

CLIPPINGS

ACCC welcomes ASEAN secondees: intake two

One of the most important outcomes CLIP delivers is closer regulator-to-regulator relationships in the ASEAN-Australia and New Zealand Free Trade Area (AANZFTA). These relationships (and friendships!) are a vital platform for dialogue and cooperation. They will play an increasingly important role as competition law enforcement strengthens in the region, helping to make the challenging job of each AANZFTA competition regulator that little bit easier.

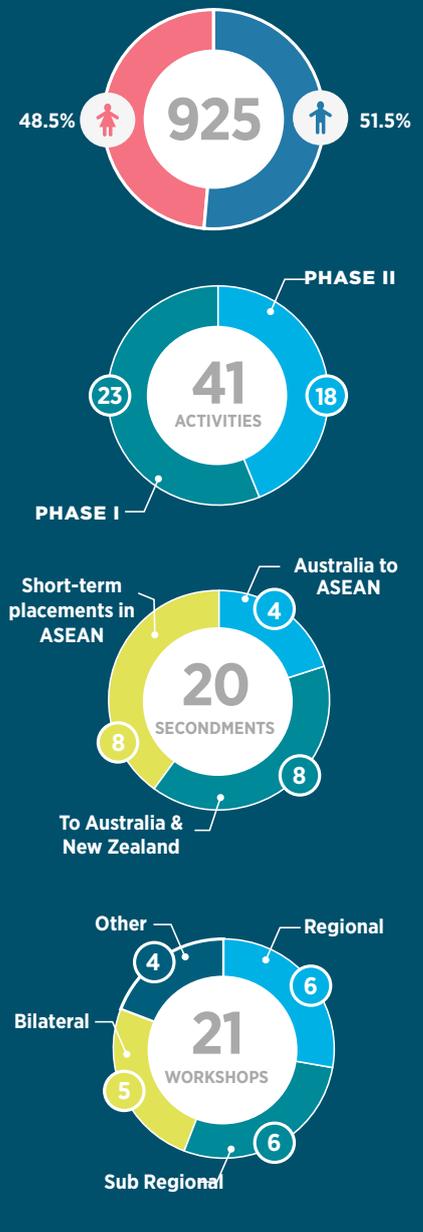
Workshops are an important and relatively efficient way to transfer knowledge and skills between agencies. The longer term exchange of officials between competition agencies in the AANZFTA, however, provides an unparalleled opportunity to develop deeper mutual understanding and relationships.

An annual highlight of CLIP's busy program of activities is welcoming secondees from ASEAN Member State competition authorities to the ACCC. For ten weeks, ASEAN secondees are embedded in ACCC enforcement teams across Australia. CLIP secondees gain direct experience working alongside ACCC colleagues on live investigations, attending internal and sometimes external meetings and court proceedings and participating in ACCC staff training and team activities.

An additional and exciting component of this secondment program is graduate study in competition law and economics through the University of Melbourne's online Global Masters of Competition and Consumer Law program. Secondees not only review the theory but can seek to apply it in practice.

This year the ACCC welcomes six ASEAN officials to our offices. Their profiles appear on page 7 of this issue, alongside the reports of other AANZFTA competition colleagues. Happy reading!

Infographic of CLIP activities from October 2014 to July 2017





Teh Ju-Lian with competition colleagues at the New Zealand Commerce Commission

Secondment in the Middle of Middle Earth

By Teh Ju-Lian, Senior Assistant Director, Malaysia Competition Commission

There are three things that come to mind when thinking about New Zealand: rugby, sheep and the Lord of the Rings, and not necessarily in that order. I am glad to say that, during my secondment with the New Zealand Commerce Commission (NZCC), I encountered all three and so much more which made for unforgettable experience.

I was assigned as an Investigator with the NZCC Competition Branch under the supervision of Grant Chamberlain, Team Leader and Katie Rusbatch, Competition Manager. A big thank you must go out to my colleagues in the investigation team and all NZCC staff who went above and beyond to make me feel welcomed. I truly appreciate all the guidance, support and opportunities to learn and contribute that were afforded to me during my secondment.

Working on two cartel investigations, I learnt how they can be conducted more effectively. I observed approaches to evidence handling and analysis and saw the importance of an electronic file management system to an investigation.

I was also able to learn about and observe the NZCC's leniency policy in action; the knowledge I gained will be of great benefit to the Malaysia Competition Commission when dealing with its own leniency applications. This is especially true in relation to applicant and confidential information handling and calculating reduction of penalties.

Last but certainly not least, I observed and experienced an entirely different work culture which emphasized professionalism and, at the same time, work-life balance. Both elements were considered to be key to preventing staff burnout and ensuring lower staff turnover.

