



Asia-Pacific  
Economic Cooperation

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## **Technical Assistance/Capacity Building on Competition Law and Policy: Australia's Experience**

Purpose: Information  
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**Competition Policy and Deregulation Group  
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## **Technical assistance/capacity building on competition law and policy: Australia's experience**

Australia has an active program of technical cooperation and policy dialogue with developing economies. Australia's competition regulator, the Australian Competition and Consumer Commission (ACCC) has been involved in numerous technical assistance programs under which it makes available its resources and expertise in competition law enforcement, consumer protection and utility regulation. The ACCC considers it can be of greatest practical assistance to its international counterparts by sharing its experiences and expertise with economies facing competition and consumer enforcement type problems for the first time. The ACCC has increasingly been contacted by our counterparts internationally for information and assistance in relation to utility regulation, especially in the areas of telecommunications and energy.

Australia recognises that the provision of technical assistance is important for developing economies, many of which have had difficulty in securing anticipated gains from international trade liberalisation. More specifically, the ACCC aims to increase dialogue with our international counterpart agencies to enhance information sharing and facilitate investigative and enforcement cooperation - which is increasingly important in a global economy.

### **Delivery of assistance**

There is no 'one size fits all' approach to capacity building as all recipient economies will have different needs over time. The ACCC's experience suggests that the effectiveness of cooperation activities strongly correlate with the stage of development of the country's competition regime. For instance, in-country training appears most effective where competition legislation exists. Where it does not, it is seen as more effective to train persons in Australia where they can examine legislative and regulatory structures and ACCC operations first-hand.

In relation to training in Australia, the ACCC has deduced from experience that smaller delegations are most effective in facilitating interactive learning. In addition, where the composition of inbound delegations is mixed, there is more effective exchange of information and experiences. The open discussion of issues with ACCC staff is also welcomed.

In-country consultancies and staff exchanges are most appropriate for countries that have established competition laws and require specific technical assistance. The ACCC regularly engages in short and medium term staff exchanges and consultancies aimed at sharing its experience. These arrangements are effective in providing practical skills based training.

## **Types of assistance by the ACCC**

### Cooperation and information sharing

Australia actively cooperates with other economies on competition matters, including on economic and governance issues and in developing appropriate frameworks for promoting competition. Australia sees considerable value in encouraging such cooperation. Coordination and cooperation with other countries can help to minimise the distorting effects from anticompetitive practices, particularly as trade is increasingly globalised, with commercial markets spanning more than one national jurisdiction.

Cooperation between the ACCC and its counterparts is often undertaken on an informal basis via emails and phone calls and can range from general inquiries, for example on the development of competition law and agencies, to discussion on specific topics including cooperation between authorities on multi-lateral mergers or cartel investigations.

Cooperation and information sharing can be an important learning tool for developing economies and also assists Australia to better understand competition issues and potential best practice, both for the Australian economy and for other societies.

### *Cooperation agreements*

In order to facilitate information sharing and cooperation, the ACCC has entered into a number of bilateral agency based arrangements covering both competition and consumer protection regulation, including with the Taiwan Fair Trade Commission on 13 September 1996 and the Consumer Affairs Council of Papua New Guinea on 26 November 1999.

The agreements make provision for exchange of information; notification and assistance in enforcement and related activities; and staff exchanges. Under the auspices of the agreement with the Taiwan Fair Trade Commission, a biennial staff exchange program is conducted between the two agencies which has enhanced the working relationship and understanding between the two agencies.

### Reviewing draft legislation

The ACCC has on occasions been called on to assist countries that are at varying stages of drafting legislation. Examples include:

- In 2005, the ACCC provided written comments on Indonesia's competition law which is in the process of being reviewed.
- In 2004, the ACCC provided comments on Singapore's draft competition law which was prepared as a result of an undertaking by Singapore to deliberate on implementing a competition law under the competition chapter in the Singapore-Australia Free Trade Agreement.

- In 2002, the ACCC participated in an United Nations Conference on Trade and Development (UNCTAD) sponsored working panel in Vietnam to review the final draft of Vietnam's competition law and set modalities for implementation.
- In addition to the UNCTAD panel, the ACCC in 2005 provided further comments on a draft Decree of the Government of Vietnam on Handling Violations on the Laws concerning competition.

#### Hosting officials on study visits to Australia

One major aspect of the ACCC's liaison and technical assistance work involves receiving visits to Australia. During 2004-05 the ACCC hosted short-term study visits to Australia by officials from the following economies: Brazil, Chile, People's Republic of China, Indonesia, Malaysia, South Africa, Russia, Korea, Tanzania, Thailand and Vietnam. These visits involve a range of government and non-government officials active in the fields of competition, consumer protection and utility regulation. More specific examples include:

- From 19 to 24 November 2003, the ACCC participated in a benchmarking visit by staff of the Philippines Tariff Commission. Staff conducted sessions on various facets of the ACCC's work, including compliance, enforcement and information, education and communication approaches and strategies.
- In 1999, a two week study visit to Australia was undertaken by seven Chinese government officials to learn about the competition, consumer protection and prices surveillance regimes operating in Australia. The visit was the second phase of a technical assistance activity funded under the Australian Agency of International Development (AusAID's) APEC Support Program.

