



## **OECD/KOREA POLICY CENTRE COMPETITION PROGRAMME**

### **2015 ANNUAL REPORT**

OECD:

[www.oecd.org/competition/seoulrcc](http://www.oecd.org/competition/seoulrcc)

Korea Policy Centre:

[www.oecdkorea.org](http://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 2015 workshops are provided in section 2 of this Report.

The Programme's workshops and seminars 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. DETAILED REVIEW OF THE ACTIVITIES OF THE CENTRE IN 2015

In 2015, the Programme included the following workshops:

- Practical Aspects of Effective Merger Control;
- Fighting Bid Rigging;
- Leader's Seminar on Competition Advocacy;
- In Sector Event – Telecommunications and ICT
- Judge Workshop on the use of competition economics; and
- Remedies in Merger Cases.

In total there were 166 participants in attendance in 2015, with 39 speakers presenting at these 6 events.

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.

### 2.1) Practical Aspects of Effective Merger Control: Jeju, Korea, 24-26 March

The first workshop of 2015 was devoted to merger control, exploring the practical aspects that make for an effective merger control policy.

Many merger control regimes operate under very strict time limits - one of the main distinguishing factors of merger laws in comparison to other areas of competition policy. The main objective of the workshop was therefore to help agencies ensure that these strict deadlines under which they operate are being used to the best possible effect in order to reach a "right" decision based on a cogent and full body of evidence. For this task the workshop counted with five speakers kindly made available by the KFTC, JFTC, US DOJ and the OECD, respectively. Throughout the three days these experts shared their experience - both formally during the dedicated sessions as well as informally - with all participants.

Discussion on each topic was moderated by Mr. Ruben Maximiano with contributions from the following expert panellists:

- OECD: Mr. John Davies and Mr. Ruben Maximiano
- Japan: Mr. Shoichiro Hashimoto
- Korea: Mr. Woo Chul Jeon
- U.S.A.: Ms. Tracy Fisher

Given the nature of the event it covered both theoretical content and two practical case solving discussions to stimulate active learning of the participants. The latter allowed participants to put into live practice and dialogue the topics discussed during the expert speaker sessions.

The introductory presentation to the workshop was made by Mr. Ruben Maximiano. This session offered an overview of the main issues that competition authorities have to deal with under their merger control practice, drawing mainly from the consolidated practice of the member countries of the OECD. The workshop then had two sessions dedicated to the main principles that drive competition assessment in the merger control context - market definition and the possible theories of harm that can be applied. These sessions were both conducted by Mr. John Davies, an economist, Head of the Competition Division of the OECD. Both theory and practical cases were discussed in depth in these two sessions, drawing from Mr. Davies' experience as Chief Economist of the UK Competition Commission. The final expert session of the first day of the workshop was dedicated to case team planning and was offered to the group by Ms. Tracy Fisher, of the US DOJ. Ms. Fisher shared the wide ranging experience of the DOJ in organising and implementing investigations in the merger arena as well as providing some guidelines and tips to make sure the team that is to examine a merger is ready and focused on what is needed to undertake a successful investigation.

The participants then discussed in three smaller groups a hypothetical case put to them for their appreciation. The fictional case used would be same for the first and second days, but with the group focusing on different aspects of the case. The merger being assessed was based upon a notification of an acquisition by a player active in offering mobile communications services of one of its closest competitors. This first hypothetical case session was focused exclusively on the identification of possible issues of market definition and the theories of harm that could be considered – both horizontal non-coordinated and coordinated theories as well as also vertical foreclosure theories.

The second day saw Ms. Fisher go more into detail regarding the investigative techniques that may be used, both for simple as well as for complex cases. Mr. Woo Chul Jeon of the KFTC then provided in depth analysis of a case study in the retail market Korea focusing exclusively on the issues of market definition and how they were investigated and decided by the KFTC.

The second hypothetical case session discussed in small groups explored how the main issues and questions analysed under the first session could be translated into an effective investigative plan, including assessment of the types of data and information that would need to be obtained, as well as from whom such information could be obtained.

On the last day of the workshop Mr. John Davies explored the economic tools that are available in the toolbox of the competition agencies when analysing mergers in their jurisdictions, looking at the advantages and disadvantages of the main tools as well as the types of economic data that are needed for their successful application. This was complemented by Mr. Hashimoto of the JFTC that brought to life the application as well as some of the limitations of certain of the economic tools discussed by Mr. Davies by discussing in some depth two recent cases of the JFTC.

Two case studies were then presented: one by MOFCOM, of China, regarding market definition issues in the tourism sector, raising interesting issues namely as regards the possible impact of the internet in market definition; another case was presented by the Competition Commission of Singapore on the failing firm defence and the evidentiary burden that is required to bring such a case - which is exceptional in application, in Singapore as in many other jurisdictions.

Finally, the afternoon saw the discussion of the importance of procedural fairness and of transparency in making better, more informed and robust decisions. The following session drew upon the experience of the OECD member countries to look at the practical aspects of choosing appropriate remedies to mergers that raise competition concerns. Both of these sessions were run by Mr. Maximiano, of the OECD. Indonesia's KPPU then presented a merger case it had recently examined in the telecoms sector and where the Indonesian competition agency applied remedies for the first time.

