



**Asia-Pacific  
Economic Cooperation**

**Advancing** Free Trade  
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# **Policy Dialogue Report Competition Policy and Digital Transformation**

**APEC Competition Policy and Law Group**

December 2022





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Economic Cooperation**

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## 1. Overview

### 1.1 Background

The rapid advancements in the digital technology and connectivity have and will continue to transform how our economy operates. Digital markets' relatively low capital intensity and disregard of geographical barriers present unparalleled opportunities for providing inclusive participation in the market for previously marginalized groups. However, it also gives rise to new, dynamic, complex, and sometimes transnational competition issues such as the usage of data to drive out competitors, self-preferencing algorithms, etc. These conducts can be challenging for competition law enforcers to identify, assess, and promptly sanction. Thus, capacity building, cooperation among competition authorities in this area, and flexible, dynamic, and holistic competition legal frameworks are key to ensuring inclusive, open, fair and non-discriminatory growth and innovation in digital markets.

Reaffirming our duty to contribute to the realization of the Putrajaya Vision 2040 of an open, dynamic, resilient, and peaceful Asia-Pacific community and the Enhanced APEC Agenda for Structural Reform, the APEC Competition Policy and Law Group held a policy dialogue titled "Competition Policy and Digital Transformation" on 18 February 2022 with the aims of:

- 1) Facilitating experience and knowledge sharing in regulating and enforcing competition in the digital economy;
- 2) Highlighting key issues facing regulating and enforcing competition laws in the digital economy;
- 3) Revealing potential areas of cooperation between APEC member economies on capacity building for competition authorities regarding the digital economy; and
- 4) Presenting policy recommendations for ensuring competition legal frameworks are fit-for-purpose in the context of technological advances.

### 1.2 Expected outputs

- 1) Comparative experience in regulating and enforcing competition in the digital economy;
- 2) A list of identified key issues and challenges;
- 3) Potential areas of cooperation in capacity building; and
- 4) Policy recommendations for competition policy and law development.

### 1.3 Methodology

The dialogue featured five presentations:

1. "Key Findings and Recommendations from The Workshop on Competition Law and Regulation in Digital Markets – Ms. Anette Gittos, *Principal Policy Advisor, the Ministry of Business, Innovation and Employment, New Zealand*
2. "Considerations for Regulation and Enforcement in Digital Markets"—Mr. James Mancini, *Competition Expert, OECD*
3. "Case Investigation in the Digital Field"—Mr. Yasuhiro Yoshikawa, *Senior Investigator, Japan Fair Trade Commission, Japan*
4. "Policy Dialogue: Considerations Competition Policy and Digital Transformation"—Mr. Benjamin Radoc Jr., *Director of Economics Office, The Philippines Competition Commission, the Philippines*
5. "Current Russian Regulation of Competition on Digital Markets"—Mr. Stanislav Kotelnikov, *Head of Information Technology Division, The Federal Antimonopoly Service of Russia, Russia*

The Session was moderated by Ms. Duangthip Chomprang, International Institute for Trade and Development, **Thailand**.

A supplementary survey was circulated by Thailand to gather deeper information on common interests among CPLG members in digital markets, specifically enforcement challenges, ongoing efforts to address these challenges, and success factors and shortcomings. The survey received responses from 10 economies—Australia; Chile; Hong Kong, China; Indonesia, Japan, Mexico (COFECE and IFT); New Zealand; Thailand; and the United States (US DOJ and US FTC).

## **2. Executive Summary**

The foremost objective of regulating digital markets should be based on fostering an economic environment that is free, open, fair, non-discriminatory, transparent, and innovative in order to deliver benefits and greater wellbeing to all APEC citizens, especially marginalized groups. In particular, the need for deeper collaboration among competition authorities and economic development agencies is central to crafting a harmonized, whole-of-government approach to this emerging sector.

Challenges lie in the fast-paced and disruptive nature of the digital markets. The general answer to this from CPLG members is to quickly build capacity for enforcers in this area. While the creation of data analysis tools and specialized units have been noted for their effectiveness, some members, especially new and small agencies in developing economies have highlighted the lack of resources as a barrier to these initiatives. Thus, tool sharing can help level the data analysis capabilities across APEC. Consultation with experts and learning from other competition authorities' experience are also key to developing understanding of market dynamics and the nature of anticompetitive behaviors exercised by digital players. Due to the fast-evolving nature of the digital technology, Hong Kong, China suggested a mechanism for regular communication will greatly help competition authorities learn and coordinate with their overseas peers.

