



**OECD-Korea Policy Centre
Competition Programme**

Annual Report 2017

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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 2016 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 2017

In 2017, the Programme included the following 6 workshops:

- Bilateral Workshop for the Philippines Competition Commission on Fines and Leniency
- Judge Workshop on relevant markets and significant lessening of competition test;
- Sector Event – Competition Rules in the Pharmaceutical markets
- Workshop on Going After Bid Rigging
- Workshop on Best Practices in Cartel Procedures;
- Market Studies Workshop

In total there were 178 participants in attendance in 2017, from 18 jurisdictions, with 37 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) Bilateral Workshop with Philippines Competition Commission, Manila, the Philippines, April 3 – 4 April 2017

On the 3rd and 4th of April 2017, the OECD/KPC Competition Programme held a workshop in Manila, the Philippines dedicated to providing capacity building to the recently created Philippines Competition Commission. Considering that the transitory period of two years following the adoption of the New Competition Act in 2015 will come to an end in August this year, the Philippines Competition Commission (PCC) is currently undertaking the drafting of guidelines on Fining as well as designing its leniency programme. In that context, the OECD/KPC provided a workshop that was dedicated to these two topics with the view of providing valuable inputs into their drafting process.

To do so the OECD/KPC counted on the commitment and the kind participation of the Mr. Choong Soo Jeon of the Korea Fair Trade Commission (KFTC), Ms. Akari Yamamoto and Mr. Hirosihi Nakazato of the Japan Fair Trade Commission (JFTC), Bruce Cooper of the Australia Consumer and Competition Commission (ACCC), and Winnie Ching of the Competition Commission of Singapore (CCS). All the agencies present and their representatives had solid backgrounds in the topics and this allowed for a wide diversity of views and a wealth of experience that was crucial for a very rich discussion.

This workshop had approximately 40 participants of competition officials from the Philippines, including all those involved in the PCC in the development and drafting of the guidelines. Before the event the PCC had sent drafts of their work to date as well as a number of questions to be discussed, which allowed the presentations of the speakers to be more targeted to the specific issues, questions and concerns of the PCC.

The event opened with introductory speeches by Director General Soohyun Yoon of the Korea Policy Centre, Ms. Stella Quimbo (Commissioner of the PCC) and Mr Ruben Maximiano (Senior Competition Expert at the OECD). Entering into the substantive part of the discussions, both days had a similar organisation: an overview by the OECD of the international best practices, drawing upon the work of the OECD in the last few years, and presented by Mr. Maximiano, then sessions lead by each of the competition authorities present (KFTC, JFTC, ACCC, CCS), followed by a final open discussion and Q&A session.

The first day was dedicated to Leniency and presenters discussed the current functioning of their programmes, but also importantly discussed their practical experiences in applying them, sharing things that have worked well as well as those that needed to be tweaked to improve results. This learning-by-doing sharing provided useful pointers for the PCC. Topics that were discussed during the individual sessions as well as during the final discussions included the meaning in practice of full and continuous co-operation, the links between leniency and criminal liability, and between leniency and private enforcement.

The second day was dedicated to fining and other sanctions, and after the OECD overview, the PCC make an excellent presentation on its current draft of the guidelines. All the sessions by each one of the visiting agencies as well as the final discussion reviewed the experiences the method of calculating fines and the issue of relevant turnover and discretion of the agency, parental liability, inability to pay allegations, amongst others.

This was a novel workshop that worked very well indeed, the discussions were detailed and lively, with the PCC staff fully engaged. The work before the event was crucial to its usefulness as it allowed the speakers to have an understanding of the ongoing work of the PCC and then to provide comments throughout the workshop.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES	4.89
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DETAILED RESPONSES TO QUESTIONS (Numerical score for each category)	Average Score	Number of Responses*	% in Highest Category	Number of Response					
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No answer
1. The overall usefulness of the topics addressed.	4.9	26	92%	24	1	1			
2. The overall quality of the presentations	4.8	26	85%	22	4				
3. The overall usefulness of the hypothetical Exercise	4.9	26	92%	24	2				
4. The overall usefulness of the seminar materials	4.8	26	85%	22	4				
5. The overall usefulness of this event	4.9	26	92%	24	2				

* 26 participants returned the evaluation form.

2.2) 7th OECD/KPC Competition Workshop for Judges, Manila, the Philippines, 5-7 April 2017

In April 2017, the OECD/Korea Policy Centre held in Manila (the Philippines) a workshop for judges dedicated to understanding the economic principles underlying competition cases, the methods used by economists and their application in cases before the courts.

This event was organised in close contact with the ASEAN secretariat and as a contribution to one of the goals of the ASEAN Competition Action Plan 2016-2025, and was co-sponsored with GIZ. All of ASEAN Member States were present as well as judges from Hong Kong and Pakistan. The fact that the event took place in the Philippines allowed for a wide participation of the Filipino judiciary, of which many were judges from the Philippines Court of Appeal, including Presiding Justice Andres Reyes.