## EVALUATION

<b>OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES</b>	<b>4.5</b>
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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.	4.5	24	54%	13	10	1		
II. The overall quality of the presentations.	4.4	24	42%	10	14			
III. The overall usefulness of the case studies.	4.3	24	38%	10	14			
IV. The overall usefulness of the seminar materials.	4.5	24	50%	12	11	1		
V. The overall usefulness of this event.	4.6	24	63%	15	9			

## 2.2) Fighting Bid Rigging: Manila, Philippines, 20-22 April

This in-country workshop was devoted to combatting a special kind of cartels – bid rigging cartel. The objective was to equip competition authorities with less experience in the Asia Pacific Region to fighting this type of cartel with the necessary know-how, tools for prevention, detection and enforcement.

This workshop took place in Manila, the Philippines, in collaboration with the OFC. Approximately, 50 participants were in attendance, from 14 countries from the Asia Pacific Region, as well as a number of state officials from the Philippines involved in public procurement.

The OECD has done a very significant amount of work over the years on how best to fight bid rigging, and has developed a number of effective tools, such as OECD Guidelines, that can help the fight of bid rigging. The event drew upon the experience of the OECD, as well as from the experience of the OECD member countries such as Sweden, Korea, and Japan. In these countries fighting cartels and bid rigging is a top priority and they have vast and differing experiences to share. The experience in this field was also shared in presentations made by Indonesia, Pakistan and the Philippines.

The workshop was introduced by Mr. Jin Wook Chung, the DG of the OECD/KPC Competition Programme, and was followed the new video presenting the work of the OECD/KPC. One of introductory sessions was led by Mr. Antonio Capobianco (OECD) that shared the broad picture that derives from the extensive work undertaken by the OECD in this field, underlining the importance of the fight against bid rigging, as well as explaining the different ways in which companies can rig bids in a public procurement context (cover bidding, bid suppression, bid rotation and market allocation). The scene was set for the remaining sessions, Mr. Capobianco explaining that from the work done at the OECD it has resulted that

there needs to be effective cartel laws and regulations, leniency programmes, enforcement procedures and institutions, sanctions but also tender designs that consider at the outset how to create the conditions to minimise the possibilities of collusion in a bidding context.

The more technical aspects of bid rigging were then tackled, first with a session lead by Mr. Ruben Maximiano of the OECD on the economics that explains cartel and bid rigging behaviours as well as the types of market structure that are more conducive to bid rigging as well as the type of evidence that may be used to detect and prosecute such conducts.

Mr. Capobianco presented a session on how authorities can detect bid rigging using leniency and structural and behavioural screens. From this session it became clear that whilst leniency is effective, it is not as much as one would expect in the case of bid rigging conspiracies and that therefore relying only on such a reactive detection tool exclusively is not a sound cartel/bid rigging detection policy. Among the pro-active detection tools, the use of economic analysis to detect market structures, behavioural patterns and outcomes that can be consistent with collusion can prove promising. However, competition authorities should be aware that screens are subject to a number of limitations. Hence the need for a checklist of what Mr. Capobianco called “red flags”, which was to be the subject of one of the next presentations.

In the meantime Ms. Minji Kim of the KFTC presented in detail the functioning of the Bid Rigging Indicator Analysis System (BRIAS) system, a bespoke screening tool developed by the KFTC a number of years ago and operational since December 2005. This is a tool which has proved highly successful in detecting bid rigging activities in Korea. This system is connected to a significant number of government agencies and automatically receives electronic bid information and analyses it to find out if there is any sign of bid rigging. It uses a system of scoring and weighting to detect those procurement processes that are more likely to have been subject to a bid rigging action.

Mr. Antonio Capobianco then presented and explained the OECD Detection Checklist, a checklist that helps not only competition authorities but mainly procurement officers to detect tender processes that may have been subject to bid rigging. Just because a procurement officer identifies suspicious conduct or statements by competitors, this does not necessarily mean that they have engaged in bid rigging. That is where getting the competition authority involved relatively early on may help.

In the last activity of the day the participants were divided into smaller groups and worked through a simulated tender process, identifying together, using the OECD checklists and Guide any bidding patterns, changes in bidding patterns, and indications that the bidders may have communicated with each other. The value of obtaining information on the purchasing patterns and prices from several government agencies in different geographic areas was also clearly emphasized.

The second day of the workshop was dedicated to the investigation techniques and processes that can be used to pursue cases that have been identified as containing some indicia that bid rigging may have occurred.

Mr. Graeme Jarvie from the Swedish Competition Authority shared some of the main building blocks needed to indeed ensure that a good, solid, evidence-based case is made. His presentation included many references to real cases in Sweden and many practical tips for investigating such types of cases from gathering, assessing and then to the handling of evidence. He also offered many insights into the cooperation between competition officials and public procurement officers. The Swedish Competition Authority is in a unique position as it also has the responsibility of being the public procurement regulator.

More in-depth investigation techniques, in particular those used by the JFTC were presented by Ms. Akiko Kasahara, making detailed reference to some of the types of evidence used in some of the more emblematic bid rigging cases, which allowed participants to further their understanding of how to effectively investigate such cases.

The final session of the day was brought by Mr. Graeme Jarvie and was devoted to sanctions, in particular focusing on fines – what is the optimal fine, and how should fines be calculated to ensure they have a

deterrent effect. Other types of sanctions and the international practices across some of the more advanced jurisdictions in this field were also discussed by Mr. Jarvie.

