



OECD/KOREA POLICY CENTRE COMPETITION PROGRAMME

2013 ANNUAL REPORT

OECD:

www.oecd.org/competition/seoulrcc

Korea Policy Centre:

www.oecdkorea.org

1. INTRODUCTION TO THE OECD/KOREA POLICY CENTRE'S COMPETITION PROGRAMME

The Centre is a joint venture between the Organisation for Economic Co-operation and Development (the OECD) and the Korean Government. The function of the Centre is to provide education and training to government officials in the Asia-Pacific in the fields of tax, competition, public governance and social policy. The Centre also undertakes research in these subject areas.

The Centre's Competition Programme draws on the experience of:

- the OECD's Competition Committee which oversees an extensive programme of work, involving both member and non-member countries, in developing recommendations and best practices, as well as discussing and publishing papers on topical issues in competition law and policy; and
- the Korea Fair Trade Commission (KFTC) which is a cabinet level agency responsible for both competition law enforcement and competition policy advocacy.

Each of these bodies has an extensive capacity building programme to assist younger competition enforcement agencies in skills development. The OECD/Korea Policy Centre's Competition Programme (the Programme) is an important part of each of the two joint venture parties' capacity building efforts in the Asia-Pacific region.

Mission of the Centre's Competition Programme

To assist Asia-Pacific competition authorities in developing and implementing sound competition law and policy.

The primary activities of the Programme are competition law and policy workshops which are held five or six times a year. Details of the 2013 workshops are provided in section 3 of this Report.

The Programme's workshops provide:

- an opportunity for younger competition authorities to learn the skills necessary to efficiently enforce new competition laws;
- an opportunity for younger competition authorities to share the details of their early decisions and discuss their challenges and successes with their peer agencies from developing and developed countries;
- an opportunity for all competition agencies, old and new, to learn new approaches and techniques from each other; and
- an opportunity for the staff of all competition agencies, old and new, to meet and form enduring professional contacts with officials from other countries to facilitate effective international cooperation in competition law enforcement.

The events also provide a forum for policy makers from countries who are in the process of drafting, enacting or implementing competition law to:

- gain a more detailed understanding of the practicalities, practices and approaches of different enforcement agencies in various countries when designing competition laws; and
- begin the preparations for the formation of their country's competition authority.

2. REGIONAL CONTEXT FOR THE CENTRE'S WORK: COMPETITION LAW DEVELOPMENTS IN THE ASIA-PACIFIC

The work of the Programme is aimed at competition authority officials, as well as judges, from non-OECD countries in the Asia-Pacific region.

Although no new competition laws were passed in the region in 2013, there were many notable developments coming out of both the newer and more established competition authorities including:

- the Malaysia Competition Commission imposing its first ever fine under the Competition Act in its case against Malaysia Airlines and Air Asia for market sharing;
- the appointment of the first chairperson of the Hong Kong Competition Commission, Ms Anna Wu Hung-yuk;
- China's National Development and Reform Commission (NDRC) issuing several record fines during the year, with the highest being a fine issued to several infant formula manufacturers for vertical price fixing practices;
- China's State Administration for Industry and Commerce (SAIC) launching its "Anti-monopoly case publicity platform", publishing the full text of all of the decisions it has taken under China's Anti-Monopoly Law;
- the third BRICS International Competition Conference, hosted by the Competition Commission of India in New Delhi;
- Indonesia's KPPU imposing conditions on a merger for the first time; and
- the Chinese Taipei Fair Trade Commission imposing a record fine in its case against power companies engaged in cartel conduct.

3. DETAILED REVIEW OF THE ACTIVITIES OF THE CENTRE IN 2013

In 2013, the Programme included workshops on the following topics:

- practice and procedure in competition cases;
- intellectual property and competition law (in collaboration with the World Intellectual Property Organisation);
- fighting bid rigging;
- use of indirect evidence in cartel investigations;
- competition law workshop for judges; and
- complex mergers: analysis and procedures.

The Programme seeks to evaluate its workshops by asking participants to complete a detailed evaluation form. The target for the workshops is to achieve, on average, a rating of at least 4.0 out of a possible 5.0.

A description of each workshop, and the evaluation by the attendees, is set out below.

3.1) Practice and procedure in competition cases: Seoul, 6-8 March

The OECD/Korea Policy Centre Competition Programme's first workshop of 2013 took place in Seoul from 6 to 8 March. The topic for the workshop was Practice and Procedure in Competition Cases.

Twenty participants from fifteen different agencies in the Asia-Pacific region joined us for this workshop. Unlike most of the workshops held as part of the Programme, this workshop did not focus on substantive competition issues. Rather, the focus of the workshop was solely on matters of practice and procedure including topics such as procedural fairness/due process, confidentiality in competition cases, transparency and the conduct of investigations.

To begin the part workshop, Ms Simone Warwick of the OECD/Korea Policy Centre gave an introductory presentation touching on the four key themes of the workshop – transparency, confidentiality, procedural fairness and the conduct of investigations. Following that introduction, Ms Jenny Stathis from the Australian Competition and Consumer Commission (ACCC) gave a presentation which looked in detail at the ACCC's approach to competition investigations, including investigation plans, use of investigative tools and the handling of evidence.

