



CLIPPINGS

A new year and new activities for CLIP in ASEAN!

The end of the calendar year is an exciting time for CLIP to not only look back at what we've achieved together in ASEAN, but to explore possibilities for future CLIP activities.

A 2016 highlight for CLIP has been developing and rolling out our first modules of investigations training. Module One introduced cartel investigations and was followed by Module Two on evidence handling and interview skills. CLIP looks forward to delivering these and further modules to ASEAN in 2017.

The pilot CLIP secondment and study program also got underway in October. Five secondees from authorities in Indonesia, Philippines and Vietnam are now working alongside ACCC staff in enforcement, mergers and learning and development teams. At the same time, the secondees are also studying a unit from the University of Melbourne's Global Competition and Consumer Online Program. We wish them all the best with their study and stay in Australia.

In our first edition of CLIPPINGS, we reported that Australia had its first criminal cartel case. Criminal charges have been laid against a second company, Kawasaki Kisen Kaisha (K-Line), relating to alleged conduct involving the shipment of cars, trucks and buses to Australia.

Finally, I extend our warmest regards and thanks to Tan Sri Dato' Seri Siti Norma Yaakob for speaking to CLIPPINGS of her fascinating and distinguished career and chairmanship of the Malaysia Competition Commission.

We hope you enjoy reading about these things and more in this edition of CLIPPINGS!

Julie Glasgow

Australian Competition and Consumer Commission (ACCC)

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



CLIP activities: What's on the agenda?

JANUARY

- Updating of the capacity building roadmap – regional visits

FEBRUARY

- Updating of the capacity building roadmap - continuing
- Workshop on competition economics and merger assessment
- Inaugural meeting of the AANZFTA Economists Network
- Secondment(s) to New Zealand Commerce Commission
- Module One Cartel Investigations Skills Workshop (Thailand and Brunei Darussalam)

MARCH

- Updating of the capacity building roadmap: First Draft – end March
- Secondment(s) to New Zealand Commerce Commission – continuing
- MyCC Conference - Malaysia
- ASEAN Competition Conference and Donor Coordination Meeting - Malaysia

CLIP welcomes ASEAN secondees to the ACCC

On 4 October the CLIP team welcomed five secondees from ASEAN competition authorities to the ACCC Canberra office. Ms Sri Isnani Husnayati of the KPPU (Indonesia), Mr Thanh Le Son and Ms Phan Van Hang of the Vietnam Competition Authority, and Mr Charles David Icasiano and Ms Estelle Marielle Delphin of the Philippine Competition Commission (PCC) spent one week in Canberra, followed by 9 weeks placed in ACCC offices in Adelaide, Melbourne, and Sydney.

While the secondees have been gaining hands-on experience working in different ACCC teams, they have come together each week by video conference to hear from senior ACCC staff on practical aspects of the ACCC's competition enforcement work. The secondees have been impressing ACCC staff with their thoughtful and informed questions and eagerness to engage.

During their ten-weeks at the ACCC secondees are also studying a unit on 'Foundations: Competition Law and Economics' from the University of Melbourne's Global Competition and Consumer Online Program. Weekly CLIP study groups led by ACCC volunteers provide an opportunity for the secondees to discuss, often technical, readings on competition law and economics.

Early in their secondment (in mid-October), the secondees gathered in beautiful Adelaide, South Australia where they met with ACCC Chairman Rod Sims and attended the 14th Annual Competition Law and Economics Workshop – an annual event co-hosted by the University of South Australia and the ACCC. A highlight for the secondees



ASEAN Secondees on the steps of Canberra's Old Parliament House

was meeting PCC Chairman, Dr Arsenio Balisacan, as well as Professor Carl Shapiro from the University of California, Berkeley.

We are very pleased that, at the midpoint of the secondment, Ms Hang reports "I have learned many valuable experiences which will increase my ability in doing my jobs as an investigator and policy maker in Vietnam."

The ACCC will offer further secondment opportunities under CLIP in 2017.