Before the second hypothetical session of the event, Mrs. Dinni Melanie Faisal of the KPPU shared the experience of Indonesia with bid rigging cases, providing examples of several different types of cases it has brought. The hypothetical session that followed was divided into two distinct parts, where the small groups were first invited to act as potential cartelists and then in a second part with the knowledge and insights they had gained from thinking like cartelists they were then put in the seat of a procurement agency that is designing that tender with the view to reduce the potential for bid rigging.

The third and last day of the event, built upon and consolidated the techniques that can be used to design tenders that reduce the possibilities of bid rigging. First, by ensuring effective and ongoing collaboration between public procurement agencies and competition authorities in a session lead by Mr. Antonio Capobianco and then by understanding the OECD checklist for designing tenders. This latter session was provided by Mr. Ruben Maximiano. Finishing the content based part of the workshop, Mr. Ahmed Qadir offered a presentation on the work done in Pakistan on bid rigging as well as shared some of the future plans for making this even more of a priority in Pakistan.

## EVALUATION

<b>OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES</b>	<b>4.5</b>
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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.	4.5	24	46%	11	13			
II. The overall quality of the presentations.	4.4	24	46%	11	11	2		
III. The overall usefulness of the case studies.	4.4	24	50%	12	9	3		
IV. The overall usefulness of the seminar materials.	4.5	24	58%	14	8	2		
V. The overall usefulness of this event.	4.5	24	54%	13	11			

### 2.3) Leaders' Seminar on Competition Advocacy: Singapore, 24-26 June

The first OECD/KPC Competition Programme Leader's Seminar was held in Singapore in a joint venture effort with the Competition Commission of Singapore.

The objective of this Leaders Seminar was to equip competition authorities in the Asia Pacific Region with the valuable experience, know-how and tools for advancing the acceptance and understanding of what competition agencies do as well as the promotion more generally of competition policy within their respective economic culture.

As keynote speakers of the Seminar was privileged to count on the presence of a number of current and former heads of agencies. These leaders had in common having been particularly active in pursuing advocacy programmes in their jurisdictions during their respective tenures. In attendance as participants were also other heads and senior level personnel from a number of competition agencies from countries in the Region.

From the Asia Pacific Region, the following leaders acted as speakers: Mr. Stanley Wong - Chief Executive Officer of the Hong Kong Competition Commission, Mr. Geronimo Sy - Assistant Secretary, Department of Justice of the Philippines / Head of the Office for Competition (OFC), and our co-host Mr. Toh Han Li - Chief Executive, Competition Commission of Singapore. OECD member countries' leaders that acted as speakers were Mr. Declan Purcell - former Chairman, Irish Competition Authority, Mr. Antonio Gomes - President, Portuguese Competition Authority, and Mr. Youngson Shin - Secretary General, Korea Fair Trade Commission.

Mr. Sean Ennis - former Chairman of Mauritius Competition Authority and now at OECD was also one of the speakers.

After the introductory remarks by Mr. Jin Wook Chung, Director General of the OECD/KPC Competition Programme and Mr. Toh Han Li, Mr. Ruben Maximiano of the OECD set the scene with the main messages that competition agencies may bring to the public sphere on the benefits of competition. The presentation also focused on setting out the framework in which agencies can move when advocating for competition policy and principles as well as explaining the role that the OECD can play and does play to engage all areas of government with competition principles. This was followed by a presentation of Mr. Stanley Wong with some thoughts and his experience on creating a competition culture in an Asian economy, which were then complemented by comments made by Mr. Toh Han Li and Mr. Geronimo Sy.

The following four sessions that took place on the first day went deeper into the different types of actions and examples of how to engage with specific segments of society.

The first such session was on how best to engage with government, ministries as well as regional structures, and also with politicians more generally. This session was led by Mr. Declan Purcell who offered many tips, stories and examples of how best to approach the different political actors. These were further complemented by remarks made by Mr. Stanley Wong and Mr. Geronimo Sy, drawing upon their experiences in their respective jurisdictions. The second session was driven by Mr. Geronimo Sy, on how in the Philippines the OFC has been engaging with stakeholders such as businesses, chambers of commerce, consumer groups, academics, and the 63 regulators that make up the Philippines regulatory environment, in particular in the run-up to the approval of the new Competition Law. Mr. Antonio Gomes provided some remarks, complementing with the Portuguese experience on how it has in the past, in the present and in the future intends to engage with this diverse set of players that can also act as the first defenders and communicators of the benefits of competition.

The following session was dedicated to how best to achieve effective communication with judges and the judiciary, and was eloquently presented by Mr. Stanley Wong, drawing in particular upon his vast international experience. The last session was a panel conversation, in which Mr. Antonio Gomes, Mr. Declan Purcell, Mr. Geronimo Sy, Stanley Wong, and Mr. Toh Han Li discussed the most successful advocacy action they had undertaken. One of the highlights was the description by Mr. Antonio Gomes of a recent campaign undertaken in Portugal targeting SMEs via a roadshow throughout the country with information meetings with case-handlers, and undertaken in close cooperation with a number of business associations. A general comment offered by all those on the panel was the importance of case selection as this helps the notoriety and credibility of the authority, in particular with consumers.

Day 2 was initially dedicated to digging down to the case examples of Singapore and Korea, two jurisdictions that have been very heavily active in advocacy efforts in the last few years. The CCS' work in this field was shared by Ms. Ng Ea Kia, offering examples from both interactions with the public sector and work on competition assessment of regulations (such as the very recent example of the taxi regulations) to engagement with the private sector, in particular with SMEs. The Secretary General of the KFTC Mr. Youngson Shin detailed the experience of the KFTC, offering many examples of the excellent work done by the Market Structure Policy Bureau since it was established to take charge of regulatory reform, in particular reforming anti-competitive regulations such as entry regulations across the Korean economy. Also Mr. Shin explained the KFTC's prior statutory consultation system whereby the chief-officer of the administrative authority shall consult the KFTC, in advance of proposing legislation or amending enactments containing anti-competitive regulations.