The goals of the Workshop were to engage in a discussion amongst judges in the Asia Pacific region and beyond as well as between judges and the experienced economists to allow judges to become more familiar with economic concepts and theories as well as to be more confident when presented with economic based arguments in the context of competition cases.

The panel of speakers in this event included judges from OECD member countries, a senior *référéndaire* (law clerk) from the EU and two experienced economists. The panel was composed of Justice Alan Robertson, of the Federal Court of Australia, Mr. Donghwan Shon, Presiding Judge at the Uiejongbu District Court of Korea and Mr. Vivien Terrien (*référéndaire* for Mr. Marc Jaeger, President of the General Court of the European Union). 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. These two well-known economists have ample familiarity with presenting and/or dealing with economic evidence in the context of court proceedings.

The workshop was structured so that the main economic concepts and principles were shared on the first day of the event. To start the day Mr. Ruben Maximiano of the OECD put Competition Law and Policy into the wider economic and business practices context. Mr. Maximiano analysed the mechanisms of competition and well functioning markets as well as its benefits not only for the specific markets but also for the wider economy. He then also considered anti-trust and restrictive trade and commercial practices, and the central role of market power as a distinguishing factor between anti-trust and such other laws, that are perhaps more familiar to judges in certain jurisdictions. This allowed for the introduction of the most important economic principles underlying competition law which is the relevant market, market power and anti-competitive effects and efficiency benefits.

The rest of the day were for the two expert economists to expand on the introductory session and to dive deep into the concepts with four sessions: two on relevant markets followed by two further sessions on the concept of significant market power and dominance. These sessions were organised so that Ms. Rhonda Smith would give a theoretical back drop for the principles under discussion that were then complemented with practical application in the context of real cases, by Mr. Miguel de la Mano.

The second day started with the application and discussion of the concept of market definition with a hypothetical case scenario of a procurement process by hospitals of pharmaceutical products, in a case developed by Ms. Rhonda Smith. Participants were divided into small groups with each group having to develop arguments for the market definition, a session that developed into a lively discussion of some of the concepts discussed during the previous day's sessions. The last session on economics was also driven by Mr Miguel de la Mano that discussed the economics underlying merger control.

The second part of the workshop was dedicated to the more legal questions of integrating economic principles and evidence into the court decisions, first with two sessions dedicated to an in depth examination of the EU court's practice by Mr. Vivien Terrien, of the EU General Court. In a fascinating overview of how the EU courts have developed their review of the European Commission's decisions, starting with the standard of review in competition cases, and then discussing in detail the concepts of restriction by object and by effect and the role that economics and economists play. One of the takeaways from that session is that, whilst important as evidence, economics cannot take the place of legal assessment and adjudication.

This was a point also stressed clearly by Justice Robertson of the Federal Court of Australia in two captivating sessions where he gave a very clear account and discussion of how economic evidence is taken into account in Australia, with many practical pointers and discussion of cases at the Federal Court in the last few years.

The last session of the second day was offered by Judge Mr. Donghwan Shon, Presiding Judge at the Uiejongbu District Court of Korea, analyzing a number of different cases where evidence was evaluated and considered by the courts in Korea in the context of abuse of dominance cases.

The last day opened with a session set to discuss a hypothetical merger decision by a Competition Authority. For this session, the plenary was broken up into 4 smaller groups where judges discussed amongst themselves the decision of the Competition Authority as well as written economic evidence that was brought before them. After analysing this evidence the judges were brought into a plenary session where they called upon an economic expert that was “hired” by the Court to offer advice and explanations on a number of economic issues and questions raised by all judges present. A very interactive and interesting sessions, allowing judges to simulate the questioning of an economic expert – a role that was well represented by Mr. Miguel de la Mano.

The final session was lead by Mr. Ruben Maixmiano of the OECD and consisted in a discussion on how judges learn, drawing upon the different experiences from the various countries present, both from OECD members and non-member jurisdictions. It became very clear from the discussion that judges are avid for more workshops on competition law and policy and that more work needs to be done to give judges access to such types of training and fora.

Overall, a very highly rated event where judges were very engaged in interesting discussions amongst themselves and with the panel members.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES					4.54				
DETAILED RESPONSES TO QUESTIONS (Numerical score for each category)	Average Score	Number of Responses*	% in Highest Category	Number of Response					
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No answer
1. The overall usefulness of the topics addressed.	4.6	20	55%	11	9	1			
2. The overall quality of the presentations	4.5	20	50%	10	10				
3. The overall usefulness of the hypothetical Exercise	4.6	20	55%	11	9				
4. The overall usefulness of the seminar materials	4.5	20	50%	10	10				
5. The overall usefulness of this event	4.6	20	60%	12	8				

* 20 participants returned the evaluation form.

