

CLIPPINGS

Welcome to phase III of CLIP

It's rare you meet someone working at the Australian Competition and Consumer Commission (ACCC) who is not proud to work for the ACCC. In fact, a recent [Australian Public Service survey](#) revealed we outperform the average when it comes to employee engagement - the emotional connection and commitment we have to working here.

ACCC and New Zealand Commerce Commission staff involved in delivering CLIP are similarly enthused about engaging with their counterparts in South East Asia. The opportunity to exchange experiences and support regional peers, as we support them to promote effective enforcement of competition law in their country is relished by those who get involved.

It is thanks to the enthusiasm, energy and strong engagement of those ACCC, NZCC and ASEAN people involved in CLIP, both north and south of the equator, that the program has managed to deliver so much since 2014.

Phase II of CLIP (ending 30 June 2018) reached an audience of more than 500 people, through 40 capacity building activities. CLIP activities have provided an important forum for ASEAN-Australia New Zealand Free Trade Area (AANZFTA) competition officials to share experiences, learn more about international approaches to competition law enforcement and trade and commercial ties in the AANZFTA region, gain confidence in their work and develop some wonderful relationships and friendships along the way.

We have set the bar high. Phase III of CLIP began just a month ago, with excitement and high ambitions. We welcomed our third cohort of CLIP secondees to the ACCC Brisbane, Melbourne and Canberra offices. They are a talented group of competition officials from Indonesia, Laos, Malaysia, the Philippines and Thailand. We have also hosted two investigations skills workshops, in Jakarta and Bangkok. And we are thrilled to be hosting heads of AANZFTA agencies in Sydney for a roundtable discussion about pressing issues facing competition law enforcers in the ASEAN region.

We are off to a cracking start and continue to be inspired by the exceptional people we meet at each CLIP activity! We look forward to building on this platform of positivity and good will for more technical cooperation and ultimately enforcement cooperation into the future.

Dominique Ogilvie, Acting Director of CLIP, ACCC

What's on the menu for CLIP Phase III?

12+
WORKSHOPS

15+
SECONDMENTS
TO AUSTRALIA &
NEW ZEALAND

10+
EXPERT PLACEMENTS
IN ASEAN

3
REMOTE MENTORSHIPS



CLIP ACADEMY
(ELEARNING)



Competition officials working together to hone their investigation skills



Above: workshop participants and facilitators in Indonesia

CLIP has hosted a number of activities over the past few months, including our Module 2: Evidence Handling and Interview Skills workshop in both Indonesia and the Philippines.

This gave competition law and economics specialists from the Komisi Pengawas Persaingan Usaha (KPPU), Viet Nam Competition and Consumer Authority (VCCA), Malaysia Competition Commission (MyCC), and the Philippine Competition Commission (PCC) the opportunity to come together and deepen their understanding of ways to gather and handle evidence, and to conduct effective interviews for investigations.

Days 1, 2 and 3 of the workshops covered:

- what evidence looks like (and why it is important) in a competition law context
- how to prepare, conduct, and record effective interviews, and
- interview exercises, including putting the PEACE model into practice

Damian Lim, Principal Assistant Director at the MyCC shared that MyCC is enthusiastic about adopting and implementing the different concepts and practices they learned from the workshop. *“The Evidence and Interview Skills workshop was very informative... it generated very engaging discussions among global colleagues”.*

ACCC General Manager Gabrielle Ford shared that ACCC is enthusiastic in sharing different concepts and practices with their international counterparts. *“The Evidence and Interviewing Skills workshop was very informative, interesting and impactful for everyone in attendance. The topics discussed and applied in the workshop generated very engaging discussions among the VCA, KPPU, NZCC and ACCC”* said General Manager Ford.

These workshops not only help develop skills and knowledge in the area of competition law enforcement, but strengthen relationships among ASEAN and Australian counterparts.

You can read more about CLIP workshops and other activities on the [AANZFTA ASEAN](#) or [ACCC CLIP](#) websites.



Above: workshop participants and facilitators in the Philippines



Q&A with Rayne de Gruchy, Chief Operating Officer at the Australian Competition and Consumer Commission

Rayne is the COO at the ACCC. She has a particular eye on organisational culture and making sure staff love to work at the ACCC and continue to deliver outcomes that are so important to the Australian community.

