

# CLIPPINGS

## CLIP gears up for Phase III

On 15 February 2018 CLIP celebrated a major milestone—the ASEAN-Australia New Zealand Free Trade Agreement Joint Committee approved \$A2.605 million of funding for a third phase of CLIP. This means CLIP is now funded through to end December 2019, and brings approved funding to date to total \$A7.7 million. A cause for celebration!

The significant investment in CLIP is a testament to the value placed on ASEAN, Australia and New Zealand cooperating to advance competition law enforcement and driving regional economic integration. The AANZFTA General Review Stage One Report (released in October 2017, available here <http://dfat.gov.au/trade/agreements/in-force/aanzfta/Pages/general-review-of-the-asean-australia-new-zealand-fta.aspx>) acknowledged the work on competition law under CLIP as ‘productive and impactful due to the commitment of Parties, the right approach and mechanism’, noting this work needs to continue in order to consolidate the considerable gains made.

In the first quarter of 2018 CLIP has delivered a number of workshops and expert placements. A further milestone was realised at the 8th Meeting of the AANZFTA Competition Committee meeting in Singapore, with the Committee formally adopting the ASEAN Regional Cooperation Framework developed with the support of CLIP. The ARCF provides a non-binding guide for ASEAN member states to cooperate on cross-border competition cases, and will serve as a basis for ASEAN to establish a Regional Cooperation Agreement (RCA) at a later date.

Under CLIP Phase III, commencing in July 2018, we look forward to building on relationships established and progress to date. The CLIP team is now eagerly preparing for activities including an AANZFTA head of agency meeting in Sydney this August, in the margins of the East Asia Top Level Officials Meeting which the ACCC will host for the first time alongside colleagues from the Japan Fair Trade Commission and Asian Development Bank Institute.

We hope you enjoy reading about the latest work under CLIP, and hope to catch you at a CLIP activity sometime soon!

### CLIP activities from October 2014 to March 2018



**62** CLIP ACTIVITIES

#### Short-term placements in ASEAN



To Australia & New Zealand





## Q&A with Dr Wan Khatina Nawawi, Director Economics at the Malaysia Aviation Commission (MAVCOM)

As well as national competition laws, a number of ASEAN member states pursue competition regulation through sector-specific laws. Navigating the interface between sectoral regulation and competition law enforcement is an important consideration for a number of ASEAN member states, and CLIP has been providing some support for this through workshops examining this interplay. In this issue of CLIPPINGS we are delighted to share an interview with Dr Wan Khatina whose career has included advising the Malaysia Competition Commission and being part of the working group that drafted Malaysia's competition policy and law.

Dr Khatina is now Director of Economics at the Malaysia Aviation Commission, where she continues to be involved in competition law—including through presenting at the recent CLIP workshop on the interface of aviation regulation and competition law. Dr Khatina's passion and strong background in research and economics has seen her appointed to a number of notable positions, including a former Economic Advisor to the Malaysia Competition Commission (MyCC), Director of Research at the Khazanah Research Institute, a Director of Research and Investment Strategy at Khazanah Nasional Berhad, and a Senior Regional Economist at the National Economic Action Council (NEAC) of Malaysia's Prime Minister's Department.

### Upcoming Activities:

#### April

Thailand—ACCC Expert Placement to Thailand's Office for Trade Competition Commission, 17 April–4 May

Malaysia—Telecommunications Sectoral Regulators Workshop, 25–26 April

Myanmar—Expert Placement to Myanmar's Ministry of Commerce, 30 April–8 June

New Zealand—Myanmar Secondment to New Zealand Commerce Commission, TBC

#### May

Indonesia—Understanding Markets Workshop, 7–9 May

Cambodia—Expert Placement to Cambodia's CamControl, 21 May–15 June

#### June

Malaysia—Module 2: Evidence Handling and Interview Skills for MyCC and PCC, 26–28 June

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**Could you describe for us the work you do as Director of Economics. What excites you about the work you do in economics for competition law?**

As the Director of Economics, I head the Economics Department at MAVCOM. Apart from overseeing the general management work for the department, I also head the economics and competition work and projects in MAVCOM.

There is no daily routine—I could be in a deep discussion with my team to work on our model for air connectivity for an hour, while in another hour, I could be reviewing work on market concentration for certain flight routes, and another, providing comments on questions from stakeholders. Unlike in my previous work places, I also get to do a lot more stakeholder engagement work, with the industry players as well as with the government Ministries and agencies.