I will do my utmost to share what I've learnt with my fellow colleagues to make the Malaysia Competition Commission a more effective competition authority.

Of course, no trip to New Zealand would be complete without some Tolkien tourism which I duly indulged in with visits to Hobbiton at Matamata and the Weta Workshops in Wellington.

I encourage and entreat everyone to participate in the CLIP secondments as they are an invaluable aid for both professional and personal development and establish strong links and relationships between competition authorities in the region.

It was with a heavy heart that I left New Zealand, a place which has become very dear to me, after a wonderful secondment, but to quote a passage from the Lord of the Rings, 'the road goes ever on and on.'

Reaching a new audience—a week with the CLIP team

By Jessica Cejnar

For a week in May, year 10 student Jessica Cejnar spent a week with the CLIP team in Canberra learning about ASEAN and competition law.

‘As I reflect on my amazing week, CLIP appears to me as an integral component of the ACCC’s application of competition law in a constructive and capacity-building way. Over my short time here, I have witnessed how experts collaborate over sharing skills, investigative techniques and enforcement mechanisms to officials throughout the region, to protect consumers and businesses from anti-competitive activity beyond the Australian domain of the ACCC.



While work experience is an opportunity to learn about the workplace in a general sense, I am additionally lucky to have been able to learn from and experience the many ways by which the CLIP team and their collaborators use their invaluable skills to make an impact across a variety of jurisdictions; an example of not only legal and international expertise, but equally, cooperation and a needs-based approach to work.’

Return visits support Cambodia progress its draft competition law

As a return visitor to Phnom Penh and the Cambodia Ministry of Commerce (MOC), ACCC Director, Simone Warwick, was well placed to observe developments and introduce her ACCC colleague, Alexandra Dale, to Cambodia’s draft competition law and its competition officials.

During May, Simone and Alex worked alongside staff of the MOC Competition Division and Camcontrol—Cambodia’s future competition enforcement agency—to examine the remaining issues and questions on the draft competition law and to support the drafting of an Explanatory Note to move forward the parliamentary approval process.

Good progress was made on the draft law during the visit and explanations and information were provided to the Camcontrol team to assist further discussions, including with other government officials. Alex also worked with Camcontrol officials to develop a plan for future training needs; Alex will have the opportunity to start addressing some of those needs when she returns for a second visit in October this year.

During their stay, both Simone and Alex, experienced the full range of culinary delights that Cambodia has to offer—eating large snails, sweet and sour chicken feet soup, duck tongues and traditional Cambodian desserts. But sadly, missed out on trying fried tarantulas!



Q&A with Stella Luz A. Quimbo

Commissioner, Philippine Competition Commission (PCC)

Please tell us a little bit about your background and what sparked your interest in joining the PCC?

I was a Professor and Department Chair at the University of the Philippines School of Economics. I taught courses in Econometrics, Microeconomics, Health Economics, Public Finance, and Industrial Organization.

After about two decades of teaching, I have come to recognize the value of having practical knowledge. In the case of Industrial Organization, there were obvious employment limitations to my gaining practical knowledge about strategic firm behaviour. Nonetheless, when the opportunity arose, I set up a small shoe business which allowed me to design, manufacture and retail leather shoes for ladies. It was through this experience that I learned about the tremendous disadvantages that small businesses face, and what it means to play on an 'uneven field.'

My appointment as Commissioner not only allows me to further hone my understanding of how firms behave so I can be a better teacher, but it also gives me an opportunity to help spark entrepreneurship and small businesses growth by ensuring that all firms—whether big or small—play a fair game.

What potential do you see for competition regulation in the Philippines?

The prospects for competition regulation in the Philippines are bright. PCC has been able to attract bright, young and passionate individuals. The newness of the field, its dynamism, and the huge importance we give to capacity building are some of PCC's pull factors.

Having a new institution to implement the law also offers a huge potential for competition regulation. While building a new institution from ground up can be challenging, the upside is that the pioneers have a hand in defining the institution's character—its mission, vision, core values, culture, rules, and image.

The Philippines waited too long for a competition law. Scholars observe that the Philippine economy is highly concentrated. There are far too many small businesses that have not succeeded in growing, while the few large ones account for large shares of the market. There are also many government regulations that potentially explain anti-competitive behaviour and outcomes. Clearly, a Philippine competition law can potentially proscribe many anti-competitive behaviours across sectors and help sustain economic growth in a more inclusive manner.

What are some key roadblocks the PCC has had to work to overcome as a new regulator?

The infancy of competition culture is one obstacle that PCC has to deal with. There is very low awareness of both PCC and the competition law in all sectors of society. Because business is not used to being subject to anti-trust regulation, PCC processes were sometimes questioned. Without a clear understanding of the benefits of competition, concerns were raised whether PCC is unduly raising the cost of doing business.



