

TRANS-PACIFIC PARTNERSHIP AGREEMENT

CHAPTER SUMMARY: COMPETITION POLICY

The Competition Policy Chapter focusses on promoting competitive markets by adopting and maintaining laws that combat anti-competitive business activities.

Activities that are anti-competitive or that defraud or deceive consumers have the potential to restrict trade and investment and adversely affect businesses and consumers in TPP Parties. Transparent, fair and comprehensive competition policies support the operation of competitive markets and economic growth in TPP Parties.

The Chapter helps ensure that:

- the market access opportunities for Australian goods and services exports are not undermined by anti-competitive activities;
- Australian businesses and individuals operating in TPP Parties can seek redress for violation of a TPP Party's competition laws; and
- TPP Parties adopt or maintain laws proscribing fraudulent and deceptive commercial activities that may distort competition and cause harm to Australian consumers.

MORE INFORMATION ON THE CHAPTER

The Chapter requires TPP Parties to:

- have or establish national competition laws that proscribe anti-competitive business conduct;
- endeavour to apply those laws to all commercial activity in its territory; and
- maintain an authority responsible for enforcing national competition laws.

The Chapter also requires TPP Parties to accord procedural fairness in the enforcement of their national competition laws. Parties must have written procedures about how their competition law investigations are conducted, and rules for procedure and evidence that apply to enforcement proceedings.

Before a Party can impose a sanction or remedy against a person for violating its competition laws, a Party must afford that person, among other things: information about the competition authority's concerns and a reasonable opportunity to be represented by legal counsel. A TPP Party must also afford any person subject to the imposition of a sanction an opportunity to apply for review of that decision.

The Chapter requires TPP Parties to have laws or other measures (e.g. regulations, procedures) that allow businesses or individuals (including from other TPP Parties) to take legal action for redress for loss or damage caused by a violation of national competition laws.



The Chapter recognises the importance of consumer protection policy and enforcement to the creation of efficient and competitive markets and to enhancing consumer welfare. The Chapter requires TPP Parties to have laws that proscribe fraudulent and deceptive commercial activities that harm or could harm consumers. As fraudulent and deceptive activities can transcend national borders, the Chapter encourages Parties to cooperate and coordinate efforts to tackle such activities.

The Chapter recognises the value of TPP Parties making their competition enforcement policies as transparent as possible. To this end, Parties are encouraged to ensure relevant up-to-date information is available on the APEC Competition Law and Policy Database. At the request of another TPP Party, a TPP Party shall make available public information about their competition law enforcement policies and practices. All final decisions by a TPP Party, including reasons for them, concerning non-criminal violations of competition laws must be made available to the public. Confidential information will be protected.

The Chapter recognises the benefit of TPP Parties cooperating and sharing information and experiences concerning competition law and policy. Examples of cooperation include:

- providing training for officials;
- assisting a Party as it implements a new competition law; and
- exchanging information on ways to promote a culture of competition compliance.

The Chapter is not subject to the TPP Dispute Settlement Chapter. To address specific matters that may arise under this Chapter, including matters that affect trade and investment between Parties, the Chapter provides for consultations to occur at the request of a TPP Party.