On the first afternoon, Ms Toshiko Igarashi of the Japan Fair Trade Commission (JFTC) gave a presentation on cartel investigation procedures in Japan. This presentation covered both the investigatory stage of cartel proceedings in Japan and also the decision making and appeal processes. Following this was another presentation from the JFTC, this time by Ms Naoko Indo who spoke about the International Competition Network's cartel enforcement manual.

Day two of the workshop started with a second presentation by Ms Jenny Stathis. This presentation looked in detail at the way in which the ACCC deals with and manages confidential information in its cases. The topics covered included circumstances in which confidential information can be disclosed, confidentiality in court proceedings and techniques for managing confidential information.

The morning included two presentations from participating countries, one by Ms Akali Konghay and Ms Bhawna Gulati of the Competition Commission of India and the other by Ms Ching-Yi Chen of the Chinese Taipei Fair Trade Commission.

Ms Simone Warwick also returned for a second presentation, this time covering the topics of transparency (including recent initiatives by the United Kingdom Office of Fair Trading), dispute resolution options for procedural issues and the use of internal review procedures.

Day three began with a presentation by Mr Sangmin Song of the Korea Fair Trade Commission (KFTC). Mr Song discussed the rules and regulations on case handling at the KFTC and the ways in which the KFTC seeks to enhance fairness and transparency in its case handling procedures.

This was followed by a series of presentations by participating countries on their own practices and procedures, including Mr Bobby Jitendra Maharaj of the Fiji Commerce Commission, Ms Lynette Chua of the Competition Commission of Singapore, Mr Abdul Hakim Pasaribu of Indonesia's KPPU, Ms Zhang Huwai of China's Ministry of Commerce and Ms Yue Song of China's SAIC.

The final session of the workshop involved a practical exercise during which the participants discussed a range of real life procedural issues including the assessment of confidentiality claims and dealing with procedural fairness concerns. The participants discussed these issues in two groups before reporting back to the plenary session on their conclusions.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.5
--	------------

DETAILED RESPONSES QUESTIONS <i>(Numerical score for each category)</i>	TO	Average Score	Number of Responses	% in Highest Category	Number of Responses				
					Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)
I. The overall usefulness for your work of the topics addressed.		4.5	18	50	9	9			
II. The overall quality of the presentations.		4.3	18	28	5	13			
III. The overall usefulness of the case studies.		4.5	18	50	9	9			
IV. The overall usefulness of the seminar materials.		4.5	18	50	9	9			
V. The overall usefulness of this event.		4.6	18	61	11	7			

3.2) Intellectual Property and Competition Law: Jeju Island, 17-19 April

In April the OECD/Korea Policy Centre was delighted to hold a workshop in collaboration with the World Intellectual Property Organization (WIPO) on the topic of IP and Competition Law. The workshop was held on Jeju Island from 17-19 April 2013.

This was the Programme's first workshop to focus exclusively on the issue of intellectual property and competition law. In order to foster an exchange of ideas and understanding, the workshop included participants from both competition agencies and intellectual property agencies. The mixed set of skills and knowledge at the workshop led to some very interesting discussions.

After introductions and welcomes from Mr Jay Young Kang, Director General of the OECD/Korea Policy Centre Competition Programme and Mr Giovanni Napolitano of WIPO, the substantive part of the workshop started with a presentation by Ms Simone Warwick of the OECD/Korea Policy Centre. This presentation looked at the purpose of the workshop and at the benefits to be achieved through cooperation between intellectual property and competition agencies.

Mr Giovanni Napolitano of WIPO followed with a presentation looking at the interface between intellectual property and competition law. This presentation also included a discussion of the work that WIPO has been doing in the field of competition law and policy.

After lunch the workshop continued with a presentation by Ms Marieke Scholz of the European Commission (DG COMP). This presentation looked in depth at the intellectual property related issues that arose in the various European Commission cases against Microsoft. This was followed by a presentation from Mr Owen Kendler of the United States Department of Justice (DOJ). Mr Kendler's presentation looked to give participants a framework through which they could analyse intellectual property licensing practices to determine whether or not those practices raise competition concerns.

Day two began with a second presentation by Ms Marieke Scholz. This time Ms Scholz looked at standards and standard setting, FRAND commitments, patent ambushes and related topics with reference to the European Commission cases in this area.

This was followed by a presentation by Dr Satya Prakash and Ms Neha Raj of the Competition Commission of India (CCI). In their presentation they looked at a number of cases considered by the CCI with intellectual property considerations, as well as at some of the interesting recent developments in India in the area of compulsory licensing and the grant of patents for follow-on products.

Ms Ariunaa Bambajav of Mongolia's AFCCP then presented on the relevant laws and cases in Mongolia. To end the second day, Mr Giovanni Napolitano took the focus away from patent-related cases and looked at competition cases involving copyright and trademark issues.

On day three, Mr Owen Kendler started proceedings with his second presentation looking in depth at patent pools and cross-licensing agreements – including the pro- and potentially anti-competitive benefits of each. Mr Yuchuan Liu of the Chinese Taipei Fair Trade Commission followed with a practical example of a case involving a patent pool relating to optical disc standards (Blu-ray, DVD, CD).

The final presentation in the morning session was given by Professor Hwang Lee of Korea University. Professor Lee shared his views on a number of Korean competition cases which have raised intellectual property issues and also looked forward to the future of antitrust enforcement in Asia.