During Phase II, Rayne presented a CLIP Agency Design Workshop in Cambodia. It looked at issues informing the development of a competition agency ground-up, such as structuring teams, recruiting and developing human capital, and agency culture.

We caught up with Rayne for CLIPPINGS.

Could you describe for us your career path so far?

My career has offered me great opportunities to lead and shape organisations. I have had the privilege of steering a number of wonderful organisations into becoming even more effective, producing significant outcomes and operating in an ethical, professional and fully engaged manner.

Prior to coming to the ACCC in 2010, I was the CEO of the Australian Government Solicitor for 11 years, taking on the challenge of meeting the Commonwealth's legal needs but as a government business enterprise competing against the private sector. AGS underwent an unprecedented amount of change over this next decade.

Before I moved to the public sector, I had a fun career as a private sector lawyer, principally as a banking and finance partner of one of the large Australian commercial law firms. I have also taken on some interesting additional roles such as a Councillor of the Law Institute of Victoria and as a public company director.

Mine has been a diverse and rich career and I have been lucky throughout to have had a supportive husband and family of two (now grown up) children who kept everything in balance for me. That balance is essential to the modern world of work.

What do you think has been the key difference between your work in the private sector and the work you do leading a law enforcement agency?

I learned many skills in the private sector about professionalism and dedication to the interests of your client. I learned the importance of shaping the future by coaching graduates and staff into becoming the stars of tomorrow. The strength of an organisation is always in its people.

The work we do in the public sector benefits many people and makes our society and our country better for the efforts we put in. That is the key difference between the sectors. Working in the public interest is a powerful motivator, we help consumers to be active in demanding better standards from the business community.

At the ACCC we cover a large field of competition and consumer enforcement, mergers, infrastructure regulation, market studies to name a few. This means every day has highlights and it is a pleasure to come to work each day to see what will unfold.

What are some of the big problems the ACCC is helping overcome through its competition work this year?

Our priorities focus our resources on the things that matter. We had our annual planning day in December to set our enforcement and compliance priorities for 2018. Cartels remain an important area for us as we continue investigations into a number of cartels which we wish to criminally prosecute.

We have an amended 'abuse of dominance' provision in our competition law and we are keen to establish some new cases using this provision. We also remain interested in the area of online competition in a number of sectors.

To cap it all off, we are undertaking an inquiry into digital platforms such as Google and Facebook and their effect on media and advertising markets.

You recently lead a CLIP workshop. What was it like?

The workshop aimed to help newly forming competition authorities with the difficult tasks of establishing themselves as a competition authority.

I was delighted to be part of the CLIP team for this workshop. What a treat to be hosted by our Cambodian colleagues in Siem Reap. It is a wonderful place to visit and I enjoyed every moment of my stay there and the generous hospitality of our hosts.

At the workshop, we had a terrific group of people from Cambodia, Viet Nam, Laos and Myanmar with additional assistance from the ASEAN Secretariat. All of the participants were thoughtful and keen to contribute to the discussions with their experience from their countries. It made me feel that ASEAN Member States are well on the way to gaining significant benefit from the introduction of competition law because of the quality and dedication of these people who will continue to grow in skill and reputation within their own competition authorities.

What do you think are the secret ingredients for a successful (and enjoyable!) career in competition law enforcement?

Love what you do, and know that it makes a difference. The secret is to have an enquiring mind and a commitment to shining a light on 'what is going on here'.

When competition authority staff act with professionalism and integrity, it is inevitable that over time, the business community and consumers will look up to the competition authority as an important part of a fair and competitive market place. Skill, experience and confidence grow with every project, every investigation and with every engagement with business, consumers and other regulators.

The exciting thing is that no competition authority is alone, each is part of a large international family of agencies who are all motivated in the same way. We are all learning, every day.



Above: The CLIP team members and ACCC COO Rayne de Gruchy welcome ASEAN secondees to the ACCC Canberra office in July for their orientation week.

Our secondees L-R: Kikeo Vorlavongsa, Piyapat (Pair) Tubin, Ima Damayanti, Nurul Afiqah, Anton Arcilla and Farha Mustaffa.

Meet the ASEAN/ACCC secondees

The third round of CLIP's annual ACCC secondment and study program for ASEAN Member States (AMS) has kicked off in Canberra.

The program helps strengthen secondees capabilities in case management, investigation processes, and their confidence in applying new tools and learnings in their home agency.

The AMS representatives have been assigned a division and are studying competition law and economics at the University of Melbourne alongside work responsibilities.