While many have observed that the Philippine competition law is modern and well-designed, there are some provisions which make it difficult to proceed with specific procedures. For instance, the law provides that the total merger review period cannot exceed 90 days, and that Phase 1 review cannot exceed 30 days. Relative to most jurisdictions, these periods are short. The PCC has had to bring the merger review teams up to speed in no time at all.

Can you offer any advice to other competition authorities in ASEAN looking to start enforcing competition law in the near future?

The effectiveness of a competition authority is determined largely by the quality of its staff. Hence, it is important to invest in recruitment, training and staff retention. Capacity building, however, should not be limited to the competition authority. PCC continues to determine ways by which capacity building can extend to all branches of government, academic institutions, and the media.

Choose your battles: there will always be more competition concerns than what current capacity can address. Prioritize what cases to open, depending on what are impactful, strategic and affordable at that point in time.

Aspire to have independence, which gives the necessary space for objective decision-making. This should be tempered by transparency, which facilitates accountability to the public.

We see a number of impressive women assuming leadership roles in competition law in our region. Do you think women have something unique to bring to competition law enforcement? What steps can we take to support women into leadership positions?

I have always believed in gender equality and thus, cannot categorically agree that women have some form of advantage in leadership roles in competition law enforcement. Rather, I believe that competition law, with all its excitement, attracts women with certain traits: analytical, organized, patient, passionate, driven by a sense of mission, adventurous, and courageous. It is these attributes that make us effective leaders in competition law.

If it is true that there is such a thing as a “women’s instincts”, a kind of survival instinct that women have developed as they take on roles which society had shaped for them – as mothers, wives, and daughters – then perhaps it is this peculiarity that any woman leader would have as an additional weapon. This might include the instinct of a mother that something might cause harm to a child, or that of a wife that something might disrupt stability in the family.

Women in competition law need all the support they can get so they can effectively function as they take multiple roles at home and at work. Child care, breast feeding rooms, maternity leaves, flexible hours, maternal health care, and wellness programs are some benefits that can be made available to women. In addition, promotion policies should not be discriminatory against women. For example, time away from the workplace during maternity leave should not be treated as service disruption.

Do you have any advice for aspiring female leaders about things they can do to be recognized as a future leader?

If we push for a level playing field in business, we too must aspire for the same when it comes to leadership. I don’t think women should do things any differently from men. Women should embrace womanhood, with all its complexities. These are not necessarily sources of weakness and therefore would not require compensatory action. In fact, these are potential sources of strength. The rigors faced by working women make them naturally good leaders at work. So I think that women should just enjoy whatever opportunities and challenges that competition law brings. Success will follow.

Evidence and Interview Skills Workshop— Manila, Philippines

In May, a group of 24 officials from the Philippine Competition Commission (PCC) and the Commission for the Supervision of Business Competition in Indonesia (KPPU) gathered in Manila, Philippines to participate in the Module 2: Evidence and Interview Skills Workshop, presented by three facilitators from the ACCC.

The three-day workshop was designed to develop the understanding of evidence in the context of investigating suspected contraventions of competition law, and to fine-tune the interview skills of participants through a number of practical interview exercises. PCC and KPPU participants embraced the opportunity to practice their interview skills, including playing various roles as difficult interviewees, which provided further insight into the interviewing process as a whole.

During the workshop, representatives from the PCC and KPPU gave presentations and led panel discussions about their own experiences with evidence gathering and conducting interviews. These sessions were thoughtfully prepared and gave all attendees the opportunity to understand the practices, differences, and similarities between agencies.

One official in an interview two months after participating in the workshop described how much more effectively they worked with their colleagues when gathering evidence: “when we get evidence together we do so more effectively...and we’re able to divide our jobs more efficiently’. And, in the words of another participant, the workshop ‘had a significant impact on [my] ability to investigate competition cases...these tools have allowed me to do my job [more] better.’



ACCC Chairman, Rod Sims—Open markets must benefit consumers or distrust will grow

‘Markets must work in favour of consumers and the public must be convinced of the benefits of competition or distrust in the market mechanism can grow’ ACCC Chairman Rod Sims said in his speech at the 2017 Annual Conference of Economists

<https://www.accc.gov.au/media-release/open-markets-must-benefit-consumers-or-distrust-will-grow>

PCC Chairman Arsenio M. Balisacan—Our Antitrust Law and Regulations: What accountants should know and implement

PCC Chairman Arsenio M. Balisacan delivered this speech during the 2017 Accountancy Week: SHINE (Service, Honesty, Innovation, and Nation-building through Education).