Two further sessions were held in the morning, before the afternoon visit to the main sights of Singapore: the first, was how to deal with the media (press, television and radio) and ensure that they understand and are sensitive to the competition message, presented by Mr. Declan Purcell and Mr. Ruben Maximiano; the second, regarded the Hong Kong experience as regards educating the wider public on the benefits of competition via TV mini-series, publications and a number of other ground-breaking actions.

The third and last day, went further into the practical aspects of conducting effective advocacy, in particular as regards advocating for regulations that do not stifle, or even promote, competition. The OECD Competition Assessment Toolkit was analysed in great detail by Mr. Sean Ennis, offering insights on how the Toolkit can be applied in practice and how indeed it is being applied to certain sectors in jurisdictions such as Greece and Romania to great effect. The role of market studies was the subject of the following session conducted by Mr. Declan Purcell, that discussed some of the best practices for undertaking such studies that he learnt from having conducted a number of these whilst chairman of the Irish Competition Authority. Mr. Ruben Maximiano concluded the sessions with some systematisation of how to go about conducting such studies, drawing upon some very recent work done by the OECD, in particular in Latin America. Mr. Antonio Gomes' session on the Portuguese example, complemented the prior two sessions as the Portuguese authority has recently, under Mr. Gomes' leadership, set up a department to deal with the competition assessment of regulations and offered some practical tips and examples arising from that work.

There was then a session on quantification of advocacy efforts, more particularly how to measure the impacts of the competition assessment work on regulations, which was led by Mr. Sean Ennis. The day drew to a close with three very interesting presentations from GIZ and its intense advocacy work in the ASEAN region, Chinese Taipei and Pakistan. These three case study examples offered some very interesting advocacy campaigns with some very original and impactful work being done that is furthering the competition "word".

The concluding session was a final panel conversation between Mr. Antonio Gomes, Mr. Declan Purcell, Mr. Sean Ennis, and Mr. Toh Han Li, each drawing upon the experience of the fruitful three days to set out the main principles that should drive competition advocacy efforts as well as offer practical advice on how to increase impact and likelihood of success.

## EVALUATION

<b>OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES</b>	<b>4.2</b>
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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
1. The overall usefulness of the topics addressed.	4.2	23	30%	7	14	2			
2. The overall quality of the presentations	4.3	23	35%	8	14	1			
3. The overall usefulness of the panel discussion	4.0	23	17%	4	14	1			
4. The overall usefulness of the seminar materials	4.0	23	17%	4	16	3			
5. The overall usefulness of this event	4.0	23	13%	3	18	2			
6. The overall organization of this event	4.6	23	57%	13	10				

### 2.4) In Sector Event – Telecommunications and ICT – Seoul, Korea: 15-17 September

This year's sectoral workshop was dedicated to discussing the competition policy issues that are specific to the telecommunications and the electronic communications / information and communication technology sectors. The main difference between this type of workshop and regular workshops is that the participants include officials from regulators of the relevant sector – in this case many participants were from telecommunications regulators, namely those from the Asia Pacific Region that have competition powers.

The workshop analysed some of the main regulatory and enforcement issues in these sectors, in particular of a more structural nature, including merger control and market structures. Another of the main aspects that was discussed during the workshop were the issues relating to intellectual property, in particular those relating to the telecoms and ICT sectors, namely those issues related to standard essential patents and to telecoms equipment.

The OECD has done a very significant amount of work over the years in these sectors - not only via the Competition Division but also other divisions within the OECD, in particular the Science, Technology and Innovation division. Indeed, the workshop shared some of the main recent outputs (including economic data and analysis) of the OECD in these sectors, namely the studies undertaken on wireless market structures, the competition policy highlights from the 2015 outlook on the digital economy, as well as the proposed OECD broadband toolkit for Southeast Asia. The latter is a very new project that the OECD has been undertaking in the Region, drawing upon the vast experience of the OECD in doing this type of work in Latin America in the last few years. These sessions were all on the first day, with presentations by Mr. Sam Paltridge, Mr. Christian Reimsbach-Kounatze and Mr. Sukham Sung, all of the OECD STI Division.

Other highlights of the first day of the workshop were the two presentations by Mr. Michele Piergiovanni (Head of Merger Unit responsible for the telecommunications sector at the EU Commission) on the recent merger wave in the European Union, one focusing on the competitive assessment, the other on the remedies that have been accepted by the Commission in this type of case in recent years. The last activity of the day was a hypothetical merger case in the telecommunications case, inspired on the recent EU cases presented by Mr. Piergiovanni.

The second day started with Mr. Ruben Maximiano of the OECD sharing the work done by the OECD on the relationship between competition authorities and regulators, in particular telecommunications and patent and intellectual property regulators. This was followed by three case studies: one by FTC of Chinese Taipei on a recent telecoms merger and the merger regime in Chinese Taipei, another by KPPU of Indonesia on work it has done on joint telecoms towers (there are articles on these two presentations written by the presenters), and finally Microsoft's acquisition of Nokia Devices and Services Business by the KFTC. This was followed by a cultural tour in Seoul.