We also work closely with other teams and departments in the Commission, which could include work on regulatory matters such as licensing, pricing, and consumer protection. Since MAVCOM is barely two years old, we still have to do a lot of ‘foundational’ work such as developing the internal ‘standard operating procedures’ for enforcement and analytical work and competition guidelines, among others. For me especially, I need to build a strong team, which is important in building MAVCOM’s reputation and credibility. Indeed, I aspire to build the best economics team in a regulatory agency in Malaysia.

**‘... what has been consistent throughout my career is my passion and interest (borderline obsession, some would say) in competition economics and law ...the greatest satisfaction for me was my PhD in competition law, looking at the development of an ASEAN competition regime.’**

My work is exciting as it is a trinity of law, economics, and public policy. Working with data appeals to my logical and quantitative side—I get excited trying to work out patterns and trends. I find it interesting how a rational strategy could result in a potentially anti-competitive outcome or conduct. Another exciting aspect is that I found people working in the competition law/economics to be generally friendly and supportive—regardless of the maturity of their jurisdictions. I enjoy building relationships and networks with others working on competition, at national, regional, and international levels.

**You recently helped deliver a CLIP Aviation and Competition Regulation Workshop in Myanmar. Based on your observations, what are some of the key opportunities and challenges for sector regulators working with competition enforcers in ASEAN?**

I would like to highlight three key opportunities and challenges for sector regulators working with national competition authorities (NCAs) in ASEAN:

- Both sector regulators and the NCAs need to understand and appreciate the governance models and institutional designs adopted in the respective countries as these affect how they function and provide the boundaries for their powers and responsibilities. For example, in Malaysia, the sector regulators for the telecommunications, energy, and aviation sectors have the exclusive powers and responsibilities to regulate competition matters in their respective sectors.
- Both the sector regulators and the NCAs need to understand and appreciate how any competition-related commitments that they have undertaken via international instruments (such as free trade agreements and aviation services agreements) affect how they enforce competition rules in their national jurisdictions. For example, the aviation sector already has international competition rules which regulate the international aviation markets and these need to be considered when enforcing the domestic competition rules, which for most AMSs, reside in their generic competition laws.
- There should be greater coordination of competition work—such as information sharing—between the regional sectoral working groups such as the ASEAN Transport Working Group (ATWG) and the ASEAN Expert Group on Competition (AEGC). It is positive that this has been recognised in the ASEAN Competition Action Plan (ACAP).

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## What advice would you give to ASEAN officials starting a new career in competition law enforcement?

Competition law is an exciting area for ASEAN officials to work in as they could utilise their experience in other subject areas such as economics and policy. If they are in a young agency, such as MAVCOM, then they would have the important role of building and developing the foundation for future competition work. (There will be times when they may face pressure from interest groups/stakeholders, they should not be disheartened in their efforts to promote competition in their markets as it is a noble endeavour which benefits consumers.) While the tasks may seem daunting, they will be pleasantly surprised to learn that there is no shortage of assistance from their regional and international colleagues—CLIP is a good example. Do not be shy to seek help and guidance!

**‘There will be times when they may face pressure from interest groups/stakeholders, they should not be disheartened in their efforts to promote competition in their markets as it is a noble endeavour which benefits consumers.’**

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## Visit to Lao People’s Democratic Republic to support institutionalisation set up



Suiyi Zhang, ACCC Assistant Director, recently returned from a three-week expert placement in Vientiane, Lao People’s Democratic Republic where Suiyi worked alongside Laos Ministry of Industry and Commerce (MOIC) staff to assist with institutional design and set-up. During her time in Vientiane, Suiyi focused on providing assistance on establishing the Lao Competition Commission, by providing training to staff on why it is important to have a commission structure and preparing internal documents on code of conduct and cartel guidelines. Building strong relationships with the new authority and its Government will be of great assistance to Laos in becoming a fully effective Commission.

Suiyi is a lover of spicy food but after trying a small taste of a Lao ‘spicy’ soup, it knocked out her tastebuds for a good hour and gave her a new appreciation for something she saw in a menu during her trip, which asked travellers to pick how spicy their food should be: ‘not spicy, mild, medium, spicy, Laos spicy’. Never pick Laos spicy!

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# CLIP helping ASEAN Member States build effective enforcement operations

Between 20 and 22 February 2018, competition law enforcement officials from Lao PDR, Myanmar, Cambodia and Thailand attended a workshop to help them prepare to enforce competition law. The Phasing Enforcement Workshop placed an emphasis on establishing effective enforcement operations and raising awareness of the need to establish a 'credible threat of enforcement' when implementing a new law. 23 ASEAN competition experts attended the three-day workshop, which centred on peer-to-peer learning including through dynamic group discussions and problem solving.



