Competition policy and regulatory reform

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Main Points

• Competition is a key to productivity and growth

• Indonesia has made a very strong start in competition law and policy but reform is timely

• Improved economic performance is essential for Indonesia’s upcoming challenges

• Existing international reports suggest Indonesia could benefit from competition focused regulatory reform

• Introduction to the ‘how’ & ‘what’ of OECD competition policy focused regulatory reform
Recent OECD papers identify how competition raises growth by:

- Spurring efficiency and productivity growth
- Disciplining managers
- Increasing investment by removing barriers
- Increasing employment
- Reinforcing incentives for innovation
- Speeding the adoption of new technology and assisting adjustment to external shocks
Benefits throughout the supply chain

Primary producers
- Better access to markets for their produce
- Reduced costs in the downstream supply chain

Intermediate businesses
- Lower input costs improves business competitiveness
- Broader range and better quality inputs

Final consumers
- Greater choice
- Lower costs and greater affordability of products and services
Components of competition policy

- Industry restructuring and access regulation
- Removing market-distorting government measures
- Prohibition of private anticompetitive conduct and effective enforcement
- National competition culture
Selected studies from AsiaPacific countries
McKinsey links competition restrictions to economic performance

• McKinsey and Company compared productivity levels in Japan and the United States.

• Japanese sectors exposed to international competition had productivity levels about the same or higher compared to productivity levels in the U.S.

Benchmark: average US productivity

• Japanese sectors protected from competition had productivity levels up to 50% below those of the U.S.

• These differences can largely be explained by competition and regulation. In the underperforming sectors, competition is highly restricted, in large part because of regulation.
Competition and Productivity -- Japan’s Dual Economy

[Graph showing relative productivity levels and employment in different sectors, with sources from OECD and McKinsey Global Institute]
Fighting Poverty -- Competition-Reducing Regulation Harms Productivity in India

• Per capita income has been diverging in Indian states over recent decades – the rich states are becoming relatively richer.

• Since mid-90s, labor productivity growth has been the primary driver of growth in GDP per capita in the majority of Indian states

• “Differences in product market regulation, as captured by the OECD’s PMR indicators, do appear to have a significant impact on productivity performance at the level of a aggregate state economies. Over the period of 1994 to 2004, there is a clear negative relationship between the restrictiveness of product market regulation and average labor productivity.”

Product Market Regulation and Labour Productivity in Indian States

(Manufacturing and Services)

Australia used competition to promote growth

Reported to OECD 2003:

• Australia’s National Competition Policy reviewed 1,800 laws & regulations for unnecessary restraints on competition

• The implementation of the Policy has made a substantial contribution to the improvement in labour and multifactor productivity and economic growth.

• The Productivity Commission estimates that Australian households’ annual incomes are on average around A$7,000 higher as a result of competition policy.
Australian results

• Domestic product (GDP) growth since the millennium has averaged above 3% per annum

• No recession in current global financial / economic crisis

• Growth in real gross domestic income averaged over 4%, with terms of trade gains, among the best of OECD countries

• Unemployment rate has fallen to around 5%, its lowest level since the 1970s;

• Inflation within the target range

• A long stretch of fiscal surpluses, general government net debt eliminated.

• Living standards steadily improved since the beginning of the 1990s, now surpass all G7 countries except the United States.

• Wide-ranging reforms, particularly to promote competition, were instrumental.
Fall and Rise of Australian OECD Ranking

Selected OECD countries, per person GDP, purchasing power parity 1999 US$

Source: OECD 2005, based on University of Groningen, GGDC Total Economy Database
Australia versus OECD—real GDP growth*

Under-performs OECD

Outperforms OECD


* 3-year moving average

Source: Fred Hilmer, University of New South Wales, OECD Stat Gross Domestic Product (output approach), Volume Index
Key components in Indonesia already in place
(report from KPPU to OECD Competition Committee 2010)

84 policy advices by the KPPU to government

Active enforcement of competition law

Independent competition agency (KPPU)

Competition law: (Law No. 5 of 1999)
Challenges for competition policy

- Competition does not prevail spontaneously
- Vested interests and powerful lobbies
- Lack of competition culture
- Regulatory restraints
- Coordinating action by multiple layers of government in a large country
- Competition sceptics in times of economic crisis
International guidance for Indonesia’s competition regime

- UNCTAD Voluntary peer review of competition law and policy: Indonesia (2009)
- OECD Investment Review of Indonesia (2010)
- ASEAN Regional Guidelines on Competition Policy (2010)
- APEC Competition Policy and Law Group including the APEC-OECD Integrated Checklist on Regulatory Reform (2006)
Existing international material

• The UNCTAD report:
  – specific points for potential improvement in competition law and enforcement
  – implementation UNCTAD’s recommendations appears to be an ongoing challenge

• The OECD reports:
  – also has points concerning competition law and enforcement
  – shows there are other a range of other competition issues suggesting some systemic weaknesses to address

• Multilateral instruments:
  – contain useful general guidance but it is not personalised for Indonesia
Reforms are often still worthwhile well after a country has the core elements.

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<tr>
<th>Country</th>
<th>Original competition law</th>
<th>Major competition policy regulatory reform</th>
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<tbody>
<tr>
<td>Australia</td>
<td>1972</td>
<td>1995, 2009</td>
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<tr>
<td>Canada</td>
<td>1889</td>
<td>1976, 1986</td>
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<tr>
<td>United Kingdom</td>
<td>1919</td>
<td>1998, 2002</td>
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Note - This is a small sample of similar major reforms that occur periodically within OECD countries to update and improve competition laws well after the initial adoption.
Drivers for reform

• Many countries are driven to substantial regulatory reform to restart the economy:
  – after a crisis (eg Ireland); or
  – after prolonged economic stagnation (eg Australia).

• Indonesia:
  – is weathering the current crisis well …
  – … in significant part because of regulatory reforms it undertook after the Asian currency crisis
  – looking forward, significant productivity improvements in Indonesia are needed so the economy can support an aging population. The effects of an aging population will begin to impact from about 2015.
<table>
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<th>Key OECD competition policy materials</th>
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<tr>
<td>• Council recommendations (5)</td>
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<td>• Best practices for the formal exchange of information</td>
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<td>• Integrated checklist on regulatory reform</td>
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<td>• Bid rigging in public procurement</td>
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<td>• Competition assessment toolkit</td>
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OECD Competition Review

- Policy goals
- Coordinating different levels of government
- Institutional design
- Resources/ priorities
- International cooperation

Foundations

- Substantive provisions
- Investigatory tools
- Remedies
- Judicial review
- Private action Exclusions

Law Enforcement

- Ownership/ cross ownership
- Disaggregation
- Regulation of access, pricing and new investment

Industry (Re)structuring

- Analysis of existing laws/ regulations
- Process for gaining competition input for new laws/ regulations
- Implementation

Advocacy within Government
Invitation to comment

• Competition law and policy has long been in place but there are prolonged delays in putting in place key elements of the structure. Are there impediments to putting these in place?

• The KPPU works at a high level in:
  – competition law enforcement and
  – policy advice

but there appear to be important gaps when it comes to implementing decisions and advices. Why?

• What are the priorities areas for competition reform?

• How can competition considerations become routine:
  – in private business conduct ;and
  – in decisions at all levels of government?