The afternoon session began with a presentation by Ms Simone Warwick on the topic of intellectual property considerations in merger cases. This presentation looked not only at the importance of intellectual property issues in the substantive analysis of merger cases, but also at their importance during the remedies phase.

The seminar concluded with a selection of hypothetical cases studies which were considered by the participants in small groups before reporting back to the main group.

The OECD/Korea Policy Centre would like to thank the World Intellectual Property Organization for its generous contribution to this workshop.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.6
--	------------

DETAILED RESPONSES TO QUESTIONS <i>(Numerical score for each category)</i>	Average Score	Number of Responses	% in Highest Category	Number of Responses				
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)
I. The overall usefulness for your work of the topics addressed.	4.6	18	56	10	8			
II. The overall quality of the presentations.	4.4	18	44	8	10			
III. The overall usefulness of the case studies.	4.5	18	50	9	9			
IV. The overall usefulness of the seminar materials.	4.6	17	61	11	5	1		
V. The overall usefulness of this event.	4.7	17	61	11	6			

3.3) Fighting Bid Rigging: Kuala Lumpur, Malaysia, 25-27 June

The June workshop of the OECD/Korea Policy Centre (OECD/KPC) was held in Kuala Lumpur with the very generous support of the Malaysia Competition Commission (MyCC). The focus of the workshop was on bid rigging, one of the MyCC's priorities for 2013. The workshop was divided into two parts. Days one and two were dedicated to looking at bid rigging from the perspective of competition authorities. Twenty competition authority officials from across the region joined the MyCC staff for this part of the workshop. The third day was focussed on fighting bid rigging in public procurement and public procurement officials from the Malaysian government joined the other participants for this final day.

The first day of the workshop began with welcome remarks by Mr Kyeoung Man Lee, Director General of the OECD/KPC Competition Programme and the Honourable Tan Sri Dato' Seri Siti Norma Yaakob, Chairman of the MyCC. This was followed by an introduction to the OECD/KPC and Korea Fair Trade Commission (KFTC) by Ms Hyelim Jang, Director of the OECD/KPC.

To begin the substantive part of the workshop, Ms Simone Warwick of the OECD/KPC gave an introductory presentation on bid rigging and on why it is an important focus for competition agencies around the world. This was followed by a presentation by Mr Ian-Nielsen-Jones, OECD Consultant, looking at international experience in the area of preventing and prosecuting bid rigging cases. His presentation included case examples from Canada, the United States, Ireland and Mexico.

The afternoon session included a presentation by Mr Jangyee Chang of the KFTC on the KFTC's BRIAS system, which is a system designed to screen data from public tenders in order to detect potential instances of bid rigging. The afternoon also included case studies from three participating countries: Ms Cindy Chang from the Competition Commission of Singapore, Ms Julia Chou of the Chinese Taipei Fair Trade Commission and Mr Sunil Kumar and Mr Saroj Gupta of the Competition Commission of India. Each detailed experiences with bid rigging cases in their own jurisdiction.

The second day of the workshop included two expert presentations. One was from Mr Ian Nielsen-Jones on the ways in which competition authorities and procurement officials can cooperate to tackle bid rigging. This drew on experiences in Ireland, the United States, Canada and Mexico. Mr Choong-sik Yang of the KFTC presented on the KFTC's experience in bid rigging cases with a particular focus on cases in the construction industry. The session included two further presentations by participating countries on their own experiences, first from Mr Verry Iskandar of the KPPU (Indonesia) and second from Ms Enkhmanlai Ganbold of the AFCCP (Mongolia).

On day three, Mr Kyeoung Man Lee and the Honourable Tan Sri Dato' Seri Siti Norma Yaakob welcomed the Malaysian public procurement officials who joined the workshop. Ms Simone Warwick started the day with a presentation explaining what bid rigging is and why it is illegal. This presentation noted the very significant potential wastage of government resources that can result from bid rigging in public tenders. Mr Mohd. Aidil Tupari of the MyCC then gave a presentation explaining the MyCC's current focus on bid rigging and the initiatives it has taken so far to combat bid rigging.

The next presentation, by Mr Ian Nielsen-Jones, looked at the ways in which procurement tenders can be designed in order to minimise the risk of bid rigging. His presentation drew heavily on the OECD's Guidelines for Fighting Bid Rigging in Public Procurement (OECD Guidelines) which were adopted by the OECD in 2009 and are currently available in 25 languages.

Ms Simone Warwick then turned to look the other side of the equation – how to detect that there has been bid rigging in a tender. Her presentation also drew heavily on the principles set out in the OECD Guidelines. The final part of the workshop was a hypothetical exercise in which the participants sought to determine, on the basis of data provided to them, whether or not tenders had been rigged in a hypothetical chlorine market.

The workshop concluded with final remarks from Mr Kyeoung Man Lee and the Honourable Tan Sri Dato' Seri Siti Norma Yaakob.

The OECD/KPC would like to thank the MyCC for its generous contribution to this workshop and its wonderful hospitality.