During workshop activities, officials grappled with challenging issues such as case selection, developing robust processes to underpin effective investigations, and educating the community about rights and obligations under competition law.

Highlighting the importance of the workshop, Mr Bounthieng Keosipha, Director General of the Internal Trade Department, under Lao Peoples Democratic Republic, Ministry of Commerce said, 'the experience and new knowledge gained from this workshop will not only be for the interest of all participants from ASEAN Member States, but I am very confident that this will contribute to the implementation of the ASEAN Competition Action Plan for 2020-2025 and to the enhancement of relations between ASEAN and Australia in the field of competition'.

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## Recent news

### Australia

ACCC Chairman Rod Sims welcomes an announcement by the Treasurer Scott Morrison that current ACCC commissioner Mick Keogh has been appointed Deputy Chair from the end of May for a period of five years. Mr Keogh will oversee the ACCC's small business work in addition to his current role leading our agriculture work. Cristina Cifuentes and Sarah Court have also been reappointed as Commissioners for a further five years. Ms Cifuentes has been an ACCC Commissioner since 2013. Ms Court was first appointed in 2008 and reappointed in 2013. <http://www.accc.gov.au/media-release/accc-welcomes-new-deputy-chair-and-commissioner-reappointments>

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## Competition officials working together to tackle cartels



In the first quarter of 2018 CLIP has conducted two cartel workshops. The first was held in Ho Chi Minh City for experts from the Vietnam Competition and Consumer Authority (VCCA) and Indonesia's Commission for the Supervision of Business Competition (KPPU); the second in Manila, Philippines for experts from the Philippine Competition Commission (PCC) and Malaysia Competition Commission (MyCC).

Cartel conduct, such as price fixing or market sharing, can result in consumers, businesses and governments paying higher prices, lower quality goods and services being produced, and less opportunities for investment and innovation. Effective detection and enforcement of cartels is vital in avoiding the costs to society stemming from cartels.

In providing opening remarks of the workshop in Manila, PCC Chairman Arsenio Balisacan underscored the importance of the PCC understanding the basic principles of cartel investigations and remarked that 'In an economy where oligopolistic market structures persist, external expectations are high for the PCC to deliver more and better competition enforcement. The effectiveness of the competition law will come down to its enforcement and the ability of the PCC to take on the anti-competitive practices.'

Highlighting the importance of the workshop in Vietnam, Ms Vu Thanh Mai, official at the VCCA noted, 'It's good for the young officers to attend this workshop as they can clearly see the beginning to the end of a cartel investigation, including what a cartel is and how to detect them.'

The workshops provided participants with a mix of presentations and activities, which highlighted key elements of a cartel investigation. The participants discussed various actions and processes used to progress and complete a cartel investigation, including the crafting of case theories, investigation plans, managing risk and present findings. The workshops offered an opportunity to develop and strengthen relationships among ASEAN and Australian counterparts.

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## 60 seconds with the CLIP team.....



**Bruce Cooper**—Bruce is the General Manager of the Advocacy, Competition, International and Intelligence Branch and joined the ACCC in 1998. Bruce is responsible for the division's intelligence and research functions (which seek to identify emerging issues for ACCC enforcement and compliance response) and the ACCC's policy and international units, including CLIP.



**Dominique Ogilvie**—Dominique is acting CLIP Director for 2018, with Julie Glasgow on leave. Dominique loves working at the ACCC in the CLIP team and is excited to see the connections being forged between the ACCC and fellow competition law enforcers in ASEAN member states. Outside of work Dom might either be found arguing what a fantastic place Canberra is to live, or seeking refuge from Canberra on the beautiful south coast of NSW.



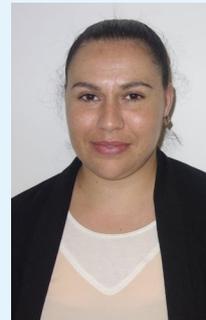
**Ingrid Zappia**—Ingrid is a Senior Program Manager in the CLIP team, joining the team last year after working at the ACCC for many years in Mergers, Enforcement and International. Ingrid is enjoying working with regional colleagues on the challenges encountered in implementing competition law. When not working, Ingrid loves spending time outdoors with her two young children.