ASEAN Competition Leaders: An interview with the MyCC Chair

Dominique from CLIP caught up with MyCC Chairman Tan Sri Dato' Seri Siti Norma Yaakob at a recent CLIP workshop in Malaysia.

Tan Sri, can you tell us a bit about your career in Malaysia's judiciary and how you started out?

I came from a large family, the ninth of 10 children; a family of eight girls and two boys. My mother was a housewife; my father the chief clerk in an office.

My home state in Malaysia – *Negeri Sembilan* (south of Kuala Lumpur) – practices *adat perpatih*, a matrilineal system of inheritance and administration under customary law. Meaning my father was very enriched for having had eight daughters!

In 1958 I found myself at the end of my secondary education, wondering what to pursue as a career.

My father had always wanted one of his children to be a doctor or lawyer; and I said "Medicine? Out! Law? I suppose I could do that." My only other option was becoming a

That suited me given I was happy to stay in Kuala Lumpur, with my husband and three children.

How did you come to be Chairman of the Malaysia Competition Commission?

When I retired in 2007 I thought "what in the world am I going to do?!" I had always worked, from 22 to 66 years old! The first few months were difficult. But then board offers started coming in.

Then, Malaysia's Minister of Domestic Trade, Cooperatives and Consumerism invited me to serve as Chair of the Malaysia Competition Commission (MyCC), which was to be established in 2012.

At the time I knew only vaguely of antitrust as an American school of legal thought to do with markets and how they should benefit Consumers. I didn't feel anything about its importance to Malaysia at that time because



The MyCC Chair graduated from Gray's Inn as a Barrister-at-Law before pursuing a distinguished career in Malaysia's judiciary.

My father had always wanted one of his children to be a doctor or lawyer; and I said "Medicine? Out! Law? I suppose I could do that."

teacher – there were very limited professional opportunities to pursue at that time.

It was decided I was to study in England, and I chose from among London's Inns of Court - Middle, Inner, Lincoln's and Gray's. When I heard these options I said "I rather like the name Gray's", thinking it was spelt "Grace". That's how naïve I was!

At that time there was quite a number of women studying law, but not from my part of the world. I had been so protected at home; and was suddenly released out onto my own in the world. It was quite daunting. Once I qualified as Barrister-At-Law I returned home to Malaysia and thought "where do I go from here?"

At that time women were paid four-fifths of men's salary at entry level in Malaysia. When negotiating my terms in joining Malaysia's judicial system, I requested equal pay for equal work. It was six months until the government agreed to these terms; and during that time I learned how to drive, things like that.

In June 1963, I started my career in Malaysia's judicial system; and worked my way up until I became a High Court Judge in around 1982.

At the pinnacle of my career I was the Chief Judge of Malaya, from which position I retired at 66 years old, almost ten years ago.

Early in my career there were not many women in the law in Malaysia; no other female judges at all. Today, there are many.

Throughout my career I always worked in Kuala Lumpur because other states did not want a female judge.

whatever I did manage to find out about it was very sketchy and I was not very versant with economics.

Still, I joined to help set up the MyCC in 2012. Our CEO at that time, Ms Shila Dorai Raj, had both a legal and economic background; and between the two of us we built up the Commission from scratch.

How important was your early international experience as a student to your career in Malaysia?

In Malaysia, families are very close-knit. At home, I was so protected.

Once you leave Malaysia, leave your family support networks, you are on your own. And that is very difficult to adjust to.

But, having had to survive alone, you have then had a richer experience of life; you know what to expect of other people; how to expect them to behave.

High staff turnover is a tremendous challenge for young competition authorities. Apart from larger salaries, what do you think competition regulators can do to help retain quality people?

The world is changing; it has changed so much since my early career. It seems a short-term focus is increasingly prevalent – that young professionals will jump jobs for a sometimes very small salary increase - although it depends of course on the individual's priorities and circumstances. Day to day living expenses are very high in Kuala Lumpur today.

Unless parents can help them out financially, it

can be very difficult for young people. And so, I can understand why people might feel pressure to jump to new jobs without having first had the chance to build and consolidate their skills and expertise.