The third day was dedicated to intellectual property issues, sessions that were driven by Ms. Suzanne Munck, Chief Counsel for Intellectual Property and Deputy Director of the US FTC and by Mr. Giovanni Napolitano of WIPO. Ms. Munck's first session focused on introducing the main anti-trust issues related to IP and the ICT sector. The second session was on standard essential patents and the Fair Reasonable and Non-Discriminatory (FRAND) provisions. Indeed, some of the issues discussed during this session related to the wider application of FRAND beyond that of an Intellectual Property setting. Mr. Giovanni Napolitano's sessions were based on the recent work of WIPO in both the smartphone industry as well as on the role of IP in innovation more broadly. The final session was the analysis of mergers involving IP with presentations by both Ms. Munck and Mr. Piergiovanni. The Workshop ended with group being divided in smaller groups to work through a case of a standard essential patent and FRAND, inspired on the recent jurisprudence of the European courts, with enthusiastic discussions between the several groups ensuing.

A very interesting workshop where regulators and competition officials discussed several competition issues of mutual interest throughout the three days.

## EVALUATION

<b>OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES</b>	<b>4.6</b>
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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.	4.5	23	52%	12	11			
II. The overall quality of the presentations.	4.7	23	70%	16	7			
III. The overall usefulness of the case studies.	4.5	23	52%	12	11			
IV. The overall usefulness of the seminar materials.	4.7	23	70%	16	7			
V. The overall usefulness of this event.	4.6	23	61%	14	9			

### 2.5) Competition Workshop for Judges: The Use of Competition Economics, Busan, Korea 13-15 October

Once a year, the OECD-KPC organises a workshop exclusively for judges from the Asia Pacific region. This year the workshop benefited from the active participation of judges from Chinese Taipei, Hong-Kong, Malaysia, Mongolia, Indonesia and the Philippines.

This was the fifth workshop for judges of the Competition Programme and provided participating judges with an opportunity to explore in greater depth the economic principles underlying competition cases, the methods used by economists, and the application of competition economics in cases before the courts. This year's workshop focused on cases of abuse of dominance as well as in mergers.

The goals of the Workshop were to engage discussion amongst judges and between judges and experienced economists as well as make judges more familiar with economic concepts and theories as well as to be more confident when presented with economic based arguments, and to communicate effectively with economic court experts and economic expert witnesses, in the context of competition cases.

The panel of speakers in this event included 3 judges or former judges from OECD member countries and two experienced economists. The panel was composed of Sir Christopher Bellamy, former chairman of the Competition Appeals Tribunal in the UK and now at Linklaters, Prof. Frédéric Jenny, Chairman of the OECD Competition Committee and member of the Cour de Cassation (Supreme court) in France, as well as Mr. Sang Wook Kang, judge at the Seoul High Court of Korea. The two economists were Mr. Miguel de la Mano, former Deputy Chief Economist at the European Commission and now at Compass Lexicon, and Ms. Rhonda Smith, former Lay member of the High Court of New Zealand. Both of these eminent economists have ample familiarity with presenting and/or dealing with economic evidence in the courtroom.

The workshop was structured so that the main economic concepts and principles were shared on the first day of the event. Before that, however, Prof. Jenny, eloquently spelt out, drawing upon both his experience as a judge as well as drawing upon the OECD work undertaken in the last few years, on the key challenges for judges when considering economics in competition cases. The fundamental economic concepts of market definition and market power were then set out by Ms. Rhonda Smith, whilst the session on the economics of abuse of dominance and practical application of such principles was led by Mr. Miguel de la Mano. The first day ended with the application and discussion of all of these concepts with a hypothetical case scenario of predatory pricing, in a case developed by Ms. Rhonda Smith. Participants were divided into small groups with each group having to develop arguments for and against the practice, a session that developed into a lively discussion of some of the concepts discussed during the morning and early afternoon sessions.

The second day started with Prof. Jenny presenting the lessons resulting from the OECD Competition Committee on the use of economic evidence in competition cases before the courts, drawing upon the wide ranging experience of judges from OECD member countries. This session was complemented by Mr. Miguel de la Mano, that offered an economist's perspective on the preparation, delivery and use of expert economic evidence. In this session Mr. de la Mano shared his ample practical experience of presenting such evidence in the EU courts. Sir Bellamy then presented his experience of evidence and testimony in the courts on abuse of dominance cases, mainly drawing upon cases judged by the CAT in which he participated as judge.

The third day saw Mr. Miguel de la Mano discuss in detail some of the theories of harm used in merger control, explaining the economics underlying these theories as well as some of the economic tools that may be used in that framework. Sir Bellamy then candidly shared some practical aspects of analysing economics in the context of a case, from the judge's perspective, offering some practical viewpoints both in the context of merger cases as well as abuse of dominance cases. Judge Kang then presented the interesting experience he has gathered in some of the cases before his court and where he took into account and analysed economic evidence. He also offered the wider perspective of the Korean courtroom experience more broadly in the context of cases involving competition law. The day ended with two very interesting sessions: one was a merger hypothetical case where the courtroom (plenary of participants), after analysing a decision of a competition authority and its appeal, called upon an economic expert (Mr. de la Mano) to offer advice to the court on a number of issues and questions selected by the collective of

judges; the final session was a free discussion lead by Sir Bellamy on all of the aspects that had been discussed during the three days.

Overall, this was a very successful event with judges showing great interest in the application of economic concepts and with the very active participation of all judges in the several discussions and sessions.