The OECD's Guidelines for Fighting Bid Rigging in Public Procurement are available at <http://www.oecd.org/daf/competition/guidelinesforfightingbidrigginginpublicprocurement.htm>

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.3
--	------------

DETAILED RESPONSES TO QUESTIONS <i>(Numerical score for each category)</i>	Average Score	Number of Responses	% in Highest Category	Number of Responses					
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No Answer
I. The overall usefulness for your work of the topics addressed.	4.5	28	57%	16	11	1			
II. The overall quality of the presentations.	4.1	28	29%	8	16	3	1		
III. The overall usefulness of the case studies.	4.1	28	25%	7	18	3			
IV. The overall usefulness of the seminar materials.	4.2	25	40%	10	11	4			3
V. The overall usefulness of this event.	4.4	25	52%	13	10	2			3

3.4) Use of Indirect Evidence in Cartel Investigations, Seoul: 4-6 September

At the start of September, participants from across the region gathered in Seoul for a workshop on the *Use of Indirect Evidence in Cartel Investigations*. There is no doubt that competition authorities prefer to have direct evidence in cartel investigations, but direct evidence is not always available or easy to obtain. For newer authorities it is often very difficult to obtain direct evidence due to limited investigative powers and/or the absence of an effective leniency programme. It is for this reason that indirect evidence becomes particularly important in some countries. This workshop was designed to evaluate the ways in which indirect evidence can be used in cartel cases and to consider the precautions that must be taken if relying solely on indirect evidence.

The workshop began with a welcome by Mr Kyeoung Man Lee, Director General of the OECD/Korea Policy Centre Competition Programme (OECD/KPC) and an introduction to the OECD/KPC and Korea Fair Trade Commission (KFTC) by Ms Hyelim Jang, Director of the OECD/KPC.

The substantive part of the workshop began with two presentations by Ms Simone Warwick of the OECD/KPC. Her first presentation was an introduction and overview of the topic. It looked at why indirect evidence is important in cartel cases, the main types of indirect evidence used in cartel cases and

the key risks involved in relying on indirect evidence. Her second presentation was on the use of economic evidence in cartel investigations. This presentation covered the relevant types of economic evidence used, the relevant economic theory, the challenges which arise as a result of the ambiguity of economic evidence together with some international case examples.

In the afternoon session, Mr Eric Meiring of the Antitrust Division of the United States Department of Justice presented on the US approach to indirect evidence. Mr Meiring covered the elements of a cartel in the US, the burden of proof, the ways in which an agreement can be proved and the ways in which indirect evidence can assist.

The final presentation on day one was by Ms Deborah Mayall of the Australian Competition and Consumer Commission (ACCC). Ms Myall gave an overview of Australia's cartel laws before talking about the challenges the ACCC has faced in relying on indirect evidence, with reference to a number of case examples.

Mr Taro Ishizawa of the Japan Fair Trade Commission (JFTC) started proceedings on day two with a presentation about two cartel cases in which the JFTC relied heavily on indirect evidence – one was ultimately successful in the courts and the was not. Ms Deborah Mayall then gave her second presentation. This time she provided an in-depth review of the development of the evidence in an ACCC case that was very heavily reliant on indirect evidence.

The session also included a participant presentation by Ms Yungfen Lin of the Chinese Taipei Fair Trade Commission (CTFTC). This presentation looked at three different cartel cases decided by the CTFTC based on indirect evidence and led to a very interesting discussion about the cases in question.

On day three, Mr Dae Young Kim of the KFTC gave the first presentation. His presentation looked at the presumption of a cartel agreement under Korean law in situations where there is evidence of parallel conduct. Mr Kim spoke about the challenges the KFTC faced when it took cases using this presumption and noted that since the development of its leniency programme, there is now less need to rely on the presumption.

Up next was Mr Eric Meiring with his second presentation, this time about the collection and use of indirect evidence in cartel cases. The focus of this presentation was on the different types of indirect evidence that are most useful and on the best ways of obtaining such evidence.

Day three also included three participating country presentations. The first was by Mrs Indar Sri Bulan of the KPPU (Indonesia) and looked at the KPPU's decision in a branded cooking oil cartel in which there was strong evidence of price parallelism as well as evidence of communications between the companies in question. Mr Mueen Batlay of the Competition Commission of Pakistan (CCP) spoke about some of the challenges the CCP is facing when it takes competition cases. Finally, Mr Rakesh Bahnot of the Competition Commission of India (CCI) spoke about the CCI's cartel cases to date and the way in which the CCI has used indirect evidence.

The final part of the workshop was a hypothetical exercise. The participants divided into three groups. Based on a set of facts and evidence provided, one group was tasked with arguing that the available evidence supported the finding of a cartel, the second group was tasked with arguing that the evidence did not support a cartel and the third group was tasked with listening to these arguments, reviewing the evidence available and deciding which was the winning argument.