2.3) Sector Workshop on Competition Rules in the Pharmaceutical Sector, Sydney, Australia, 23-25 May 2017

In May 2017, the OECD/KPC annual sector workshop took place in Sydney, Australia. This year's event was devoted to the application of competition policy and rules to a very important sector in most societies: the pharma sector and where the role of competition agencies in many jurisdictions has increased in the last few years. This was an event co-hosted and co-organised with the ACCC and its CLIP programme and was represented at top level by Commissioner Featherstone and Mr. Marcus Bezzi, Executive General Manager, Competition Enforcement of the ACCC and the number of the ACCC staff, as both presenters and attendees.

The event focused not only on enforcement actions but also undertook a wider view, examining the intersection between competition policy and the role of R&D and patents and other regulations. One of the initial sessions focused on the importance of Intellectual Property (IP) in these markets, as without IP margins on pharmaceutical products and the incentives for R&D investment would decline with imitators free riding on innovators' R&D efforts, leading to less investment and less new drugs over time. This is particularly relevant nowadays where the development of new pharmaceuticals is an increasingly lengthy and costly business fraught with significant risk –after years of testing and millions of dollars the vast majority of drugs are found not to be safe or effective for human use and therefore never see the light of day in the marketplace. More generally, this is a sector where regulation is crucial to ensure that the market failures of patent induced market power, information asymmetry, and market accessibility are tackled, whilst at the same time competition plays a vital role as it is in the words of the World Health Organization “in the last instance the key tool to drive prices down and improve access to medicines.”¹

For this workshop a wide array of experienced speakers with extensive experience in the sector were made available by the authorities of Korea (KFTC), EU Commission and the ACCC as well as two speakers from the OECD.

The event started with an examination by Mr. Ruben Maximiano of the OECD of main features of the pharma sector and of the main competition issues found across jurisdictions. This was followed by a session lead by Mr. Pedro Caro Sousa on the role of IP and antitrust in Pharma, and of their interplay and compatibility, namely with the role of competition to place limits on the permissible scope of exclusion based on IP. Mr. Caro Sousa also identified the main competition infringements that include attempts to manipulate the IP and the regulatory regime.

The afternoon sessions were devoted to analyzing more specific issues when dealing with enforcement cases, starting with market definition, in a session presented by Mr. Ruben Maximiano, that by examining a number of cases in a number of different jurisdictions identified some common threads and principles that underwrite the identification of relevant markets in the pharmaceutical sector. The remaining sessions all dealt with anti-competitive agreements. First up was Mr. Paul Csiszar, Director at the European Commission, that shared the experience of the European Union in a session on horizontal agreements in the sector, including the sector inquiry undertaken in 2009 and then the recent pay for delay cases of Lundbeck, Fentanyl, Servier and Cephalon. Mr. Pedro Caro Sousa continued the theme of anti-competitive agreements by looking in depth at a number of cases of cartels and bid rigging cases in pharma that affected the public purse with the increase of the price of medicines sold to public hospitals. Mr. Sunjoeng Lim, Deputy Director of the KFTC then presented in detail the reverse payment agreement case between GSK and Dong-a Pharm in Korea. The final case study of the day was brought by Mr. Frans Adiatma Senior investigator of the KPPU on the Amlodipine Therapy case where two companies shared information about price and production planning and thus reduced or removed risks of competition between them.

The second day was dedicated to abuse of dominance cases, first by Mr. Csiszar examining the main aspects of abuse of dominance cases in pharma in the EU, and then analyzing the Servier and Astra Zeneca cases. The ACCC then presented on a case where it was alleged that Pfizer had a strategy to bundle offers prior to the expiry of the its patent over atorvastatin (Lipitor) – a cholesterol lowering product in the statin family

of molecules, and thus attempt to delay the exposure of competition before suppliers of generic pharmaceuticals were able to enter the market. The following session was dedicated to an issue that has been again making its resurgence in certain jurisdictions and that is of great relevance to Asian jurisdictions: the issue of excessive pricing in pharmaceutical products. This session led by Mr. Caro Sousa looked at the difficulties in reaching a finding of prices being excessive and thus constituting an abuse of dominance, and then analysed some cases which had some particularities that allowed the UK (Pfizer and Flynn case) and Italy (Aspen case) in 2016 reach such findings. Two cases in the pharma sector were then shared by Mrs. Wu of the NDRC (allopurinol cartel) and Ms. Feiyini of SAIC (hospital and pharmacy case), respectively.

The day was closed with a Hypothetical case prepared by the ACCC and presented by Mr. Roger Featherstone, Commissioner of the ACCC and worked through a number of smaller teams.

The last day of the workshop served to set out the merger control issues in the Pharma sector, with presentations from Mr. Ruben Maximiano of the OECD as well as Mr. Stewart McKechnie (Assistant Director of the Mergers Investigations Branch) of the ACCC. Mr. Tsai from Chinese Taipei then presented a merger case that was analysed between Pfizer and Allergan and that involved the analysis of the miotics and anti-glaucoma markets. Finally Ms. Lee from the Competition Commission of Singapore presented the GSK Trading services acquisition of UCB, which had anti-histamines, anti-epileptics as some of the areas of overlap requiring closer analysis.