**Clovelle Car**—Clovelle joined CLIP in April as acting Senior Program Officer. She's excited to help share CLIP's achievements on the world stage and put her love for data analysis to good use. Clovelle is a self-professed nerd outside of work too; she's working on her second Master's degree, watches far too much Netflix and sometimes jogs to Kanye's musical stylings.



**Sam Strudwick-Day**—Sam got his first taste of ASEAN after living in Jakarta and working with the ASEAN Secretariat for 6 months in 2015/16. From the food and natural beautiful of ASEAN to the incredible people, Sam continues appreciate Australia's wonderful neighbours to the North. Sam loves the CLIP program as it allows him to continue learning from and assisting the ASEAN member states, in both competition law and karaoke song selection. Outside of work, Sam is found playing basketball or video games. Sometimes he even plays a basketball video game. Sam—coming to a workshop near you!



**Nicole Bowman**—Nicole is an Administrative Assistant in the CLIP team, commencing at the ACCC in 2017 through the Indigenous Australian Government Development Program (IAGDP). Nicole is enjoying her role in the CLIP team and learning about competition law in both Australia and ASEAN member states. Before joining the ACCC Nicole worked at Reconciliation Australia, promoting trust and positive relationships between the Australian community and Aboriginal and Torres Strait Islander peoples. Outside of work Nicole enjoys spending time with her children and family.



**Melinda Bateman**—Melinda is a Senior Project Officer in the CLIP team, joining the team in 2015 after working at the ACCC since 2012 in International and Enforcement. Melinda loves the fast-paced environment CLIP brings and appreciates meeting so many wonderful people through the program. Melinda is on maternity leave after welcoming her third baby.

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## AANZFTA competition law news

### Australia

**ACCC seeking views on news and digital platforms inquiry**— In December 2017 the Australian Government directed the ACCC to undertake a public inquiry into the impact of digital platforms on competition in media and advertising services markets, in particular in relation to the supply of news and journalistic content. <https://www.accc.gov.au/media-release/accc-seeking-views-on-news-and-digital-platforms-inquiry>

**Criminal cartel proceedings commenced against Country Care and its managers**— Following an investigation by the ACCC, criminal charges have been laid against The Country Care Group Pty Ltd, its Managing Director, Robert Hogan, and a former employee, Cameron Harrison. 'This is the first criminal prosecution of an Australian corporation under the criminal cartel provisions of the Competition and Consumer Act.' ACCC Chairman Rod Sims said. The full media release can be found here— <https://www.accc.gov.au/media-release/criminal-cartel-proceedings-commenced-against-country-care-and-its-managers>

**Grabs acquisition of Uber in South East Asia has caused ripples in competition circles in a number of ASEAN Member states**— A timely reminder of the need to prepare to enforce competition law in online as well as traditional markets. Below is a selection of links relating to the deal.

Competition authorities in Malaysia, Philippines and Singapore have expressed concerns about Grab's acquisition of Uber's southeast Asia operations, with Singapore imposing interim measures on the deal <https://globalcompetitionreview.com/article/1167448/grab-uber-deal-rouses-asean-enforcers%E2%80%99-concerns>

**Malaysia**— The Malaysia Competition Commission will be closely monitoring the e-hailing market post-merger activities together with the Land Public Transport Commission (SPAD) to ensure that competition in the e-hailing services is not disrupted by the merger between Uber and Grab. Currently, there are many other enterprises which offer e-hailing services [http://www.mycc.gov.my/sites/default/files/media-releases/Grab%20Uber%20Press%20Statement\\_0.pdf](http://www.mycc.gov.my/sites/default/files/media-releases/Grab%20Uber%20Press%20Statement_0.pdf)

**Philippines**— The Philippine Competition Commission appears keen on conducting a review of the Grab-Uber acquisition, it is likely to have a far reaching impact on the riding public and the transportation services. As such, the PCC is looking at the deal closely with the end view of potentially reviewing it for competition concerns, as a notified transaction, or by opening a motu proprio case <http://phcc.gov.ph/press-statement-grab-uber-acquisition/>

**Singapore**— The Competition Commission of Singapore has commenced an investigation into the un-notified transaction between Grab and Uber, they suspect that section 54 of the Competition Act has been infringed, due to substantial lessening of competition in relation to the chauffeured personal point-to-point transport passenger and booking services market in Singapore <https://www.ccs.gov.sg/media-and-publications/media-releases/uber-grab-interim-measures-direction>

## Contact CLIP: [clip@acc.gov.au](mailto: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](mailto:clip@acc.gov.au)

**More information: [www.accc.gov.au/clip](http://www.accc.gov.au/clip)**



ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)



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