We had a chat with each secondee to learn more about them.

Kikeo Vorlavongsa, Lao PDR to Advocacy in Canberra

Where is your favourite place to relax in your hometown?

I love to stay quite far away from the city centre and near nature, e.g. the forest, river, mountains and wild animals. With family it's even more enjoyable, we love swimming, cooking barbeques, singing and dancing together.

My family is based in Vangvieng in Vientiane (the national capital of Lao), but specifically I can suggest Poukham, the Angluang Caves, Phar Ngeurn Hill for some great views of Vangvieng City, or you can ride a canoe along the NamXong river.

Food is always a special part of relaxing — try the Soub Phak in Vangvieng style, or chicken/fish soup with steamed sticky rice.

What are you looking forward to in your secondment at the ACCC?

It's a pleasure to be selected for this program, and a great opportunity to enrich my knowledge and gain more competition sector experience alongside ACCC staff. Our competition agency in Lao is very young and its systems and frameworks are not fully established (yet). We can also struggle with staffing and budget issues from time to time.

The knowledge, experiences and lessons I will take back home will be invaluable for the projects we are embarking on over the next few years and beyond.

Anton Arcilla, PCC to Mergers in Canberra

Where is your favourite place to relax in your hometown?

I'm a homebody, and I very much enjoy spending time with my family. I love reading comics and watching cartoons in my free time.

What are you looking forward to in your secondment at the ACCC?

I'm really excited for the secondment at ACCC! I can see how this aspect of public service energises everyone at the ACCC, and I wish to bring some of that back to the Philippines Competition Commission (PCC). I look forward to meeting my co-secondtees from South East Asia and building a network with experts with whom I can discuss pressing competition issues.

Piyapat (Pair) Tubin, OTCC to Enforcement in Brisbane

Where is your favourite place to relax in your hometown?

My favorite place to relax is Chaingmai, north of Thailand.

It's the best place for stress relief. It has fresh air and greenery, and is very quiet. In that sort of environment, it encourages people to live slowly. I don't need to do anything compete with the time. It also has a very interesting history and there are a lot of famous Buddhist temples.

What are you looking forward to in your secondment at the ACCC?

I'm looking forward to strengthening my methodologies for analysing competitive markets and improving my understanding of the enforcement process.

At my home agency in Thailand, the Office of Trade Competition Commission (OTCC), we have entered the very first year and a transitional period after we changed the structure of our law. It is a crucial and challenging time to lay strong foundations in relation to drafting regulations staffing and available expertise, applying the law in context, etc. This secondment provides me and the OTCC a wonderful opportunity to learn from an older agency and my fellow secondees who may be facing similar challenges.

Nurul Afiqah, MyCC to Commercial Construction Unit (CCU) in Canberra

Where is your favourite place to relax in your hometown?

I don't know where to start! There are so many places in Kuala Lumpur and Selangor that I love to relax and unwind in. The Malaysia Competition Commission (MyCC) is based in the heart of Malaysia, KL, so on the weekends I like to travel to my hometown in Selangor. My mother and I love visiting the Kepong

Metropolitan Park, which includes a beautiful 57 hectare lake to walk around and there are often people flying kites, practicing Tai Chi and other exercises, or just having a family picnic.

What are you looking forward to in your secondment at the ACCC?

I am very excited to learn as much as I can in my time here, particularly on bid-rigging cases. Over the years with MyCC, I have developed an interest in cartel conduct, especially concerted/coordinated practices via employees of Target Enterprises.

Our orientation session with COO Rayne de Gruchy highlighted the perseverance of the ACCC in upholding its values and ideas. It has already given me an insight of what the MyCC needs as a developing agency. We have faced challenges in communicating our values to the public and I believe that during this secondment period, I will learn many things that will be beneficial for the MyCC in making its wider presence felt.

Ima Damayanti, KPPU to Enforcement in Melbourne

Where is your favourite place to relax in your hometown?

My favourite place to relax is my home in Surabaya. For me, there is no other place better than home.

What are you looking forward to in your secondment at the ACCC?

I really hope this secondment provides a range of opportunities to explore competition law using real life case studies, so we can hone our assessment of potential business violations in Indonesia.

Farha Mustaffa, MyCC to Enforcement in Melbourne

Where is your favourite place to relax in your hometown?

My favourite place to relax is my parent's place in Johor Bahru, which is at the south of Peninsular Malaysia. I love it there because I am close with my family.