The workshop's final session started with Mr. Ruben Maximiano making the case for the importance of the role that competition advocacy by the competition authority can play both in the design of regulation as in the public procurement of medicines. He was seconded by a presentation by Ms. Dian Retno Sari on the role that the KPPU has played in strengthening the role of the pharmacist with a recent policy recommendation it issued to the Ministry of Health in Indonesia. Mr. Marcus Bezzi also shared the experience in advocacy in the context of the sector in Australia and the role that the ACCC has had in shaping regulation.

This was an event that allowed participants to explore in depth a sector that has many specificities can be a rather daunting one for newer agencies in particular. Drawing upon some very experienced speakers it was possible to show that, where relevant, this is a sector where competition authorities may intervene effectively.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES					4.67				
DETAILED RESPONSES TO QUESTIONS (Numerical score for each category)	Average Score	Number of Responses*	% in Highest Category	Number of Response					
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No answer
1. The overall usefulness of the topics addressed.	4.8	13	85%	11	2	1			
2. The overall quality of the presentations	4.6	13	62%	8	5				
3. The overall usefulness of the hypothetical Exercise	4.5	13	54%	7	5				
4. The overall usefulness of the seminar materials	4.6	13	62%	8	5				
5. The overall usefulness of this event	4.8	13	85%	11	2				

2.4) Workshop on Going after cartels and bid rigging, Ulaan Baatar, Mongolia, 13 -15 September, 2017

The OECD-Korea Policy Centre teamed up with Mongolia's AFCCP (the Authority for Fair Competition and Consumer Protection) to host a meeting in Ulaan Baatar in September 2017 on the topic of "going after cartels and bid rigging".

In total, 25 delegates from Mongolia's AFCCP, the country's judiciary and its legislature participated in the event along with another 25 delegates drawn from the staff and commissioners of competition authorities across Asia.

In opening the event, Chairman Byambasuren (AFCCP) and Ms Yanjinsuren (Advisor to the Deputy Prime Minister of Mongolia) and Director General Yoon (OECD-KPC) spoke of the importance of cooperation between competition authorities in fighting cartels and bid rigging.

This is the first time that the OECD-KPC has held a meeting in Ulaan Baatar and, with a proposed law reform currently in the pipeline, it was an important time for Mongolia to host such an event.

The AFCCP and its predecessor have already been actively enforcing competition laws for approximately two decades. However, the initial law had very low maximum fines and, even when a revised law significantly increased the penalties, it did not provide the authority with the full "tool-box" of detection and investigatory powers such as a leniency policy. Hence, there is now a need for a further law reform to enable a fully effective system.

The event commenced with scene setting presentations by Mr Capobianco (of the OECD) and Mr Taylor (consultant to the OECD) on the importance of fighting cartels and bid rigging and on detecting such practices.

Mr Park (of the Korea Fair Trade Commission) gave a presentation on Korea's experience with detecting and prosecuting bid rigging in a range of tenders for major public works projects. Mr Okumura (of the Japan Fair Trade Commission) and Ms Rodrigues of the Portuguese Competition Authority) gave presentations on investigation techniques building a case.

On the final day, Ms Rodrigues also presented on her agency's strategic plan for fighting bid rigging, Mr Taylor presented on fines and sanctions and Mr Capobianco gave a presentation about the OECD's work concerning international cooperation between competition authorities.

Presentations on particular enforcement experiences from in their home countries were provided by Mr Fu (of the Chinese Fair Trade Commission), Ms Nyamdorj (of the AFCCP), Mr Tripathi (of the Competition Commission of India), Mr Pasaribu (from Indonesia's KPPU), Mr Hussain (of the Competition Commission of Pakistan).

In two hypothetical exercises, the delegates variously role-played cartelists seeking to conceal illegal behaviour, government procurement officials redesigning their procurement processes to avoid and detect bid rigging and competition authority investigators.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES								4.52	
DETAILED RESPONSES TO QUESTIONS (Numerical score for each category)	Average Score	Number of Responses*	% in Highest Category	Number of Response					
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No answer
1. The overall usefulness of the topics addressed.	4.6	31	65%	20	11				
2. The overall quality of the presentations	4.4	31	48%	15	14	2			
3. The overall usefulness of the hypothetical Exercise	4.5	31	52%	16	13	2			
4. The overall usefulness of the seminar materials	4.5	31	55%	17	13	1			
5. The overall usefulness of this event	4.6	31	61%	19	11	1			

2.5) Workshop on Best Practices in Cartel Procedures: New Delhi, India - 24 – 26 October 2017

From the 24th to 26th of October 2017, the Centre held a workshop in New Delhi, India dedicated to sharing best practices in cartel procedures. This was an event co-hosted with the Competition Commission of India (CCI).

Cartels have been considered by the OECD as “a principal focus of competition policy and enforcement” and the OECD Competition Committee has devoted significant number of policy discussions on identifying best practices for hard-core cartel enforcement.

This workshop was on fighting cartels and in particular on fighting “Hard core” cartels - meaning anticompetitive agreements by competitors to fix prices, restricts output, submit collusive tenders, or divide or share markets. The objective of the workshop was to equip participating competition authorities with the necessary know-how for detection and practical enforcement in fighting cartels, with an emphasis on evidence gathering and best practices on investigative steps that may be taken and building cases from scratch.