The workshop concluded with closing remarks from the Director-General, Mr Kyeoung Man Lee.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.4
--	------------

DETAILED RESPONSES TO QUESTIONS <i>(Numerical score for each category)</i>	Average Score	Number of Responses	% in Highest Category	Number of Responses				
				Very High <i>(5)</i>	High <i>(4)</i>	Moderate <i>(3)</i>	Low <i>(2)</i>	Very Low <i>(1)</i>
I. The overall usefulness for your work of the topics addressed.	4.4	23	43%	10	13			
II. The overall quality of the presentations.	4.3	23	26%	6	17			
III. The overall usefulness of the case studies.	4.4	23	43%	10	13			
IV. The overall usefulness of the seminar materials.	4.4	23	52%	12	10			1
V. The overall usefulness of this event.	4.6	23	65%	15	7		1	

3.5) Competition Workshop for Judges: Gyeongju, 22-24 October

For the third year running, the OECD/Korea Policy Centre (OECD/KPC) held a competition law workshop for judges from across the Asia-Pacific region. This year's workshop was held in the picturesque Korean city of Gyeongju from 22-24 October. Fifteen judges from across the region participated in the workshop which provided an overview of the three core areas of competition law: anticompetitive agreements, unilateral conduct and merger control.

Presentations at the workshop were given by three invited experts from OECD countries – the Honourable Paul Crampton, Chief Justice of the Federal Court of Canada and member of the Canadian Competition Tribunal, Chief Judge Seung Yub Baek of the Busan District Court and Mr Derek Ridyard, Partner and Co-founder of the economic consultancy RBB Economics. Presentations were also given by Ms Simone Warwick, Senior Competition Expert of the OECD/KPC.

The workshop opened with welcome remarks from Mr Kyeong Man Lee, Director General of the OECD/KPC Competition Programme. This was followed by an introduction to the work of the OECD/KPC by Ms Hyelim Jang, Director of the OECD/KPC.

The first day of the workshop focussed on the challenges involved in competition law cases. Ms Simone Warwick began with a presentation introducing competition law and policy, setting the scene for the remainder of the workshop. This was followed by a presentation from Mr Derek Ridyard looking at the economic meaning of the different terms used in competition law.

After lunch, Chief Justice Crampton shared his experience in dealing with competition cases as a judge, focussing on the different challenges that arise from a judicial perspective. Mr Derek Ridyard then returned to talk about the use of economic evidence in competition cases.

The remainder of the workshop was divided into three separate sessions – one on unilateral conduct, one on anticompetitive agreements and one on merger control. Each of the sessions followed a similar pattern.

The first session, on unilateral conduct/abuse of dominance, started with an introduction to the key legal and economic concepts by Ms Simone Warwick and Mr Derek Ridyard. This was followed by a presentation from Chief Judge Seung Yub Baek about an abuse of dominance case considered by the Korean courts relating to the conduct of online open market operator, Gmarket.

Following the presentations, the participating judges discussed a hypothetical case example which focussed on refusals to deal.

In the second session, the topic of anticompetitive agreements – both vertical and horizontal – was considered. After an introduction to the key legal and economic concepts by Ms Simone Warwick and Mr Derek Ridyard, Chief Justice Crampton provided a case example. The case example considered was the Maxzone Auto Parts cartel case, considered by the Federal Court of Canada.

In this session the hypothetical case discussed by the judges considered the value of indirect evidence in a cartel case in the mining sector.

The final session dealt with merger control. Once again, Ms Simone Warwick and Mr Derek Ridyard provided an introduction to the key legal and economic concepts. Chief Justice Crampton then provided a case example, this time a decision of the Canadian Competition Tribunal regarding a waste disposal merger between two companies, CCS and Complete.

The final hypothetical case discussed by the participating judges looked at a merger in the healthcare sector which raised both horizontal and vertical competition concerns. The workshop concluded with closing remarks from Mr Kyeoung Man Lee.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.3
--	------------

DETAILED RESPONSES TO QUESTIONS <i>(Numerical score for each category)</i>	Average Score	Number of Responses	% in Highest Category	Number of Responses				
				Very High	High	Moderate	Low	Very Low
				(5)	(4)	(3)	(2)	(1)
I. The overall usefulness for your work of the topics addressed.	4.3	11	45%	5	4	2		
II. The overall quality of the presentations.	4.4	11	55%	6	3	2		
III. The overall usefulness of the case studies.	4.1	11	45%	5	3	2	1	
IV. The overall usefulness of the seminar materials.	4.3	11	55%	6	2	3		
V. The overall usefulness of this event.	4.3	11	55%	6	2	3		

3.6) Complex mergers: analysis and procedures: Busan, 11-13 December

The December workshop of the OECD/Korea Policy Centre (OECD/KPC) was held in Busan. The subject of the workshop was complex mergers. The workshop addressed a number of topics that often have to be dealt with during the analysis of more complex mergers. Questions of procedure were discussed as well as international co-operation, market definition, economic analysis and remedies. More general presentations were complemented by case studies, where theory was put into practice. Twenty three competition authority officials from across the region took part in the workshop.

The workshop opened with welcome remarks from Mr Kyeoung Man Lee, Director General of the OECD/KPC Competition Programme. This was followed by an introduction to the OECD/KPC and Korea Fair Trade Commission (KFTC) by Ms Hyelim Jang, Director of the OECD/KPC.

Ms Sabine Zigelski of the OECD began the substantive part of the workshop with an introductory presentation on planning and conducting complex merger investigations. A practical case presentation was then given by Ms Katika Komlos of the European Commission, reporting on the Commission's experience in a recent telecommunications case, including the application of economic methodology in that case.

In the afternoon Mr John Davies, Head of the OECD Competition Division, gave a review of the reasons for, and methods used in, market definition and explained why it might be useful to supplement traditional market definition techniques with a more sophisticated analysis. Ms Sabine Zigelski then presented again and detailed options and instruments for international investigations and co-operation between competition authorities. The afternoon also included a presentation from Mr Jao Shekhar about India's experience with merger cases, highlighting the problems that young agencies often face in their proceedings.