### EVALUATION

<b>OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES</b>	<b>4.7</b>
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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.	4.7	10	70%	7	3			
II. The overall quality of the presentations.	4.7	10	70%	7	3			
III. The overall usefulness of the Hypothetical Case Studies	4.5	10	50%	5	5			
IV. The overall usefulness of the seminar materials.	4.9	10	50%	9	1			
V. The overall usefulness of this event.	4.7	10	60%	7	3			

#### 2.6) Remedies in Merger Cases: Jeju, Korea, 2-4 December

The OECD/KPC held a workshop on merger remedies. In many merger cases the proportionate answer to a competition problem is not a prohibition but a decision imposing remedies. Different types of remedies were discussed and remedy negotiations, the use of trustees and the value of international co-operation were highlighted.

The OECD-Korea Policy Centre workshop in Jeju, Korea on December 2 - 4 on “Remedies in Merger Cases” brought these issues into focus. Participants included competition enforcers from jurisdictions across Asia, including China, Chinese Taipei, Hong Kong, India, Indonesia, Mongolia, Pakistan, Papua New Guinea, the Philippines, Singapore, Thailand, and Vietnam. Panelists included experts from the Korea Fair Trade Commission, the United States Department of Justice, the Australian Consumer and Competition Commission, the Japan Fair Trade Commission and the Hungarian Competition Authority GVH.

The workshop opened with welcoming remarks from Director General Jin Wook Chung and Director Heeun Jeong of the OECD-Korea Policy Centre. The substantive presentations of the first day started with a comprehensive overview of different kinds of remedies and terminology by Ms. Sabine Zigeliski for the OECD. Ms. Adelle Low for the Australian Consumer and Competition Commission continued the introductory part of the day by presenting on the general experience the ACCC had made over the years of enforcement and the most important learnings. Ms. Cindy Chang for the Singapore Competition Commission presented the first case study of the seminar, a merger between online recruitment services that was solved with a mix of behavioural and structural remedies.

The second part of the day was dedicated to a US beer merger case. Ms. Patricia Brink for the US Department of Justice presented the facts of the merger between the breweries ABI and Modelo and the initial remedy proposal given by the parties. Participants were then asked to work on this remedy proposal. They had to represent the competition authority, the merging parties and the intended acquirer and exchanged their views in a hearing that was staged at the end of the day.

The second day continued with Ms. Patricia Brink’s presentation of the ABI/Modelo merger. She explained why the initial proposal had been rejected and which solution had been found in the end that fully satisfied the DOJ. Following this presentation Mr. Hyeon-Kyu Park for the Korea Fair Trade Commission gave insights into the Korean merger remedies practice and illustrated this with two recent case examples that also involved international co-operation in remedies. The day concluded with two case studies. Ms. Li-Ya Wu for the Chinese Taipei Fair Trade Commission reported a merger between two oil suppliers in the petrol retail market. Mr. Sachin Goyal for the Competition Commission of India lead through the merger of the pharmaceutical companies Sun Pharma and Ranbaxy. He explained the arguments and difficulties the CCI encountered in dealing with its first merger remedies case. The CCI solved this case with clear structural remedies and referred to the international practice for all the solutions they found in the end.

On the last day of the seminar Ms. Naoko Teranishi explained the role and instruments of international co-operation in merger investigations and remedies for the Japan Fair Trade Commission. She referred to OECD Recommendations and ICN work products that help to facilitate and promote international co-operation. Ms. Aranka Nagy for the Hungarian Competition Authority continued the case studies of the seminar with an interesting Hungarian newspaper distribution merger case that was dealt with three times by the GVH and was based on a mostly behavioural remedy. The final presentation of the seminar was then held by Ms. Patricia Brink. She gave insights into the use of trustees for the implementation and enforcement of remedies. Different national experiences with trustees were discussed.

The seminar finished with another hypothetical case. The participants were asked to prepare a remedy negotiation and to represent the competition authority on one side and the merging parties on the other side on the basis of case scenario given to them. In the hearing that was then staged they had an opportunity to apply different negotiation strategies. The major result of the exercise was that the competition authority had been able to extract structural commitments from the parties because it clearly held the view that alternatively it would be confident to prohibit the merger. Concluding this exercise the experts shared their experiences with remedy negotiation strategies in a panel discussion.

Throughout the seminar differences but mostly parallel characteristics of remedies in merger and antitrust cases were pointed out by the experts. There was strong consent between the experts that remedies should always favour an opening of markets to competition instead of merely dealing with symptoms like prices.

### EVALUATION

<b>OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES</b>	<b>4.5</b>
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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	25	64%	16	8	1		
II. The overall quality of the presentations.	4.4	25	48%	12	11	2		
III. The overall usefulness of the case studies.	4.5	25	52%	13	11	1		
IV. The overall usefulness of the seminar materials.	4.5	25	56%	14	10	1		
V. The overall usefulness of this event.	4.6	25	56%	14	11			

### 3. PROGRAMME NEWSLETTER

The Programme continued to publish regular newsletter, known as the “Asia-Pacific Competition Update” in 2015. 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.