This workshop had more than 40 participants from competition officials from a multiplicity of jurisdictions in the Asia Pacific Region (China, Hong Kong, India, Indonesia, Mongolia, Malaysia the Philippines, Singapore, Chinese Taipei, Viet Nam), including many participants from the CCI. On the other hand, panel members included experts from the Korea Fair Trade Commission (KFTC), US DOJ, the Italian AGCM, and the Japanese Fair Trade Commission (JFTC).

The event opened with introductory speeches by Director General Yoon of the Korea Policy Centre, Mr. Devender Sikri (Chairman of the CCI) and by Mr. Ruben Maximiano of the OECD. The first session was offered by Mr. Maximiano, sharing the importance of fighting cartels, with many examples of cartels from a number of jurisdictions as well as an explanation of how cartels function and the types of evidence that can be collected and the main methods for getting that evidence. Mr. Maximiano also provided a road map of the three day workshop introducing the topic at a general level and putting it into the context of the toolbox at the disposal of competition agencies.

The second session was led by Mr. Yusuke Sakurai, Chief Investigator at the JFTC that shared the experience of the JFTC in detecting cartels, in particular how the complaint system and the leniency programme function in practice. The first case study session of the workshop was provided by Mr. Santy Tobing, Head of Prevention Division of Makassar of the KPPU with a tyre cartel. In the afternoon, Mr. Yoon representing the KFTC provided a presentation on dealing with indirect evidence in cartels in Korea.

The first day of the workshop finished with an in-depth session lead by Mr. Howard Parker of the US DOJ on building a cartel case, from the case strategy to the day to day management of the case team. This was followed by a case study offered by Mr. Jhe-Hao Yang of Chinese Taipei.

The second day started with the work done by the CCI in its fight against cartels, by offering a very comprehensive picture of the legal framework as well as of the enforcement against cartels more specifically, providing a number of examples. Mr. Singh, Advisor to the Board of the CCI, who lead this session also discussed the leniency programme in India. This was followed by Mr. Parker's very practical presentation on how to ask the right questions in interviews, from preparation to execution. This was followed by the first hypothetical case where the assembly was divided into smaller groups of between 8 and 10 persons to discuss and try and solve a cartel case. With many adaptations the hypothetical case involves a cartel in the asphalt industry inspired by a case from Sweden where the Swedish Competition Authority investigated the asphalt industry which was suspected of rigging bids for many road construction projects. This hypothetical case was discussed in three different sessions, allowing simulating interviews, dawn raids as well as a final discussion of evidence collected and next steps.

The third day was dedicated to more practical aspects of fighting cartel cases, in particular looking at how to undertake dawn raids, or unannounced inspections with many practical tips in all stages of the operation of dawn raids and then how to deal with the evidence collected – both sessions led by Ms. Vittoria Tesei, from the Italian AGCM. The third case study was offered by Ms. Erika Yu and Mr. Frederick Good of the Hong Kong Competition Commission.

Overall, this was a very successful event with many and enthusiastic participants showing great interest in the practical details of how to conduct a cartel investigation.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES							4.40			
DETAILED RESPONSES TO QUESTIONS (Numerical score for each category)	Average Score	Number of Responses*	% in Highest Category	Number of Response						
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No answer	
1. The overall usefulness of the topics addressed.	4.5	24	54%	13	9	2				
2. The overall quality of the presentations	4.2	24	29%	7	15	2				
3. The overall usefulness of the hypothetical Exercise	4.5	24	50%	12	11	1				
4. The overall usefulness of the seminar materials	4.4	24	48%	12	11	2				
5. The overall usefulness of this event	4.5	24	54%	13	9	2				

2.6) Workshop on Market Studies, Seoul, Korea, 14- 16 November 2107

The OECD/KPC held a workshop on market studies. The workshop introduced the main uses for market studies - support of competition enforcement and competition advocacy. Based on OECD work products, criteria for market study selection and prioritisation were introduced, followed by practical examples of market study work and the introduction of best practices for market study investigations. Possible results and enforcement and advocacy related strategies were discussed.

The OECD-Korea Policy Centre workshop in Seoul, Korea on November 14 - 16 on “Market Studies” reached participants from countries across Asia, including China, Chinese Taipei, India, Indonesia, Malaysia, Mongolia, Pakistan, the Philippines, Singapore, Vietnam, Bangladesh and Kyrgyzstan. Panellists included experts from the Korea Fair Trade Commission, the Lithuanian Competition Council, the European Commission, the ACCC and the OECD.

The workshop opened with welcoming remarks from Director General Soohyun Yoon of the OECD-Korea Policy Centre. The substantive presentations of the first day started with an introductory presentation by Sabine Ziegelski for the OECD. Mr Sarunas Keserauskas for the Lithuanian Competition Council continued the introductory part of the day by presenting on criteria for market study selection and prioritisation and the Lithuanian practice. Mr Yonghee Shin for the Korea Fair Trade Commission continued by giving an overview into the Korean framework and history of market studies as well as summarizing a number of recent studies.

