

# JAPAN- AUSTRALIA

## ECONOMIC PARTNERSHIP AGREEMENT



## Factsheet: Intellectual Property, Electronic Commerce and Competition Policy

The Japan-Australia Economic Partnership Agreement (JAEPA) includes Chapters on Intellectual Property (IP), Electronic Commerce and Competition Policy that facilitates trade and investment by:

- Providing appropriate protection and enforcement of intellectual property rights
- Promoting a secure and liberalised environment for the growth of electronic commerce
- Including disciplines on anti-competitive practices.

### Intellectual property

The chapter on IP reinforces and builds on the Parties' existing rights and obligations under the World Trade Organization's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

Parties are obliged to accord national treatment in relation to the protection of IP rights subject to the exceptions provided in multilateral intellectual property agreements to which either party is or becomes a contracting party.

The chapter contains a number of specific obligations on the protection of intellectual property. In relation to patents, trade-marks, designs, and plant varieties it contains undertakings to promote the transparency and administration of those regimes. In relation to copyright, it provides for protection against unauthorised circumvention technological protection measures and also addresses the protection of undisclosed information.

The provisions on the enforcement of intellectual property provide for the award of damages adequate to compensate for the injury the right holder has suffered in infringement cases. The chapter also includes special requirements related to border measures which ensure that Customs, or the relevant competent authority, is able to deal appropriately with suspected infringing goods. Consistent with Australian law, the chapter provides that criminal penalties must be sufficient to provide a deterrent to future infringements.

The chapter does not affect Australia's Pharmaceutical Benefits Scheme.

Under the chapter, there is a Committee to monitor and assess the implementation of the chapter, provide a mechanism for discussion of any issues related to IP (including Geographical Indications), and oversee ongoing cooperation in relation to the protection and enforcement of IP.



## Electronic commerce

The Electronic Commerce Chapter aids Australian business in harnessing the efficiencies of electronic commerce, while ensuring the protection of consumers engaging online. Key commitments included:

- **Customs duties:** neither Australia nor Japan shall impose customs duties on electronic transmissions between the two countries;
- **Online consumer protection:** Australia and Japan undertake to adopt or maintain measures to protect consumers engaged in electronic commerce, which are at least equivalent to those provided for consumers engaged in other forms of commerce;
- **Online personal data protection:** Australia and Japan undertake to adopt or maintain measures which ensure the protection of the personal data of the users of electronic commerce; and
- **Cooperation:** Australia and Japan will share information and experiences in relation to consumer confidence, cyber-security and measures used to regulate unsolicited spam and telemarketing.

## Competition and consumer protection

The Competition and Consumer Protection Chapter contains important commitments that ensure trade and investment liberalisation achieved in the Agreement is not undermined by anti-competitive practices. Australia and Japan have committed to:

- Take measures to promote competition, especially by addressing anti-competitive activities; and
- Cooperate on the promotion of competition through the exchange of information, notification and coordination of enforcement activities, and consultation.