A new understanding of competition law application is also forming. A consultative approach was presented by Japan and self-regulation one by Russia respectively. Ex-ante enforcement is also being examined as a potential candidate for sanctioning anticompetitive practices before they occur or cause harms to competition. Domestically, overlapping jurisdiction between competition authorities and telecommunication regulators can be addressed by obtaining more legal clarity from the courts and/or deeper cooperation between the two. Last but not least, the role of data in granting and entrenching companies' market power raises a question of whether and how their value can be factored in during investigation and merger review.

At the APEC level, it remains a forum where experience, recommendations, and resources can be shared and promote greater alignment among member competition agencies and other bodies of the governments. Aligning members' focus and law enforcement approaches with APEC's work on structural reform is central to promoting inclusive growth and address other emerging issues to ensure that economic growth is also innovative, balanced, inclusive, and sustainable. As such, cross-collaboration among different APEC fora and sub-fora in areas such as digital economy development, human capital development, services, supporting women and MSMEs, innovation and infrastructure provision, including in rural and remote areas will also be a requisite to achieve the Putrajaya Vision 2040.

## **3. Towards Competitive Digital Economy for All—Challenges and Action Plan**

### **3.1 Current Hurdles**

Central to the discussion on regulating digital markets, the dialogue and the survey focused on the growing need for immediate capacity building and evolution to competition policy framework and application so as to effectively foster growth and innovation that bring equitable and just economic benefits to all.

The strategic importance of digital platforms to the well-being of APEC citizens and their prosperity has been clearly demonstrated on two fronts. First, the mass adoption of digital platforms on a global scale

spurred by the COVID-19 pandemic and lockdown measures. Second, the intensified digitalization of business models in almost all markets.

Platforms have become lifelines to humanity since mass digital adoption with the onset of the global pandemic. The onus will be on competition authorities across all members to strive to develop policies that best meet the market's evolution as well as to usher in digital transformation in their respective economies. The survey results revealed that CPLG members have been active in participating in the crafting of digital economy development and regulation policies—through the issuing of comments to the lawmakers and taking part in the legislation process.

On the matter of competition enforcement, litigation experience and the number of cases vary from economy to economy. The lack of awareness of competition law, coordination among regulators, the capacity to handle and analyze information, as well as jurisdictional power limits, both geographical and procedural, have been suggested as hinderances to enforcement in digital markets.

Regarding capacity, the rapid transformation and disruption and the large amount of data associated with the operation of online business present a significant obstacle to competition proceedings. New types of business models and practices, such as the use of preferencing and pricing algorithms, means enforcers must constantly update their knowledge to keep up with new developments.

The market dynamics that have given rise to specific competition issues include:

1) Growing concentration of market power, especially the rise in dependency of vendors (often small businesses) on large, transnational platform providers due to lockdown measures. Thailand and Hong Kong, China shared their separate investigations into unfair practices undertaken by food delivery platform providers (unfair terms, exclusivity clause, wide price parity, and bundle arrangements).

2) The “Gatekeepers” who own costly and sophisticated technology and/or data critically important to the operation and competitiveness of other players. The ACCC, for example, has previously stated it was looking into Apple's restrictions on third party access to the Near Field Communications components on Apple mobile devices, and the terms and conditions on which Apple supplies access to Apple Pay.

3) New types of business models that heavily rely on collection and monetization of data e.g., zero-price economy, and digital advertisement services. The COFECE highlighted an experience in investigating monopolistic practices in the market for digital advertisement services and related services, which could consist of tied purchases or sales and/or increasing costs or hindering the production process or reducing the demand faced by other economic agents.

4) The obtainment and use of personal data. From a consumer protection angle, there is a pertinent need to build public awareness on how consumer data is being collected and used. A framework to ensure the transparency of data collection and processing should also be comprehensive and international to address the borderless nature of the digital operators.