### 4. CENTRE STAFFING

During 2015, the Programme’s staff comprised:

<b>Title</b>	<b>Name</b>	<b>Location</b>
Director General	<i>Mr. Jin Wook Chung</i>	Seoul, Korea
Senior Competition Expert	<i>Mr. Ruben Maximiano</i> (OECD’s dedicated staff member)	Paris, France
Director	<i>Ms. Heeun Jeong</i>	Seoul, Korea
Research officer	<i>Mr. Daniel Oh</i>	Seoul, Korea
Communications officer	<i>Ms. Michelle Ahn</i>	Seoul, Korea
Programme coordinator	<i>Ms. Hyekyoung Jun</i>	Seoul, Korea

## 5. CONTRIBUTIONS

The following OECD Member States and organisations generously provided expert speakers for the Programme's workshops in 2015:

<b>Country</b>	<b>Authority/Organisation</b>
Australia	Australian Competition and Consumer Commission Melbourne University
European Commission	DG Competition
Japan	Japan Fair Trade Commission
Hong Kong	Hong Kong Competition Commission
Hungary	Hungary Competition Authority
Ireland	Irish Competition Authority
Korea	Korea Fair Trade Commission Seoul High Court
Philippines	Office for Competition, Department of Justice
Portugal	Portuguese Competition Authority
Singapore	Competition Commission of Singapore
Spain	Compass Lexecon
Sweden	Swedish Competition Authority
United Kingdom	Linklaters
United States	Department of Justice Federal Trade Commission

In addition, officials from the following participating authorities made presentations during the 2015 workshops:

<b>Country</b>	<b>Authority</b>
China	State Administration for Industry and Commerce, Ministry of Commerce
Chinese Taipei	Fair Trade Commission
GIZ	Gesellschaft für Internationale Zusammenarbeit
Hong Kong	Hong Kong Competition Commission
India	Competition Commission of India

Indonesia	Business Competition Supervisory Commission (KPPU)
Pakistan	Competition Commission of Pakistan
Philippines	Office for Competition, Department of Justice
Singapore	Competition Commission of Singapore
Thailand	Office of Trade Competition Commission
Vietnam	Vietnam Competition Authority

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

**Appendix A                      Speakers at Competition Programme Events in 2015**

<b>Speaker</b>	<b>Presentation</b>	<b>Workshop</b>
Mr. John Davies (OECD)	Market Definition, Theories of Harm in Mergers, Basic Economic Tools	Practical Aspects of Effective Merger Control
Mr. Woo Chul Jeon (KFTC, Korea)	Case Study on Market Definition	Practical Aspects of Effective Merger Control
Mr. Shoichiro Hashimoto (JFTC, Japan)	Economic Evidence in Merger Analysis	Practical Aspects of Effective Merger Control
Ms. Tracy Fisher (DOJ, US)	Project Planning in Merger Cases, Investigation Techniques	Practical Aspects of Effective Merger Control
Mr. Antonio Capobianco (OECD)	The Importance of Fighting Bid Rigging, Detecting Bid Rigging – Leniency and Screens, The OECD Checklist to Detect Bid Rigging in Public Procurement, Cooperation between Competition Authorities and Procurement Officials	Fighting Bid Rigging
Ms. Minji Kim (KFTC, Korea)	Bid Rigging Screening: The Brias System	Fighting Bid Rigging
Ms. Akiko Kasahara (JFTC, Japan)	Discussion of Bid Rigging Case (Investigation Techniques)	Fighting Bid Rigging
Mr. Graeme Jarvie (SCA, Sweden)	Building a case, Sanctions in Bid Rigging	Fighting Bid Rigging
Mr. Geronimo Sy (OFC, Philippines)	Opening Remarks	Fighting Bid Rigging
Ms. Florina Agtarap (OFC, Philippines)	The Experience of the Philippines	Fighting Bid Rigging
Mr. Mohammad Reza (KPPU, Indonesia)	The Experience of Indonesia	Fighting Bid Rigging

<b>Speaker</b>	<b>Presentation</b>	<b>Workshop</b>
Mr. Ahmed Qadir (CCP, Pakistan)	Case Study: Pakistan	Fighting Bid Rigging
Mr. Sean Ennis (OECD)	Competition Assessment: A recipe for Structural Reform  A Panel Conversation on Developing a Winning Advocacy Strategy	Leaders Seminar on Advocacy
Mr. Youngson Shin (KFTC, Korea)	Korea's experience of Advocacy	Leaders Seminar on Advocacy
Mr. Toh Han Li, (CCS, Singapore)	Opening remarks  Panel Discussion on Stimulating a Competition Culture  A Panel Conversation on Developing a Winning Advocacy Strategy	Leaders Seminar on Advocacy
Mr. Stanley Wong (HKCC, Hong Kong)	Panel Discussion on How do we Build a Competition Policy Culture in an Asian Economy?  Panel Discussion on Judges and the Judiciary Experiencing Competition Policy  Panel Discussion on Stimulating a Competition Culture	Leaders Seminar on Advocacy

Speaker	Presentation	Workshop
Mr. Geronimo Sy (OFC, Philippines)	<p>Panel Discussion on How do we Build a Competition Policy Culture in an Asian Economy?</p> <p>Panel Discussion on Getting the Government and Politicians Engaged</p> <p>Panel Discussion on Communicating with Stakeholders</p> <p>Panel Discussion on Stimulating a Competition Culture</p>	Leaders Seminar on Advocacy
Mr. Declan Purcell (Ireland)	<p>Panel Discussion on Getting the Government and Politicians Engaged</p> <p>Panel Discussion on Stimulating a Competition Culture</p> <p>Panel on How to get the media on the Side of Competition?</p> <p>Panel Discussion on Market Studies Have a Role to Play</p> <p>A Panel Conversation on Developing a Winning Advocacy Strategy</p>	Leaders Seminar on Advocacy