What are you looking forward to in your secondment at the ACCC?

I am looking forward to learning everything I can from the ACCC and apply what I've learned back home at the MyCC. This secondment will be a learning platform for assisting the MyCC in maturing and enforcing competition law more effectively.

New ACCC General Manager overseeing CLIP

The CLIP team has farewelled Bruce Cooper, who has accepted an exciting new role at the ACCC, leading the agency's preparations for a new consumer data right in Australia.

Read more about Australia's new consumer data right in our [media release](#).

We are delighted to welcome another terrific new senior manager overseeing CLIP, Ms Gabrielle Ford. We caught up with Gabrielle for CLIPPINGS.

Hi Gab! What has your career path looked like so far?

I have worked at the ACCC since 2001 when I joined the ACCC's graduate program. My career at the ACCC since then has traversed many different areas and issues. In the early part of my career I focused on competition and infrastructure access issues in the electricity and telecommunications industries.



This was followed by a long period time working in merger review. More recently, I was responsible for establishing the ACCC's Agriculture Unit. This is a specialised team within the ACCC that focuses on competition and consumer protection issues in Australia's agriculture sector. The Agriculture Unit has conducted market studies and investigations, including in the beef, dairy and horticulture industries. It has also worked hard to build awareness of our laws through direct engagement with farmers and the agricultural businesses. Now, I am proud to be the General Manager of the Advocacy, International and Agriculture branch. In addition to the agriculture work, this branch advises on legislative and policy proposals affecting Australian competition and consumer law, coordinates the ACCC's engagement with international counterparts, and of course is the home of the ACCC CLIP team.

I have degrees in Economics, and Competition and Consumer Law.

What are you most looking forward to as part of/for CLIP?

I'm thrilled to be involved in CLIP. The program is a point of great interest and pride within the ACCC and I am fortunate to be associated with it. I am looking forward to working with colleagues at the ACCC, in the ASEAN Secretariat and ASEAN Member States who share an interest in applying competition law, to ensure Phase 3 of CLIP helps improve markets and outcomes for consumers in their countries. I am particularly interested in CLIP's continued focus on fostering a 'competition culture' across ASEAN, through advocacy as well as enforcement of competition law. I have had some recent experience with competition advocacy in my work in the agriculture sector, and more generally in terms of Australia's competition and consumer law, so I am interested in hearing the experiences and insights of our ASEAN counterparts in this regard.

What do you think are the major challenges or opportunities facing ASEAN competition agencies?

I think the challenges vary as the maturity of competition law and agencies across ASEAN varies. Some countries have quite new laws or recently established competition agencies, and others are expanding into consumer protection. These agencies will be seeking to identify the ideal matters to pursue and priorities for the most effective enforcement. At the same time, they might encounter misunderstanding or criticism, such as from the business sector, policy makers or even members of the judiciary, who may be less familiar with competition law enforcement and its benefits. A challenge for the agencies will be to not be distracted from pursuing their objectives, while advocating for and raising awareness of the benefits of competition law. Of course, all this requires resources which often are not easy to come by! On a different note, ASEAN competition agencies are already confronted with the technical challenges of enforcement in e-commerce industries. The pace of change in markets makes it difficult for competition agencies to identify the right time to intervene to prevent firms from gaining market power, without stifling innovation. Fortunately, it's something that agencies across ASEAN and across the world are grappling with, so cooperation and dialogue between agencies about our experiences can make these matters a little easier to navigate. Indeed, CLIP continues to offer the chance for to AMS peers to develop cross-border relationships and share the knowledge gained from common experiences or investigations.

What does your ideal weekend look like?

My ideal weekend usually starts off with dinner at our local pizza restaurant where my husband and I debrief the busy week that was. It would also involve some time outdoors with our pet dog, spending time with family and maybe seeing a good movie. For me, the weekend is more about relaxation than adventure. And if it were up to me, it would last longer than two days.

Contact CLIP: clip@acc.gov.au

Have news, an event, opportunity or initiative relating to competition law implementation in the AANZFTA region you'd like featured in CLIPPINGS? Please email us via clip@acc.gov.au

More information: www.acc.gov.au/clip



In focus: MyCC secondee explores the ACCC

Nurul Afifah Soohaimi has joined the ACCC for 12 weeks as part of our secondment program, and is currently based in Canberra, ACT. She worked in law for approximately two years before joining the Malaysia Competition Commission (MyCC) in 2016.