### 3.2 Ongoing and Suggested Initiatives

- 1) [Competition Authorities should actively participate in the policy-making process for developing the digital economy](#) with the goal of implementing empowerment strategies for the wider public (consumers, students, children, MSMEs, SMEs, consumer protection groups, standard bodies, industries, etc.).
- 2) [Promotion of diverse players and interoperability of legal frameworks](#) was highlighted by New Zealand's presentation. The need for an overarching framework on digital service frameworks and data governance and portability are considered the building blocks to developing platform economies and digital economies respectively.
- 3) [Legal amendments and evolution still need to be further explored](#). While existing legal frameworks are flexible enough to catch and sanction abusive and collusive conducts, targeted



guidelines can be useful in achieving specific targets e.g., curbing superior bargaining power<sup>1</sup> and increasing transparency.<sup>2</sup> Nevertheless, new legislation might be necessary to:

- a. Empower authorities to collect or conduct the search for new type of information and evidence, a pain point expressed by Australia and Indonesia.
  - b. Give legal clarity in the role of competition authorities vis-à-vis incumbent sector regulators.
- 4) **Explore innovations in investigative processes and tools to address the fast-evolving nature of the digital economy.** For instance, during the dialogue, Japan emphasized its strategy for strengthening competition law enforcement for the digital market through the reinforcement of the functions of the competition authority, as well as its expertise of consultative approach in the actual investigation case regarding digital sector. Russia on the other hand, practiced industry self- regulation oversight instead of a top-down regulatory approach. Both economies focused on enabling healthy ecosystems through cooperation rather than coercion.
- 5) **Increased meaningful domestic cross border collaboration with competition authority peers and other regulators** due to the high concentration in digital markets, its disregard for jurisdictional borders, and the emerging prominence of few companies on a global scale.
- a. On the domestic front, the surge in cross-cutting issues necessitates intensified cooperation among competition authorities, consumer protection agencies, and sector regulators to exchange information, boost understanding of each other' goals, coordinate policy, and craft a whole of government approach to regulating and developing the economy.
  - b. Internationally:
    - i. Existing and new bilateral and regional cooperation frameworks between economies can be utilized to bolster connectivity, interoperability, and predictability of trade and investment across economies.
    - ii. Coordinated enforcement actions have been highlighted as a way to curb transnational businesses from engaging in conduct that could harm multiple economies. In this regard, greater emphasis is put on more robust, proactive, and adaptive regulatory measures.
    - iii. Exchange of experience and best practices can bridge the experience gap between CPLG members as well as develop new approaches to applying the law, for example, the use of ex-ante enforcement and new merger review process which take into account the value of data and innovation—with the aims of fostering innovative market conditions and deter against 'killer acquisitions'.
- 6) **Continue to build understanding for competition enforcers and stakeholders.** CPLG members have been active in participating in international fora and seminars to learn from each other's experience and request consultations from competition experts to understand practices, refine the pace of case proceeding to keep up with the rapid changes, etc.
- a. From the survey, members have shown interest in the following topics.
    - i. Detection of new abusive practices e.g., self-preferencing algorithms
    - ii. Defining market power in the digital markets, which is dynamic rather than static and the need to avoid relying on a narrow set of quantitative indicators

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<sup>1</sup> For example, "The News Media and Digital Platforms Mandatory Bargaining Code," 2021—**Australia**; "Guidelines Concerning Abuse of a Superior Bargaining Position in Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.," 2019—**Japan**; and "The Guideline on Fair Trade Practices Relating to Credit Terms with Small and Medium Enterprises (SMEs)," 2022—**Thailand**

<sup>2</sup> For example, "The Act on Improving Transparency and Fairness of Digital Platforms (TFDPA)," 2020—**Japan**

(i.e., revenue or market shares) but also the amount and quality of data that give a company an advantage against their competitors or third parties.

- iii. Defining the roles of competition authorities vis-à-vis other sector regulators
- iv. Innovation Theory of Harms, especially capturing and responding to potential 'killer acquisitions'

In particular, members indicated a preference for learning from real case examples and through an in-depth, two-way discussion format with their peers to help navigate these complexities. In this regard, and with the significant overlap of objectives among CPLG members, Hong Kong, China suggested a mechanism that enables regular and effective communications, cooperation, and coordination with local regulators and overseas competition peers—which could be the next step in developing CPLG's Competition Policy and Law Database.

