

**Australian Competition
and
Consumer Commission**

**Consumer Affairs
Council of
Papua New Guinea**

**Co-operation and Co-ordination Agreement
November 1999**

Co-operation and Co-ordination Agreement between the Australian Competition and Consumer Commission and Papua New Guinea Consumer Affairs Council

1. Background

1.1 The Australian Competition and Commission (ACCC) and the Papua New Guinea Consumer Affairs Council (the Agencies) note that sound and effective administration of the competition and consumer laws of Australia and Papua New Guinea would be enhanced by co-operation and co-ordination between the agencies in the application of those laws.

1.2 However the Agencies note that from time to time differences may arise between them concerning the application of their competition and consumer laws to conduct or transactions that implicate a significant interest of either of the countries or agencies. They further note that in this regard there are some material differences between the competition and consumer laws of each country.

2. Purpose

2.1 The purpose of this Agreement is to promote co-operation and co-ordination between the agencies and lessen the possibility of differences between the agencies in the application of their competition and consumer laws where these differences are not the result of statutory provisions. The on-going exchange of information and co-operation in a number of areas will enable each agency to be more efficient and effective and better utilise scarce resources.

3. Subject matter

3.1 This Agreement relates to all the activities of the agencies including enforcement, adjudication, compliance education, research, human resource development and corporate services.

3.2 The agency to whom a request for information or assistance is made (the Requested Agency) will provide all information and grant assistance required unless the Requested Agency would be prevented from doing so by law. The agency seeking information or assistance (the Requesting Agency) will seek such information as it is within its power and functions to do so.

4. Scope of co-operation

4.1 *Exchange of information*

4.1.1 The agencies agree that it is in their common interests to share information that will:

- facilitate effective application for their respective competition and consumer laws;
- avoid unnecessary duplication;
- facilitate co-ordinated investigations, research and education;
- promote a better understanding by each of economic and legal conditions and theories relevant to their respective competition and consumer law enforcement and related activities; and
- keep each other informed of developments in their respective countries or companies based in that country.

4.1.2 In furtherance of this common interest the agencies will, on a regular basis, exchange and provide information in relation to:

- regular publications, including annual reports, journals and information bulletins;
- investigations and research;
- speeches, research papers, journal articles, etc;
- compliance education programs;
- amendments to relevant legislation; and
- human resource development and corporate resources.

4.2 Notification of enforcement and related activities

4.2.1 In respect of investigations each agency will notify the other whenever it becomes aware that an investigation, enforcement or related activity may affect important interests of the other, including national interests. Each agency will, in particular, notify the other when they make enquires of persons located in the other's country.

4.2.2 Each agency will notify the other whenever it intends to intervene or otherwise participate in a regulatory or judicial proceeding that may involve the interests of the other country or agency.

4.2.3 Notifications shall include sufficient information to facilitate a proper evaluation by the recipient agency of any effect of such interest and the other agency is free to follow up with the notifying agency for any further information.

4.2.4 A notification in respect of any investigation shall be made to the Chief Executive Officer by the Chief Executive Officer.

4.3 Assistance in enforcement and related activities

4.3.1 The assistance available under this Agreement includes:

- (a) Providing access to information in the files of the Requested Agency including confidential files, except to the extent that information cannot be disclosed in accordance with Clause 4 of this agreement.
- (b) Preparing witness statements, conducting formal interviews and obtaining information and documents on behalf of the Requesting Agency. Where that assistance cannot be provided because of the laws governing the Requested Agency, the Requested Agency will advise accordingly.
- (c) Co-ordination of enforcement activities when the Agencies agree that would be beneficial in a particular case. In determining whether a particular enforcement activity should be co-ordinated the parties will take account of the following:
 - effect on resources;
 - operational effects;
 - efficiency and effectiveness of any joint action; and
 - impact on the agencies, economies or citizens.

In any co-ordination arrangement each agency shall conduct its activities expeditiously and insofar as possible consistent with the objectives of the other agency.

5. Procedure for assistance

5.1 Requests for assistance shall be made by the Requesting Agency through the Chief Executive Officer and shall be made to the Chief Executive Officer of the Requested Agency.

5.2 A request for assistance will include:

- a description of the parties involved in the conduct;
- an outline of the industry characteristics;
- the alleged breach;
- a description of the information sought and the purpose for which it is sought;
- a description of the type of assistance required;
- a suggested time period for reply; and
- requirements for confidentiality.

5.3 The Requested Agency will acknowledge the request for assistance, and expeditiously provide that assistance in accordance with its procedures.

6. Exchange of staff

6.1 The agencies agree exchanging staff on a regular basis.

7. Agency support activities

7.1 The agencies will develop co-operative arrangements in relation to:

- technical assistance and capacity building;
- staff development and training;
- information technology, including direct access to Email systems and non-corporate data bases; and
- compliance education.

8. Avoidance of conflict

8.1 Within the framework of its own laws and to the extent compatible with its own interests each agency will seek at all stages in its activities to take into account the important interests of the other. Where there are any instances where the other's interests may be impinged urgent and immediate consultation should take place.

9. Review of agreement

9.1 There shall be an annual review of this arrangement and agreed report prepared on the co-operation and co-ordination between the countries for each 12 month period. Such review to be on the anniversary of this agreement.

9.2 Each agency can terminate this arrangement with 30 days notice or a shorter period if requested to do so by its government.

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