We spoke with her about her experiences so far.

"I think competition law is fascinating, the discussion of its jurisprudence is endless and still very much growing. It is also very challenging, but as much as it a cliché, the aim of competition law is the one thing that keeps me going in this field.

The hot cake now, not only in at the MyCC but also around the world, is the digital market and algorithms. The recent Grab–Uber deal in Southeast Asia has further fuelled discussions surrounding merger regulation in our Act.

My experiences here at the ACCC have been wonderful! I cannot thank the CLIP Team as well as my host team, the Commercial Construction Unit (CCU) enough in organising the meetings and activities I have attended and learned from so far. The Under Assessment, Serious Cartel Board, Enforcement and Substantial Lessening of Competition (SLC) meetings have given me the opportunity to understand not only the triage factors, but also relevant economic theories and concepts, such as harm, in depth. I also appreciate working on practical cases that addresses complex issues.

I love how Canberra is a city surrounded by beautiful nature. I have also learned of the rivalry between Sydney and Melbourne in Australia, but just so you know, Canberra was picked by the Lonely Planet as the third best city in the world to travel to for 2018! I am not surprised Canberra was selected.

As part of my work in the CCU, I attended a special Federal Bureau of Investigations (FBI) workshop, a three-day course which discussed sophisticated investigative techniques and the ongoing development of the FBI's and Department of Justice's intelligence base. It was interesting to hear about their strategies, particularly considering how covert operations are usually required. Some topics were controversial and pushed us to think outside the box, and is a good starting point to develop proactive measures back at the MyCC.

For a bit of fun, I really enjoyed the exercise on detecting deception through body language. A few of us were able to pull off very convincing bluffs!"

Recent news

Over the next year the ACCC will further increase its enforcement action, expand its work on data, algorithms and digital platforms, and increase the use of its powers to gather evidence in complex merger investigations, ACCC Chair Rod Sims told the members at the Law Council of Australia's Business Law Section annual general meeting held in Sydney on 3 August, 2018.

Recently, the ACCC has won three significant consumer protection penalties: \$10m for Telstra; \$10m for Ford; and \$9m for Apple.

Competition penalties have also been increasing, with a maximum penalty of \$46 million for Yazaki, although this is currently under appeal.

"The ACCC is increasing its enforcement activities, and taking a firmer stance on sanctions and penalties with a view to making an even greater impact on compliance," Mr Sims said.

Read the ACCC's [media release](#).

AANZFTA competition law news

Australia

Criminal cartel charges laid against CFMMEU and its ACT branch secretary - Criminal charges have been laid against the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) and its ACT Divisional Branch Secretary, Jason O'Mara, in relation to alleged cartel conduct. Read the [media release](#).

Indonesia

A Presidential decision on new KPPU commissioners – The KPPU has received a presidential decision on the appointment of nine KPPU commissioners, whose terms will commence in 2018 and continue until 2023. The commissioners were inaugurated by President H.E. Joko Widodo on 2 May 2018 in the Presidential Palace. Mr Kurnia Toha has been appointed Chairman and Mr Ukay Karyadi as Vice Chairman for the period of May 2018 to December 2020. Read the [media release](#).

Malaysia

MyCC issues proposed penalty for Dagang Net Technologies – The Malaysia Competition Commission alleges Dagang Net Technologies has abused its monopolistic position, refusing to supply products to end users and imposing barriers to entry to the extent that may harm competition. Read the [media release](#).

Philippines

PCC binds Grab to service quality, price conditions for Uber takeover - The Philippine Competition Commission (PCC) subjected Grab's acquisition of Uber in the Philippines to service quality and pricing standards in clearing the transaction. These conditions for clearance were part of the voluntary commitments signed by Grab on Thursday to address the competition concerns raised by the antitrust authority. Read the [media release](#).

Singapore

CCCS provisionally finds that Grab/Uber merger has substantially lessened competition – the Competition and Consumer Commission of Singapore (CCCS) has issued a proposed infringement decision against Grab and Uber in relation to the sale of Uber's Southeast Asian business to Grab. Read the [media release](#).



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

CLIPPINGS is the newsletter of the Competition Law Implementation Program (CLIP). CLIP is a competition law enforcement capacity building program for ASEAN, managed by the ACCC and funded by the AANZFTA Economic Cooperation Support Program.