The second part of the day started with a hypothetical case exercise, discussed in small groups. Participants were asked to stage a hearing and to present arguments in favour of different markets to be investigated. This exercise helped to sharpen the understanding of good selection and prioritisation criteria. The day ended with a presentation by Mr James Mancini representing the OECD. He gave a comprehensive overview of common market study methodologies.

The second day opened with a presentation by Ms Simone Warwick of the Australian Consumer and Competition Commission. She presented the set-up and first steps in an ongoing electricity sector market inquiry. Following this presentation Mr Satyam Pranav for the Competition Commission of India gave insights into India’s legal background and illustrated the market study practice with recent case examples. In a panel discussion all the experts engaged in brief presentations and discussions relating to practical problems such as communication with stakeholders, questionnaires, data processing and difficulties that might be encountered.

The afternoon started again with a hypothetical case exercise. The participants worked on different tasks that need planning and structuring during a market study such as prioritisation, planning of the project, planning of the investigation and hypotheses of relevant outcomes. The day concluded with a presentation by Ms Szuzsa Cserhalim of the European Commission on the process and outcomes of the EC’s e-commerce sector inquiry.

On the last day of the seminar Mr James Mancini presented on possible outcomes for market studies and market study remedies, based on the related OECD work product. Mr Jhieh-Hong Jhang of the Chinese Taipei Fair Trade Commission introduced another country experience and added an economic perspective to the seminar by reporting on rice market investigation.

The seminar finished with another panel discussion round. Mr Sarunas Keserauskas gave an introductory presentation on the Lithuanian experience in “selling” market study results and difficulties that can be encountered and overcome. The other panellists then added their experience and this included how to act in politically charged environments, deal with numerous stakeholders etc.

Throughout the seminar it showed that jurisdictions with experience had very similar learnings and that these can help younger jurisdictions avoid the mistakes their experienced peers have made. Participants were encouraged to conduct market studies and reminded that there was no need to start big, but that a small but relevant and contained market study could produce valuable results and provide much needed practical insights for future market studies.

EVALUATION

OVERALL AVERAGE SCORE FOR EVENT ACROSS ALL CATEGORIES				4.64					
DETAILED RESPONSES TO QUESTIONS (Numerical score for each category)	Average Score	Number of Responses*	% in Highest Category	Number of Response					
				Very High (5)	High (4)	Moderate (3)	Low (2)	Very Low (1)	No answer
1. The overall usefulness of the topics addressed.	4.5	23	57%	13	9	1			
2. The overall quality of the presentations	4.5	23	52%	12	11				
3. The overall usefulness of the hypothetical Exercise	4.8	23	83%	19	4				
4. The overall usefulness of the seminar materials	4.7	23	65%	15	8				
5. The overall usefulness of this event	4.7	23	65%	15	8				

3. Programme Newsletter

The Programme continued to publish regular newsletter, known as the “Asia-Pacific Competition Update” in 2017. 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 2017, the Programme’s staff comprised:

Title	Name	Location
Director General	Mr. Soohyun Yoon	Seoul, Korea
OECD Senior Competition Expert	Mr. Ruben Maximiano	Paris, France
Director	Ms. Ju Eun Shim, Mr. Yong-rae Ryu	Seoul, Korea

Research officer	<i>Ms. Michelle Ahn, Hyea Yoon Jung, Ye-lin, Mr. Daniel Oh</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 2017:

Country	Authority/Organisation
Australia	Australian Competition and Consumer Commission Melbourne University Federal Court of Australia
Belgium	Compass Lexicon
European Union	European Commission - DG Competition General Court of the European Union
Italy	Italian Competition Authority
Japan	Japan Fair Trade Commission
Korea	Korea Fair Trade Commission Uiejongbu District Court of Korea
Lithuania	Lithuanian Competition Council
Portugal	Portuguese Competition Authority
United States	Department of Justice

In addition, officials from the following participating authorities made presentations during the 2016 workshops:

Country	Authority
ASEAN	ASEAN Secretariat
China	State Administration for Industry and Commerce (SAIC), NDRC
Hong Kong	Hong Kong Competition Commission (HKCC)
India	Competition Commission of India (CCI)
Indonesia	Business Competition Supervisory Commission (KPPU)
Mongolia	Authority for Fair Competition and Consumer Protection (AFCCP)
Pakistan	Competition Commission of Pakistan (CCP)
Philippines	Philippines Competition Commission (PCC)
Singapore	Competition Commission of Singapore (CCS)
Chinese Taipei	Chinese Taipei Fair Trade Commission (CTFTC)

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

Appendix A.