Having better terms of service is one way a regulator can make it more attractive for staff to stay even when they can go elsewhere with their qualification and earn half as much again. For example, last year the MyCC extended maternity care from 60 to 90 days.

It is very demoralising to lose good staff. Still, the MyCC now has quite a good set up; staff at the Commission have a good idea of what they are doing.

Tan Sri we understand your Chairmanship reaches the end of its term in March 2017. What do you most want to achieve between now and then?

Our officials need encouragement and know-how; understanding of how competition law is enforced. In my final six-months I would like to see our staff equipped with the right knowledge. Imparting this knowledge is a little bit difficult. CLIP can help us in this way.

Also, at the MyCC we are preparing to host a conference from 6-7 March 2017. It will be back-to-back with the 7th ASEAN Competition Conference, also being held in Kuala Lumpur 8-9 March. On top of the 14 investigations we have underway, this is keeping us very busy!

Competition investigations through a new lens: CLIP Modules



Module One workshop in October with participants from KPPU and PCC

As far as possible, the CLIP team aims to run activities that create a forum for us to “workshop” issues in competition law enforcement collaboratively with ASEAN colleagues. Rather than merely sharing the Australian experience, we feel it is more helpful for us to facilitate the development of local solutions to local problems.

A recent example of this is the investigations modules we have started conducting in the region. There is a large co-presentation element to these modules, whereby one topic is explored from the perspective of three different jurisdictions.

Modules on cartel investigations and evidence and interviewing skills were rolled out to several audiences in August and October. As well as allowing for co-presentation by ASEAN authorities, the modules enable us to drill-down in more detail on fewer topics on investigations practice. The modules were developed in response to specific requests from ASEAN colleagues for more detailed training on specific aspects of the investigative process.

The modules have been met with enthusiasm on the part of our ASEAN colleagues, who value the opportunity to explore their own competition law enforcement experiences with peers from within ASEAN as well as Australia.



Richardo Frans Adiatma from the KPPU receives his certificate of participation at the Module One workshop in October

CLIP Module Workshops delivered in ASEAN

August 2016 – Vietnam – for VCU and MyCC

Module One Workshop: Cartel Investigations

October 2016 – Indonesia – for KPPU and PCC

Module One Workshop: Evidence and Interviewing Skills

October 2016 – Malaysia – for MyCC and VCA

Module One Workshop: Cartel Investigations

A third module is under development for delivery in 2017.

For more information on the CLIP investigation modules please contact the CLIP team.



The ACCC stands tall in the face of vertical restraints

The ACCC has reached an agreement with Expedia and Booking.com in which both companies have agreed to amend price and availability parity clauses in their contracts with Australian hotels and accommodation providers.

The agreements extend to all large companies under the umbrella of either Booking.com or Expedia thereby covering the largest online travel sites used in Australia. The agreement will remove barriers to price competition between major online travel sites for hotel bookings.

The ACCC commenced an investigation after concerns were raised that parity clauses used by Booking.com and Expedia were anti-competitive and stopped consumers from getting different prices from competing online sites. Parity clauses generally require accommodation providers to offer best price and availability to online travel sites. This guarantees the online travel site the accommodation provider's lowest rate and prevents competitors and consumers from negotiating better deals directly with the provider.

From 1 September 2016, Expedia and Booking.com have removed contractual requirements for Australian accommodation providers to:

- offer room rates that are equal to or lower than those offered by any other online travel agent
- offer room rates that are equal to or lower than those offered on an accommodation provider's offline channels
- make all remaining room inventory available
- offer the same number and same type of rooms offered to any other online travel agent.

These agreements pave the way for Australian accommodation providers to tailor their offers to better meet the needs of their customers and their own business requirements.

Accommodation providers will now be able to offer lower rates through telephone bookings and walk-ins, offer special rates and deals to customer loyalty groups, in addition to offering deals via Expedia and Booking.com.

The above investigation made use of the work the ACCC had done in the ICN's Unilateral Conduct Working Group, including drafting of the issues paper on Vertical Restraints – Options for Future Work.