<http://phcc.gov.ph/antitrust-law-regulations-accountants-know-implement-pcc-chairman-arsenio-m-balisacan/>

Upcoming Activities:

August:

Regional Cooperation Framework activity in Manila, Philippines (28–30 August)

ASEAN Secondments to ACCC (10 July–15 September)

September:

EATOP Meeting in Bali, Indonesia (6–7 September)

ASEAN Secondments to ACCC (10 July–15 September)

Cambodia Secondment to NZCC (4 September–13 October)

ASEAN Economic Ministers and CER Consultations, Philippines

October:

Agency design workshop for new agencies, Siem Reap, Cambodia (18–19 October)

Cambodian secondment to NZCC (4 September–13 October)

ACCC expert placement in Cambodia (September–October)

60 Seconds with the ASEAN Secondees



From July to September, six secondees from Cambodia, Lao PDR, Malaysia (2), Myanmar and the Philippines are working in ACCC offices in Brisbane, Canberra and Perth. Meet the 2017 cohort:

Syfung Soumontha—as Deputy Director of the Competition Division in the Lao PDR’s Ministry of Industry and Commerce, Syfung is working to develop the implementing regulations of the Law on Competition. He is also responsible for coordinating on competition issues with sectoral regulators and donors, the ASEAN Expert Group on Competition and the ASEAN Secretariat.

Karen Chai—Karen is an Assistant Director with the Malaysia Competition Commission (MyCC), facilitating leniency applications and appearing at hearings for appeals on behalf of the Commission. Karen is hoping the secondment will provide insights on how a merger regime will strengthen the capacity of an agency in carrying out its role under its competition regime.

Tuan Syakeer Tuan Besar—Syakeer is an Assistant Director in the MyCC’s Enforcement Division. He is also assisting the MyCC’s Drafting and Legal Analysis Unit to research and investigate ongoing cases such as the recent insurance cartel case and is entrusted with secretarial work for the monthly MyCC’s Members of the Commission Meeting for Cases.

Naing Naing—Naing is an Assistant Director with Myanmar’s Ministry of Commerce. Naing has been working in the field of competition policy since competition law was introduced in Myanmar and is a desk officer for trade policy and competition policy matters.

Eina Concepcion—Eina is an economist and Technical Assistant of Commissioner Quimbo of the Philippine Competition Commission (PCC). Eina undertakes analytical tasks such as economic research, business analytics and investigative work, stakeholder engagement and formulating policy notes and operational guidelines for the PCC. Eina also works with the Economics Office where she provides technical support to case teams in the Mergers and Acquisitions Office and Competition Enforcement Office.

New subtitles for ACCC cartel movie

'The Marker' is now available subtitled in Indonesian, Khmer, Malay, Simplified Chinese, Thai, and Vietnamese. Watch this short movie to see what happens to a new employee when he gets involved in illegal agreements with his competitors to fix prices, rig bids, share markets or restrict output. <https://www.youtube.com/watch?v=louVP9VvFlg> (click on the settings gear to for subtitle options)

AANZFTA competition law news

Significant recent milestones

16 July 2017

Indonesia's KPPU entered a memorandum of understanding with Statistics Indonesia—the leading source for statistics in Indonesia as promoted by President Joko Widodo. The MOU was entered to create synergies in supplying, utilising and developing statistical data and information on competition and partnership. <http://eng.kppu.go.id/kppu-and-statistics-indonesia-build-statistical-database-and-information-system-on-competition-and-partnership/>

19 July 2017

The Malaysia Competition Commission-led Special Committee on Competition had its first meeting for 2017. This Committee was formed to discuss issues on competition law as well as to ensure there is consistency in the application of the law between sector regulators. <http://www.mycc.gov.my/sites/default/files/media-releases/MyCC%20Special%20Committe%20Meeting%202017.pdf>

3 August 2017

The Federal Court of Australia convicted Japanese shipping company Nippon Yusen Kabushiki Kaisha (NYK) of criminal cartel conduct and ordered to pay a fine of \$25 million: the second-highest imposed in ACCC history—<https://www.accc.gov.au/media-release/nyk-convicted-of-criminal-cartel-conduct-and-fined-25-million>

5 August 2017

His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam announced the establishment of the Competition Commission of Brunei Darussalam, an independent body mandated to promote business competition through the enforcement of the Competition Order 2015. <http://www.rtbnews.rtb.gov.bn/Lists/News/NewDispForm.aspx?ID=2782>

8 August 2017

The transitory period for the Philippine Competition Act concluded on 8 August and is now in full force.

Have news, an event, opportunity or initiative relating to competition law implementation in the AANZFTA region you'd like featured in CLIPPINGS? Please email clip@acc.gov.au

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For more information about the ACCC visit our website: www.accc.gov.au



ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)
Economic Cooperation Support Program (AECSP)

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