

CHAPTER 15
COMPETITION AND CONSUMER PROTECTION

Article 15.1
Objectives

The aim of this Chapter is to contribute to the fulfilment of the objectives of this Agreement by promoting economic efficiency and consumer welfare through the promotion of competition and cooperation on consumer protection.

Article 15.2
Definitions

For the purposes of this Chapter:

- (a) the term "anticompetitive activities" means any conduct or transaction that adversely affects competition and may be subject to penalties or other relief under the competition laws of either Party;
- (b) the term "competition authority" means:
 - (i) for Australia, the Australian Competition and Consumer Commission, or its successor; and
 - (ii) for Japan, the Fair Trade Commission, or its successor; and
- (c) the term "competition law" means:
 - (i) for Australia, Parts IV and XIA of the *Competition and Consumer Act 2010*, and any regulations made under those Parts; and provisions of other Parts in so far as they relate to Part IV, but not including Part X; as well as any amendments thereto;

- (ii) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54 of 1947) and its implementing regulations as well as any amendments thereto; and
- (iii) for both Australia and Japan, such other laws and regulations as the Parties may from time to time mutually determine to be a "competition law".

Article 15.3

Promotion of Competition by Addressing Anticompetitive Activities

1. Each Party shall, subject to its laws and regulations, take measures which it considers appropriate to promote competition, especially by addressing anticompetitive activities.
2. Any measures referred to in paragraph 1 shall be consistent with the principles of transparency, non-discrimination and procedural fairness.

Article 15.4

State-Owned Enterprises

In addition to Article 15.3, bearing in mind the relationship between the promotion of competition and other policy objectives, the Parties recognise that seeking to ensure that governments do not provide competitive advantages to state-owned enterprises simply because they are state owned can contribute to the promotion of competition.

Article 15.5

Cooperation on Addressing Anticompetitive Activities

1. The Parties recognise the importance of cooperation to further the promotion of competition.

2. The Parties shall, subject to their respective laws and regulations as well as available resources, cooperate on the promotion of competition by addressing anticompetitive activities.

3. Cooperation may include, but is not limited to, exchange of information, notification and coordination of enforcement activities, and consultation.

4. Detailed cooperation arrangements to implement this Article may be made between the competition authorities of the Parties.

Article 15.6 Cooperation on Consumer Protection

The Parties recognise the importance of cooperation on matters related to consumer protection in order to enhance consumer welfare in their respective Areas. Accordingly, the Parties shall cooperate, where appropriate, on matters relating to consumer protection, such as through exchange of publicly available information and experience.

Article 15.7 Consultations

The Parties, recognising the importance of respecting the independence of each competition authority to enforce their competition laws, shall consult with each other, on request of either Party, on any matter which may arise in connection with this Chapter.

Article 15.8 Confidentiality of Information

1. Each Party's competition authority may share information with the other Party's competition authority subject to each Party's laws and regulations.

2. Recognising the importance of confidentiality when exchanging information that is not publicly available, the competition authority of the Party receiving such information may only use or disclose that information in accordance with conditions imposed by the providing Party's competition authority.

3. Information provided by the competition authority of a Party to the competition authority of the other Party shall not be used by the other Party for presentation in criminal proceedings carried out by a court or a judge, unless, on request of the other Party, such information was provided for use in criminal proceedings through diplomatic channels or other channels established in accordance with the laws and regulations of the Parties.

4. This Article shall not preclude the use or disclosure of information provided in accordance with this Chapter to the extent such use or disclosure is required by the laws and regulations of the Party receiving the information. The competition authority of a Party shall, wherever possible, give advance notice of any such use or disclosure to the competition authority of the other Party providing the information.

Article 15.9

Non-Application of Chapter 19 (Dispute Settlement)

The dispute settlement procedures provided for in Chapter 19 (Dispute Settlement) shall not apply to this Chapter.