Speakers at Competition Programme Events in 2017

Speaker	Presentation	Workshop
Mr. Arsenio Balisacan (Chairman, PCC)	Opening Remarks	Bilateral Event for PCC: Fines and Leniency
Ms. Stella Quimbo (Commissioner, PCC)	Remarks on Fining	Bilateral Event for PCC: Fines and Leniency
Mr. Ruben Maximiano (Senior Competition Expert, OECD)	Overview on Leniency – The International Experience, Fines and other Sanctions in Antitrust cases	Bilateral Event for PCC: Fines and Leniency
Mr. Bruce Cooper (General Manager, Enforcement Strategy and Coordination Branch, ACCC)	Leniency in Australia, Australian Experience with Fining	Bilateral Event for PCC: Fines and Leniency
Mr. Choong Soo Jeon (KFTC)	Leniency in Korea	Bilateral Event for PCC: Fines and Leniency
Mr. Hiroshi Nakazato (Director, Planning Office Investigation, JFTC)	Surcharge system in Japan	Bilateral Event for PCC: Fines and Leniency
Ms. Akari Yamamoto (Chief Investigator for Leniency Program, JFTC, Japan)	Leniency Programme in Japan	Bilateral Event for PCC: Fines and Leniency
Ms. Winnie Ching (Director Legal & Enforcement, CCS)	Leniency in Singapore, Financial Penalties for Competition infringements in Singapore	Bilateral Event for PCC: Fines and Leniency
Atty. Orlando Polinar (Director, Competition Enforcement Office, PCC)	Fining in the Philippines	Bilateral Event for PCC: Fines and Leniency
Mr. Ruben Maximiano (Senior Competition Expert, OECD)	Competition Law in Context, How Judges Learn	7th OECD/KPC Competition Workshop for Asia-Pacific Judges
Ms. Rhonda Smith (Melbourne University)	The role for Market Definition in Competition Cases – some economic principles and tools, The Economics of Market Power and Dominance	7th OECD/KPC Competition Workshop for Asia-Pacific Judges
Justice A Robertson (Federal Court of Australia)	Using Economics in Courts: the Judicial Perspective from the Australia – Procedures and Principles, Case Examples	7th OECD/KPC Competition Workshop for Asia-Pacific Judges
Mr. Miguel de la Mano (Executive Vice President, Compass Lexicon)	Some Examples of Market Definition in Competition Cases, Some Examples of Finding Substantial Market Power, The Economics of Merger Control	7th OECD/KPC Competition Workshop for Asia-Pacific Judges
Mr. Vivien Terrien (Referendaire, EU General Court)	Using Economics in Courts: the Judicial Perspective from the EU – Procedures and Principles, Case Examples	7th OECD/KPC Competition Workshop for Asia-Pacific Judges
Presiding Judge Donghwan Shon, (Presiding judge, Uiejongbu District Court, Goyang Branch Court)	Korean Cases using Economic Evidence – a Judicial Perspective	7th OECD/KPC Competition Workshop for Asia-Pacific Judges

Speaker	Presentation	Workshop
Mr. Marcus Bezzi (Executive General Manager, Competition Enforcement, ACCC)	Opening remarks, Competition Advocacy in the Pharma Sector	Competition Rules in the Pharmaceutical markets
Mr. Roger Featherstone (Commissioner, ACCC)	Hypothetical case scenario	Competition Rules in the Pharmaceutical markets
Mr. Ruben Maximiano (Senior Competition Expert, OECD)	Defining Markets in Pharma Markets, The Role of Competition Advocacy in the Pharmaceutical Sector	Competition Rules in the Pharmaceutical markets
Mr. Pedro Caro Sousa (Competition Expert, OECD)	IP, Antitrust and Pharma, Excessive Pricing in the Pharma Sector	Competition Rules in the Pharmaceutical markets
Mr. Ged O'Shaughnessy (Advisor, ACCC)	Australian Case Study: ACCC v Pfizer Australia Pty Ltd	Competition Rules in the Pharmaceutical markets
Mr. Stewart McKechnie (Assistant Director of the Mergers Investigations Branch of the ACCC)	Pharmaceutical Mergers in Australia and International Cooperation	Competition Rules in the Pharmaceutical markets
Mr. Paul Csiszar (Director, DG Competition, European Commission)	Horizontal Agreements in Pharma in the EU, Abuse of Dominance in the Pharma Sector	Competition Rules in the Pharmaceutical markets
Mr. Sunjoeng Lim (Deputy Director, KFTC)	KFTC's Enforcement Experience: Reverse-Payment Agreement between GSK & Dong-A Pharm	Competition Rules in the Pharmaceutical markets
Mrs. Wu (NDRC)	Case Study: China – Anti-monopoly in Pharmaceutical Sector: A Cartel Case	Competition Rules in the Pharmaceutical markets
Ms. Feinyi (SAIC)	Case Study: China – Anti-unfair Competition Regulation in Pharmaceutical Field	Competition Rules in the Pharmaceutical markets
Mr. Frans Adiatma (Senior Investigator, KPPU)	Case Study: Indonesia – Case Study and Law Enforcement in Healthcare sector in Indonesia	Competition Rules in the Pharmaceutical markets
Ms. Dian Retno Sari (KPPU)	Competition Advocacy in the Pharma Sector	Competition Rules in the Pharmaceutical markets
Ms. Candice Lee (Legal Counsel, CCS)	Case Study: Singapore	Competition Rules in the Pharmaceutical markets
Mr. Tsung-Yung Tsai (Specialist, Chinese Taipei Fair Trade Commission)	Case Study: Pharmaceutical Industry Merger Case	Competition Rules in the Pharmaceutical markets
Mr. Lkhagva Byambasuren (Chairman, AFCCP)	Opening Remarks	Going after cartels and Bid Rigging
Mr. Nick Taylor (Partner Jones Day, Australia)	The importance of Fighting Cartels, Methods for Detecting Cartels, Fines and Sanctions of Cartels in Bid Rigging Cases	Going after cartels and Bid Rigging
Mr. Antonio Capobianco (Senior Competition Expert, OECD)	Why do we go after Bid Rigging, Check List for Detecting Bid Rigging, International Cooperation in Cartel Cases	Going after cartels and Bid Rigging