#### Receiving staff on secondment for practical, on-the-job training at the ACCC

Where possible, the ACCC has endeavoured to accommodate officials requesting an opportunity for on-the-job training at the ACCC. Examples include:

- In August 2005, two officers from the Competition Commission of Singapore worked in the ACCC's Enforcement Branch for two weeks.
- In 2005, two staff from Trade Competition Commission in Thailand worked in the Enforcement and Mergers Branches in the ACCC under an AusAID funded program for a period of six weeks each. This activity followed on from investigation course run by the ACCC in Bangkok in 2003.
- In 2004, an officer from the Hong Kong Customs and Excise Department worked in the Product Safety Section of the ACCC for a period of three weeks.
- In 2002, two staff from the Fiji Commerce Commission (FCC) were seconded to the ACCC for a period of two weeks to gain a better understanding of the role of the ACCC and develop skills to assist with carrying out work of the FCC.

- In 2001, an officer of the Papua New Guinea Consumer Council (now the Independent Consumer and Competition Commission) was seconded to the ACCC for a period of 7 months under the ACCC's International Internship Program which ceased to exist in 2002.
- In 2000, an officer from the Korean Fair Trade Commission undertook a 12 month secondment with the ACCC.

### Investigations training

Since 1995, the ACCC has endeavoured to accommodate international officers, on a cost recovery basis, at its five day investigation course, which covers the fundamental aspects of the ACCC's enforcement work.

The courses are run two to three times a year at different locations in Australia and attendees participate in exercises designed to increase skills in areas such as interviewing potential defendants and obtaining witness statements. To date, officers from Chinese Taipei, Fiji, Hong Kong, Indonesia, Korea, Macau, Malaysia, People's Republic of China, PNG, Samoa, Singapore, South Africa, Thailand, Vietnam, and Zambia have attended the course.

The ACCC's investigation course has also been conducted in-country in a number of jurisdictions which has enabled developing authorities with the opportunity to have greater participation in program. This version of the investigation course has been modified appropriately to meet the needs of the participants.

### In-country training

Economies that are at the more advanced stages of implementing competition regimes look to developed countries and experienced agencies to assist with various challenges being faced as they undertake this process. Examples of the ACCC's involvement in this area are:

- In 2004, two officers from the ACCC provided in country assistance under an AusAID funded program in the area of mergers and enforcement during a two month secondment with the Department of Internal Trade in Thailand.
- In September 2003, the ACCC ran a five day investigation course for 20 staff of the Thai Trade Competition Commission in Bangkok. A follow up evaluation visit was conducted in April 2004. Funding for the project was received from AusAID with UNCTAD also contributing towards the training program as part of its Technical Assistance Program to Thailand.
- In 1999, the ACCC presented a two-day seminar for 35 Chinese government officials, most from the State Administration of Industry and Commerce which is the agency in China responsible for the administration and enforcement of China's system of consumer protection and competition law in Beijing. The focus of the program was on capacity building in the enforcement and administration of competition and consumer protection laws rather than on discussion of broad policy issues.

- In 1999, the ACCC conducted a four day workshop for 30 Chinese government officials. The workshop was held in Nanhai City.

#### Conducting workshops and seminars in Australia and overseas

The ACCC has hosted a number of conferences and workshops on competition, consumer protection and utility regulation.

- In November 2004, the ACCC hosted the International Competition Network (ICN) workshops on Cartels and Leniency in Australia. Participants from Fiji, Indonesia, Papua New Guinea, Pakistan, Philippines, Thailand and Vietnam attended, with funding support by AusAID.

#### *Regulatory conferences*

The ACCC hosts a regulatory conference on an annual basis in Australia. The theme of the 2005 conference was 'The relationship between essential facilities and downstream markets'. Local and international speakers spoke on topics that included: relationships between essential facilities and downstream markets; promoting competition in downstream markets; content and infrastructure in telecommunications; efficient capacity expansion in rail transport bottlenecks; and development of downstream competition in energy markets.

#### *East Asia and Pacific Infrastructure Regulatory Forum*

Australia is a member of The East Asia and Pacific Infrastructure Regulatory Forum (EAPIRF) launched in 2003 and the ACCC actively participates in its work. The objective of the Forum is to promote good regulatory practices in infrastructure in the region by enabling regulators to learn from each other's experiences and knowledge. Further information about the EAPIRF is available on <http://www.eapirf.org/>.

#### Joint assistance

In addition to considering specific requests for assistance from its counterpart agencies, the ACCC actively participates in programs organised by forums such as APEC, OECD (including the recently established OECD Korea Regional Centre for Competition) and UNCTAD.

The ACCC welcomes the opportunity to share its experiences and expertise and to build closer links with its counterparts in the APEC region. For further information please contact Mr Nicholas Heys by email [nick.heids@acc.gov.au](mailto:nick.heids@acc.gov.au) or phone +61 2 6243 1251.