The following ACCC issues papers can be found on the OECD website:

Geographic market definition:

[https://one.oecd.org/document/DAF/COMP/WP3/WD\(2016\)38/en/pdf](https://one.oecd.org/document/DAF/COMP/WP3/WD(2016)38/en/pdf)

Agency decision-making in merger cases:

[https://one.oecd.org/document/DAF/COMP/WP3/WD\(2016\)57/en/pdf](https://one.oecd.org/document/DAF/COMP/WP3/WD(2016)57/en/pdf)

Sanctions in antitrust cases:

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=daf/comp/gf/wd\(2016\)3&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=daf/comp/gf/wd(2016)3&doclanguage=en)



e-learning: survey results

The results of the CLIP survey about on ASEAN views on e-learning are in. We had a great response from agency staff – here is a snapshot of the results, which will inform our future work program.

Have you ever participated in or completed an online training course?

Yes	23.08%
No	76.92%

How comfortable would you be completing:

a) online competition law and investigations training

Very comfortable	73.08%
Somewhat comfortable	23.08%
Not comfortable	3.85%

b) online training in English

Very comfortable	73.08%
Somewhat comfortable	23.08%
Not comfortable	3.85%

Do you think an online course would be widely used by staff within your organisation?

Yes	84.62%
No	15.38%

Please indicate which of the below channels you use most frequently and find most useful

Facebook	38.46%
WhatsApp	26.92%
LinkedIn	7.69%
Twitter	7.69%
Not answered	19.23%

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



The ACCC will be
closed for our holidays
~ 23 Dec to 3 Jan ~

CLIP would like to wish
everyone a safe and
happy new year!



60 seconds with the AANZFTA Support Unit

The AANZFTA Support Unit (ASU) is a team of six dedicated professionals housed in the ASEAN Secretariat (ASEC). Since 2010, ASU have supported AANZFTA Parties and ASEC in the conceptualization, implementation and monitoring of activities across the eight components of the AANZFTA Economic Cooperation Support Program (AECSP). ASU also work with sectoral teams on project strategy, develop proposals, and assist in budgeting, contracting, and in project monitoring against AECSP objectives.

Through building effective partnerships with AANZFTA stakeholders, notably ACCC, ASU is proud to contribute to AECSP's smooth implementation, particularly of CLIP. The ASU is ready to collaborate and face emerging challenges and opportunities amidst AECSP's growing portfolio.



From left: Iko, Royce, Susan, Huang, Intan, and Kunto

Meet the team...

Iko - Technical Officer* providing logistic and administrative support to ensure our daily operations and AECSP-events run smoothly. Iko has been with ASU since January 2014, but with ASEC since 2008. Iko is a doting father of two welcoming a baby boy just this September.

Kunto - Trade Officer since 2012, and previously with ASEC for nearly four years supporting initiatives to narrow the development gaps in the region. Kunto provides extensive support to CLIP in addition to projects related to competition, intellectual property, investment, and services.

Susan - Trade Officer and a veteran of ASU, having served ASU since its establishment in 2010. Bringing with her years of experience on ASEAN having worked previously with ASEC on trade issues for eight years, she manages AECSP finances in addition to being the ASU focal point on trade in goods.

Royce - joined in March 2016 as Monitoring, Evaluation and Communications Officer after 8 years with the Australian Department of Foreign Affairs' Bangkok Regional Office and a stint as a regional design/M&E consultant. Royce is a movie-addict and works out regularly.

Huong - Program Coordinator and most recent member, joining the ASU in August 2016. Huong brings in 20 years of experience in economic development and has been in Jakarta for the past seven years working on ASEAN integration issues, most recently with the EAP regional office of the World Bank and, prior to that, with ASEC on ASEAN investment policy.

*ASU is currently finalising the recruitment of another Technical Officer to replace Intan who is pursuing further studies abroad.

For more information about AANZFTA and AECSP, please visit our website: <http://aanzfta.asean.org> or contact the ASU at ecwp@asean.org