition authorities and sector regulators or on basic antitrust economics. Another example of such a targeted program is when a relatively advanced competition authority correctly identifies an area in which its expertise is deficient and asks for focused help to remedy the deficiency. In those cases, we can dispatch a lawyer or economist with experience in the area that has been identified and can provide useful help. For example, the assistance of a DOJ banking expert proved very helpful to moderately advanced authorities in analyzing bank mergers. During these short-term missions, consultations with the competition agency's staff regarding ongoing investigations may also take place on the side.

Other Types of Conferences

There are two types of short-term missions that we believe are especially worthwhile: case analysis seminars (such as those sponsored by OECD) and national-level conferences during the pre-legislative stage. We have participated in case-analysis seminars, and have found that by bringing together competition agency working staffs from various countries to present and analyze cases of their own, with participation by more officials from more experienced countries, real educational synergies occur. Competition authority staffs from developing countries can be each others' toughest critics.

Pre-legislation Conferences To Build Understanding and Support

Competition conferences that are held at the national level during the pre-legislative stage are also quite useful. During these conferences, local and foreign experts are able to discuss the pros and cons of proposed competition legislation in a constructive format. Examples include the UNDP-hosted conferences leading up to the adoption of the Vietnamese competition law.

VI. INTERNSHIPS AND STUDY VISITS BY FOREIGN PERSONNEL IN WASHINGTON, D.C.

The theory of internships is that by working beside FTC and DOJ counterparts, foreign representatives can learn first hand how the U.S. agencies do their work in actually conducting investigations. Until very recently, in practice, this has proven not to be feasible because of the U.S. confidentiality laws that protect many documents, testimony, and interviews obtained in investigations from disclosure to persons not on the FTC or DOJ staff. FTC and DOJ have, however, hosted foreign representatives from many countries and arranged a series of lectures and discussions

possible in Washington because of the large human resource base working there. We have divided the visitors' time between FTC and DOJ for usually no more than a week each. Each authority has offered a series of presentations by a diverse group of experienced people, who describe their work and their role in the larger enforcement picture. We leave plenty of time for questions, which is one way to direct our advice to real world problems of concern to the visitors. FTC and DOJ will continue to host visitors for one to two weeks as we have in the past.

In the case of the FTC the confidentiality obstacle to providing longer-term meaningful internships has been removed. Recognizing that the benefits of these international visits would be greatly enhanced by involving foreign visitors in longer-term visits and in appropriate investigations and cases, Congress passed the U.S. SAFE WEB Act of 2006. This authorized the FTC to confer on visiting foreign governmental personnel a status that permits them limited access to case files. The FTC is currently implementing a pilot program in which one staff member of the Brazilian and Hungarian competition authorities and two staff members from the Canadian consumer protection enforcement authorities have interned at the FTC in the Fall of 2007 and Winter of 2008. When this pilot program is completed the FTC will evaluate it and make a decision on how to use these internships in the future.

Internships can be expensive because of travel and per diem costs, and require a good understanding of English to work best. Therefore, only a small number of staff from foreign competition and consumer protection authorities are able to avail themselves of these opportunities.

VII. CONCLUSION

Enactment of a competition law is only the beginning of a long and complex process of resolving the policy and practical issues in legal drafting, institution building, and making the new law meaningful through an authority's actions. New competition agencies are likely to encounter difficulties as they face these challenges, and can benefit from technical assistance provided by more experienced competition authorities. The FTC and DOJ hope that this paper's presentation of our program, as well as our experience with various methods of technical assistance, will assist in future discussions of technical assistance and capacity-building.