Speaker	Presentation	Workshop
Mr. Jinseok Park (Deputy Director, Bid Rigging Investigation Div., KFTC, Korea)	Regulation on Bid Rigging	Going after cartels and Bid Rigging
Ms. Sara Rodrigues (Legal Officer, PCA, Portugal)	Building a case – case strategy and management, Partnering with Procurement Officials	Going after cartels and Bid Rigging
Mr. Masakazu Okumura (Chief Investigator, JFTC, Japan)	Investigation Techniques in Bid Rigging Cases	Going after cartels and Bid Rigging
Battsetseg (Senior Inspector, AFCCP)	The Experience of Mongolia	Going after cartels and Bid Rigging
Mr. Alok Tripathi (Joint Director General, CCI, India)	Case Study: India	Going after cartels and Bid Rigging
Mr. Hilman Pujana (Head of Domestic Cooperation Affairs, KPPU, Indonesia)	Case Study: Indonesia, Handling Bid Conspiracy in Government Procurement	Going after cartels and Bid Rigging
Mr. Shahzad Hussain (Director, Corporate Affairs Division, CCP, Pakistan)	Case Study: Pakistan, Bid Rigging Public Procurement	Going after cartels and Bid Rigging
Mr. Ruben Maximiano (Senior Competition Expert, OECD)	Why and How to Fight Cartels	Workshop on Best Practices in Cartel Procedures
Mr. Yusuke Sakurai (Chief Investigator, JFTC)	Method of Detecting Cartels in Japan: Complaint system and Leniency	Workshop on Best Practices in Cartel Procedures
Mr. Soohyun Yoon (Director General, OECD/KPC Competition Programme)	Dealing with Indirect Evidence in Cartels	Workshop on Best Practices in Cartel Procedures
Mr. Howard Parker (Trial Attorney, DOJ, USA)	Building a Caser – Case strategy and Management, How to Ask the Right Questions	Workshop on Best Practices in Cartel Procedures
Ms. Vittoria Tesei (Officer, AGCM, Italy)	Unannounced Dawn-raids / Inspections, IT Inspections – Procedural Guidelines for Collecting Digital Evidence,	Workshop on Best Practices in Cartel Procedures
Mr. P.K.Singh, Adviser (CCI)	The Cartel Experience of India	Workshop on Best Practices in Cartel Procedures
Ms. Santy Tobing (Head of Prevention Division Makassar, KPPU)	Case Study: Indonesia	Workshop on Best Practices in Cartel Procedures
Mr. Jhe-Hao, Yang (Officer, CTFTC)	Case Study: Chinese Taipei	Workshop on Best Practices in Cartel Procedures
Mr. Frederick Good and Ms. Erika Yu (Hong Kong Competition Commission)	Case Study: Hong Kong: Cartel Investigation	Workshop on Best Practices in Cartel Procedures
Mr. Yin-Jie (Deputy Director General, SAIC, China)	Case Study: China – Practice in Cartel Investigations Procedure of SAIC	Workshop on Best Practices in Cartel Procedures
Ms. Sabine Zigelski (Senior Competition Expert, OECD)	Introduction to Market Studies	Workshop on Market Studies
Mr. James Mancini (OECD Competition Expert)	Market Study Methodologies, Market Study Remedies	Workshop on Market Studies
Mr. Sarunas Keserauskas (Head of the Competition Council of Lithuania)	Market Study Selection and Prioritisation; Market Study Advocacy	Workshop on Market Studies

Speaker	Presentation	Workshop
Mr. Yonghee Shin (Senior Deputy Director, Korea Fair Trade Commission)	Market Studies in Korea	Workshop on Market Studies
Ms. Simone Warwick (Director, Retail Electricity Price Inquiry, ACCC)	The ACCC Experience: Electricity markets	Workshop on Market Studies
Mr. Satyam Pranav (Competition Commission of India)	Case Study : India	Workshop on Market Studies
Mr. Jhih-Hong Jhang (Chinese Taipei Fair Trade Commission)	Case Study: Chinese Taipei	Workshop on Market Studies