On the second day of the workshop two expert presentations were given. One was from Mr John Davies on the use of diversion ratios, UPP and GUPPI analysis to better understand and define the competitive constraints that products subject to a merger investigation face and to estimate the potential anticompetitive effects of a merger. Mr Sangmin Song of the KFTC presented on the KFTC's experience in a retail merger case where an in-depth analysis including economic analysis had been conducted. The session included two more presentations by participating countries. Mr Chandra Setiawan of Indonesia's KPPU presented on the KPPU's merger experience, including a case study, and Mr Hao-Yu Chien of the Chinese Taipei Fair Trade Commission presented on the use of economic analysis techniques in a merger case, introducing a merger case about instant noodles.

On the third day, Ms Loy Pwee Inn of the Competition Commission of Singapore gave a presentation on the merger regime in Singapore with reference to a number of interesting cases. The remainder of the day was dedicated to merger remedies. Mr Rami Greiss of the Australian Competition and Consumer Commission (ACCC) gave an overview presentation on the Australian perspective on merger remedies, reflecting the experience that many of the older competition authorities around the world have had in dealing with mergers. This was followed by another presentation by Ms Katika Komlos, where she presented the remedy process and the remedies applied in the EU telecommunications case she had introduced on day one. Mr Rami Greiss then also added a remedy case example illustrating the ACCC's experience. The day ended with a hypothetical exercise in which the participants were asked to think about a merger remedy in a case that had been presented to them, where many of the insights of the day could be applied in practice.

The workshop concluded with closing remarks from Mr Kyeoung Man Lee.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.6
--	------------

DETAILED RESPONSES TO QUESTIONS <i>(Numerical score for each category)</i>	Average Score	Number of Responses	% in Highest Category	Number of Responses				
				Very High <i>(5)</i>	High <i>(4)</i>	Moderate <i>(3)</i>	Low <i>(2)</i>	Very Low <i>(1)</i>
I. The overall usefulness for your work of the topics addressed.	4.6	16	63%	10	6			
II. The overall quality of the presentations.	4.6	16	56%	9	7			
III. The overall usefulness of the case studies.	4.4	16	44%	7	8	1		
IV. The overall usefulness of the seminar materials.	4.6	16	63%	10	6			
V. The overall usefulness of this event.	4.7	16	69%	11	5			

4. PROGRAMME NEWSLETTER

The Programme continued to publish its regular newsletter, known as the “Asia-Pacific Competition Update” in 2013. All the editions of the newsletter are available online at the following address <http://www.oecd.org/daf/competition/koreacentrenewsletter.htm>.

There are two primary reasons for publishing the newsletters. The first is to ensure that the benefit of the Programme’s workshops can extend beyond only those officials who are able to attend the workshop in person. The newsletter enables a wider audience to have access to information exchanged during the events.

The second reason for publishing the newsletter is to enable Asia-Pacific competition authorities to establish and maintain links between each other. The newsletter provides a means by which countries can report the details of their key cases to each other and, hopefully, assist agencies to contact each other in the event that there is a joint investigation or an investigation that would benefit from the insights gained by a similar investigation in another Asia-Pacific country.

5. CENTRE STAFFING

During 2013, the Programme's staff comprised:

Title	Name	Location
Director General	<i>Mr Jay Young Kang</i> (until April 2013) <i>Mr Kyeoung Man Lee</i> (from May 2013)	Seoul
Senior Competition Expert	<i>Ms Simone Warwick</i> (OECD's dedicated staff member)	Paris, France
Director	<i>Mr Hyungsoo Kim</i> (until February 2013) <i>Ms Hyelim Jang</i> (from March 2013)	Seoul
Communications officer	<i>Ms Michelle Ahn</i> (until May 2013) <i>Ms Young Park</i> (from May 2013)	Seoul
Programme coordinator	<i>Ms Seulki Kim</i>	Seoul
Programme researcher	<i>Mr Daniel Oh</i>	Seoul

6. CONTRIBUTIONS

The following OECD Member States and organisations generously provided expert speakers for the Programme's workshops in 2013:

Country	Authority/Organisation
Australia	Australian Competition and Consumer Commission
Canada	Federal Court of Canada
European Commission	DG Competition
Japan	Japan Fair Trade Commission
Korea	Korea Fair Trade Commission Busan District Court Korea University
United States	Department of Justice Federal Trade Commission
Other	World Intellectual Property Organisation RBB Economics, London

In addition, officials from the following participating authorities made presentations during the 2013 workshops:

Country	Authority
China	SAIC, MOFCOM
Chinese Taipei	Fair Trade Commission
Fiji	Fiji Commerce Commission
India	Competition Commission of India
Indonesia	Business Competition Supervisory Commission (KPPU)
Malaysia	Competition Commission of Malaysia
Mongolia	AFCCP
Pakistan	Competition Commission of Pakistan
Singapore	Competition Commission of Singapore

A special thank you goes to all the speakers listed in Appendix A for their presentations.