<b>Speaker</b>	<b>Presentation</b>	<b>Workshop</b>
Mr. Antonio Gomes (PCA, Portugal)	<p>Panel Discussion on Communicating with Stakeholders</p> <p>Panel Discussion on Judges and the Judiciary Experiencing Competition Policy</p> <p>Panel Discussion on Stimulating a Competition Culture</p> <p>Panel Discussion on Market Studies Have a Role to Play</p> <p>Regulatory Reform and Competition – The Example of Portugal</p> <p>A Panel Conversation on Developing a Winning Advocacy Strategy</p>	Leaders Seminar on Advocacy
Ms. Ng Ee Kia, (CCS, Singapore)	Singapore's experience of Advocacy	Leaders Seminar on Advocacy
Ms. Rita Ho (CCHK, Hong Kong)	Advocacy and Education – Hong Kong's Experience	Leaders Seminar on Advocacy
Mr. Derek Ritzmann (HKCC, Hong Kong)	Advocacy and Education – Hong Kong's Experience	Leaders Seminar on Advocacy
Ms. Sita Zimpel (GIZ)	GIZ and ASEAN	Leaders Seminar on Advocacy
Ms. Pei-Yi Tai (CTFTC, Chinese Taipei)	Competition Advocacy : the Experiences of Chinese Taipei	Leaders Seminar on Advocacy
Mr. Umair Javed (CCP, Pakistan)	Pakistan's Experience with Advocacy	Leaders Seminar on Advocacy
Mr. Sam Paltridge (OECD)	Wireless Market Structures– recent experience in OECD Countries	Sector event: Telecommunications and ICT
Mr. Christian Reimsbach-Kounatze (OECD)	Competition highlights from the 2015 Digital Economy and proposed broadband toolkit for SE Asia	Sector event: Telecommunications and ICT

Speaker	Presentation	Workshop
Mr. Sukham Sung (OECD)	Competition highlights from the 2015 Digital Economy and proposed broadband toolkit for SE Asia	Sector event: Telecommunications and ICT
Mr. Yongho Shin (KFTC, Korea)	KFTC CASE STUDY : Microsoft's Acquisition of Nokia Devices and Services Business	Sector event: Telecommunications and ICT
Mr. Michele Piergiovanni (European Commission)	Merger control in Telecoms markets in Europe: assessment;  Merger remedies in telecoms Markets	Sector event: Telecommunications and ICT
Ms. Suzanne Munck (FTC, US)	Standard Essential Patents and FRAND; IP and mergers	Sector event: Telecommunications and ICT
Mr. Giovanni Napolitano (WIPO)	The Smartphone industry and related IP issues  IP and innovation	Sector event: Telecommunications and ICT
Ms. Ching-Yi Chen (CTFTC, Chinese Taipei)	Chinese Taipei case study: Telecoms mergers	Sector event: Telecommunications and ICT
Ms. Wahyu Retno Dwi Sari (KPPU, Indonesia)	KPPU Case Study: Joint telecoms towers	Sector event: Telecommunications and ICT
Mr. Frédéric Jenny (OECD Chairman of Competition Committee)	Key Challenges for Judges considering Economics in Competition Cases  Economics in Courts: Lessons from the OECD Competition Committee	Competition Workshop for Judges: Using Economics in the Courtroom
Judge Sang Wook Kang (High Court, Korea)	Korean Cases Using Economic Evidence – a Judicial Perspective	Competition Workshop for Judges: Using Economics in the Courtroom
Ms. Rhonda Smith (Australia)	Market Definition  Competition and Market Power	Competition Workshop for Judges: Using Economics in the Courtroom

<b>Speaker</b>	<b>Presentation</b>	<b>Workshop</b>
Mr. Miguel de la Mano (Compass Lexecon, Belgium)	The Economics of Abuse of Dominance  An Economist's perspective on the preparation, delivery and use of Expert Evidence  The Economics of Mergers	Competition Workshop for Judges: Using Economics in the Courtroom
Sir Christopher Bellamy (Linklaters, UK)	Economic Evidence and Testimony in the Courts – a Practical Case  Optimising How a Judge may Evaluate Economic Evidence  Different Options for Introducing Economic Expertise in the Courtroom	Competition Workshop for Judges: Using Economics in the Courtroom
Mr. Hyeon-Kyu Park (KFTC, Korea)	Remedies in Merger: Rules and Cases	Remedies in Merger Cases
Ms. Adelle Low (ACCC, Australia)	Merger Remedies: The ACCC's Experience	Remedies in Merger Cases
Ms. Patricia Brink (DOJ, US)	Abi/Modelo: Transaction and Proposed Remedy Abi/Modelo: Litigation and Final Remedy Trustee: Implementation and Enforcement of Remedies	Remedies in Merger Cases
Ms. Naoko Teranishi (JFTC, Japan)	International Cooperation in Merger Investigations and Remedies	Remedies in Merger Cases
Ms. Cindy Chang (CCS, Singapore)	Remedies in Merger Case Study	Remedies in Merger Cases
Ms. Li-Ya Wu (CFTC, Chinese Taipei)	Remedies in Merger Case Study	Remedies in Merger Cases
Mr. Sachin Goyal (CCI, India)	Remedies in Merger Cases	Remedies in Merger Cases
Ms. Aranka Nagy (GVH, Hungary)	Reconsidered Behavioural Remedy on the Media Market	Remedies in Merger Cases