Appendix A Speakers at Competition Programme Events in 2013

Speaker	Presentation	Workshop
Chief Judge Seung Yub Baek (Busan District Court)	Unilateral Conduct Case Example: Korean Gmarket Case	Competition Law Workshop for Judges
Mr Mueen Batlay (Competition Commission of Pakistan)	Experience from Pakistan	Use of Indirect Evidence in Cartel Investigations
Mr Rakesh Bhanot (Competition Commission of India)	Cartelisation Cases in India	Use of Indirect Evidence in Cartel Investigations
Mrs Indar Sri Bulan (KPPU, Indonesia)	The Use of Indirect Evidence in the Branded Cooking Oil Cartel	Use of Indirect Evidence in Cartel Investigations
Ms Ariunaa Byambajav (AFCCP, Mongolia)	Competition Policy and IPR Issues in Mongolia	Intellectual Property and Competition Law
Ms Cindy Chang (Competition Commission of Singapore)	CCS' Cases and Bid Rigging Detection in Singapore	Fighting Bid Rigging
Mr Jangyee Chang (Korea Fair Trade Commission)	Detecting Bid Rigging: the KFTC's BRIAS System	Fighting Bid Rigging
Ms Ching-Yi Chen (Chinese Taipei Fair Trade Commission)	Practice and Procedure in Chinese Taipei Competition Cases	Practice and Procedure in Competition Cases
Mr Hao-Yu Chien (Chinese Taipei Fair Trade Commission)	Utilisation of Economic Analysis Techniques on Mergers: Instant Noodles Case	Complex Mergers
Ms Huang-Chun (Julia) Chou (Chinese Taipei Fair Trade Commission)	Bid Rigging Case Studies from Chinese Taipei	Fighting Bid Rigging
Ms Lynette Chua (Competition Commission of Singapore)	CCS – Investigation Procedure and Enforcement Trends	Practice and Procedure in Competition Cases
Chief Justice Paul Crampton (Federal Court of Canada and Canadian Competition Tribunal)	Challenges for Judges in Competition Cases	Competition Law Workshop for Judges
	Anticompetitive Agreements Case Example: Maxzone Case	Competition Law Workshop for Judges
	Merger Case Example: CCS/Complete	Competition Law Workshop for Judges

Speaker	Presentation	Workshop
Mr John Davies (OECD)	Market Definition – An Outdated Concept?	Complex Mergers
	Use of Diversion Ratios, UPP and GUPPI Analysis	Complex Mergers
Ms Enkhmanlai Ganbold (AFCCP, Mongolia)	Fighting Bid Rigging in Mongolia	Fighting Bid Rigging
Mr Rami Greiss (Australian Competition and Consumer Commission)	Merger Remedies: an Australian Perspective	Complex Mergers
	Remedy Case Example	Complex Mergers
Ms Bhawna Gulati (Competition Commission of India)	Practices and Procedures in Investigation and Enforcement – a Perspective from India	Practice and Procedure in Competition Cases
Mr Sunil Gupta (Competition Commission of India)	Bid Rigging: An Indian Perspective	Fighting Bid Rigging
Ms Toshiko Igarashi (Japan Fair Trade Commission)	Cartel Investigation Procedure in Japan	Practice and Procedure in Competition Cases
Ms Naoko Indo (Japan Fair Trade Commission)	ICN Anti-Cartel Enforcement Manual	Practice and Procedure in Competition Cases
Mr Tao Ishizawa (Japan Fair Trade Commission)	Use of Indirect Evidence in Cartel Investigations in Japan	Use of Indirect Evidence in Cartel Investigations
Mr Verry Iskandar (KPPU, Indonesia)	Conspiracy in Tenders and its Challenges for Competition Authorities: Indonesia Experiences	Fighting Bid Rigging
Mr Owen Kendler (United States Department of Justice)	Frameworks for Analyzing IP Licensing Practices	Intellectual Property and Competition Law
	An Introduction to Patent Pooling Agreements and Cross Licensing	Intellectual Property and Competition Law
Mr Dae Young Kim (Korea Fair Trade Commission)	Cartel Presumption System of Korea	Use of Indirect Evidence in Cartel Investigations
Ms Katika Komlós (European Commission)	Complex Mergers – an Example from the Telecoms Sector	Complex Mergers

Speaker	Presentation	Workshop
	Commitments and Cooperation with the Telecoms Regulator in the European Merger Case H3G/Orange	Complex Mergers
Ms Akai Konghay (Competition Commission of India)	Practices and Procedures in Investigation and Enforcement – a Perspective from India	Practice and Procedure in Competition Cases
Mr Saroj Kumar (Competition Commission of India)	Bid Rigging: An Indian Perspective	Fighting Bid Rigging
Professor Hwang Lee (Korea University)	Antitrust Regulations over IP Licencing: Theories and Cases of Korea	Intellectual Property and Competition Law
Ms Pwee Inn Loy (Competition Commission of Singapore)	Merger Regime in Singapore	Complex Mergers
Ms Yungfen Lin (Chinese Taipei Fair Trade Commission)	CTFTC Practices on the Use of Circumstantial Evidence in Cartel Cases	Use of Indirect Evidence in Cartel Investigations
Mr Yuchuan Liu (Chinese Taipei Fair Trade Commission)	Chinese Taipei: Patent Pools and Merger Review	Intellectual Property and Competition Law
Mr Bobby Jitendra Maharaj (Fiji Commerce Commission)	Procedural Fairness and Confidentiality of Information at the FCC	Practice and Procedure in Competition Cases
Ms Deborah Mayall (Australian Competition and Consumer Commission)	Challenges of Proving an Arrangement or Understanding in Australia Using Circumstantial Evidence	Use of Indirect Evidence in Cartel Investigations
	Types of Circumstantial Evidence the ACCC Gathers and How it is Used	Use of Indirect Evidence in Cartel Investigations
Mr Eric Meiring (United States Department of Justice)	US Approach to Indirect Evidence	Use of Indirect Evidence in Cartel Investigations
	Collecting and Making Use of Indirect Evidence in US Cartel Cases	Use of Indirect Evidence in Cartel Investigations
Mr Giovanni Napolitano (World Intellectual Property Organisation)	Competition and Intellectual Property – WIPO's Perspective	Intellectual Property and Competition Law

Speaker	Presentation	Workshop
	Competition and Intellectual Property: Copyright and Trademarks	Intellectual Property and Competition Law
Mr Ian Nielsen-Jones (OECD Consultant)	Preventing and Prosecuting Bid Rigging: International Cases	Fighting Bid Rigging
	Cooperation between Competition Authorities and Procurement Officials	Fighting Bid Rigging
	Designing a Procurement Tender to Minimise Bid Rigging	Fighting Bid Rigging
Mr Abdul Hakim Pasaribu (KPPU, Indonesia)	Practice and Procedure in Competition Cases in Indonesia	Practice and Procedure in Competition Cases
Dr Satya Prakash (Competition Commission of India)	IP and Competition Law – Indian Perspective	Intellectual Property and Competition Law
Ms Neha Raj (Competition Commission of India)	IP and Competition Law – Indian Perspective	Intellectual Property and Competition Law
Mr Derek Ridyard (RBB Economics, London)	Economic Meaning of Key Terms Used in Competition Law	Competition Law Workshop for Judges
	Preparation, Delivery and Use of Expert Economic Evidence	Competition Law Workshop for Judges
	Unilateral Conduct – Key Economic Principles	Competition Law Workshop for Judges
	Anticompetitive Agreements – Key Economic Principles	Competition Law Workshop for Judges
	Mergers & Acquisitions – Key Economic Principles	Competition Law Workshop for Judges
Ms Marieke Scholz (European Commission)	Competition Law Enforcement in Digital Markets: the Microsoft Cases	Intellectual Property and Competition Law
	Standards, Patents and EU Competition Law	Intellectual Property and Competition Law
Mr Chandra Setiawan (KPPU, Indonesia)	Presentation on Indonesian Merger Experience	Complex Mergers
Mr Jao Shekhar (Competition Commission of India)	Merger Case Experience from India	Complex Mergers

Speaker	Presentation	Workshop
Mr Sangmin Song (Korea Fair Trade Commission)	Case Handling Procedures in the KFTC	Practice and Procedure in Competition Cases
	A KFTC Retail Merger Case	Complex Mergers
Ms Yue Song (SAIC, China)	Procedure of SAIC	Practice and Procedure in Competition Cases
Ms Jenny Stathis (Australian Competition and Consumer Commission)	ACCC Investigative Processes – Practical, Legal and Strategic Issues	Practice and Procedure in Competition Cases
	Confidentiality on Practice – ACCC’s Perspective in Competition Law Cases	Practice and Procedure in Competition Cases
Mr Mohd. Aidil Tupari (Malaysia Competition Commission)	Bid Rigging under Malaysia’s Competition Act 2010	Fighting Bid Rigging
Ms Simone Warwick (OECD/Korea Policy Centre)	Introduction and Overview: Practice and Procedure	Practice and Procedure in Competition Cases
	Insights from Europe and Beyond	Practice and Procedure in Competition Cases
	Overview of the Workshop	Intellectual Property and Competition Law
	IP Considerations in Merger Cases	Intellectual Property and Competition Law
	Introduction to Bid Rigging and Overview of Workshop	Fighting Bid Rigging
	Introduction – What is Bid Rigging and Why is it Illegal?	Fighting Bid Rigging
	Detecting Bid Rigging in Public Procurement	Fighting Bid Rigging
	Indirect Evidence: Introduction and Overview	Use of Indirect Evidence in Cartel Investigations
	Economic Evidence in Cartel Cases	Use of Indirect Evidence in Cartel Investigations
	Introduction to Competition Law and Policy	Competition Law Workshop for Judges
	Unilateral Conduct – Key Legal Principles	Competition Law Workshop for Judges
	Anticompetitive Agreements – Key Legal Principles	Competition Law Workshop for Judges
	Mergers & Acquisitions – Key Legal Principles	Competition Law Workshop for Judges

Speaker	Presentation	Workshop
Mr Choong Sik Yang (Korea Fair Trade Commission)	Bid Rigging Cases in Korea	Fighting Bid Rigging
Ms Huawei Zhang (MOFCOM, China)	MOFCOM's Legislative Developments & Enforcement in Merger Control Review	Practice and Procedure in Competition Cases
Ms Sabine Zigelski (OECD)	Planning and Conducting Merger Investigations	Complex Mergers
	Investigating and Cooperating Internationally in Merger Control	Complex Mergers