- 7) To rise to the challenge posed by the amount and complexity of data, members have:
- a. Increased their resources devoted to data analysis from utilizing data analysis tools, onboarding information technology experts, to establishing data-analysis focused units within their organizations.
  - b. Adopted new technology. For example, COFECE's General Directorate of Market Intelligence has been implementing the "DataLab Project," which uses specialized infrastructure and an arrangement of several tools that facilitate virtual environments, big data operations as well as the design of algorithms, to explore the functioning of specific technologies and assess their potential competition impacts. The Mexican Federal Economic Competition Commission expects the "DataLab project" will allow the Commission to understand how disruptive technologies work. For example, for understanding blockchain, to exploring how the algorithms of search engines work, to assessing situations of algorithmic pricing, as well as experimenting with Artificial Intelligence and Machine Learning Techniques.

Regardless of the demonstrated effectiveness of these initiatives, newer and smaller agencies, especially those within developing economies have mentioned budgetary constraints precluding this route. APEC can facilitate tools sharing between more agencies and their more advanced contemporaries.

In conclusion, to ensure a balanced, inclusive, open, and innovative digital market, the goal of the development approach should have the promotion and safeguarding of competition at the center, especially in nascent digital markets and small players. Empowering the entire ecosystem and market competition regulator is key to ensure successful and sustainable structural reform.

In short, each case presented individually uncovered different pain points for regulators respective to their level of market advancement. With facilitating free and open trade and investment, and promoting economic integration central to the APEC mission, capacity building for members and the development of digital economy development and governance should be viewed as a regional effort in order to enhance the standards of competition policy and law application across the region and ensure a regional and global level playing field.

A common cooperation framework should be developed to better coordinate and pace member's development and commitments towards CPLG goals and that of APEC's Putrajaya Vision 2040, in regulatory and non-regulatory areas. The framework can go a long way to encourage engagement with other stakeholders to contribute and identify common resources and strengths paving a common roadmap to advance digital platforms and economies, respectively.

## Appendix I: Notes from Policy dialogue

A policy dialogue entitled “Competition Policy and Digital Transformation” was organized by the Thailand Competition Commission (TCCT) on the 18<sup>th</sup> February 2022, as part of the 2022 CPLG Annual Meeting.

The dialogue was chaired by CPLG Convenor, Mr. Krisda Piampongsant and moderated by Ms. Duangthip Chomprang, Thailand

The dialogue featured five presentations:

- 1) “Key Findings and Recommendations from The Workshop on Competition Law and Regulation in Digital Markets – *Ms. Anette Gittos, Principal Policy Advisor, the Ministry of Business, Innovation and Employment, New Zealand*”
- 2) “Considerations for Regulation and Enforcement in Digital Markets”—*Mr. James Mancini, Competition Expert, OECD*
- 3) “Case Investigation in the Digital Field”—*Mr. Yasuhiro Yoshikawa, Senior Investigator, Japan Fair Trade Commission, Japan*
- 4) “Policy Dialogue: Considerations Competition Policy and Digital Transformation”—*Mr. Benjamin Radoc Jr., Director of Economics Office, The Philippines Competition Commission, the Philippines*
- 5) “Current Russian Regulation of Competition on Digital Markets”—*Mr. Stanislav Kotelnikov, Head of Information Technology Division, The Federal Antimonopoly Service of Russia, Russia*

After a short opening remark from the Convener Piampongsant, the dialogue began with a short introduction by the moderator.

Ms. Chomprang noted the importance of competition policies and regulation in the evolving digital market landscape, the role competition authorities will need to play to advance fair competition, promote innovation and inclusive development. Taking a short statement from the Enhanced APEC Agenda for Structural Reform and the OECD’s Seoul Declaration on the Future of the Internet Economy in 2008 which was also endorsed by APEC members.

The policy dialogue aims to facilitate group’s understanding and further shape viewpoints on relevant agendas and priorities already revealed by the discussions, shaping the common policy interests, and advancing them should be as forward leaning, adaptive and iterative.

1) **“Key Findings and Recommendations from The Workshop on Competition Law and Regulation in Digital Markets,”** presented by Ms. Anette Gittos, Principal Policy Advisor, the Ministry of Business, Innovation and Employment, **New Zealand**

New Zealand’s presentation laid the groundwork of the policy dialogue discussion specifically the ten recommendations derived from their project “Workshop on Competition Law and Regulation in Digital Markets,” held on 7 and 9 September 2021 with the co-sponsorship of Australia; Canada; Chile; Hong Kong, China; Malaysia; Mexico; Papua New Guinea; Singapore; Chinese Taipei; and Viet Nam.

The key points conveyed:

- 1) Convergence of markets through digital services have blurred traditional business practices usually akin to specific conventional business sectors resulting in difficulty in ascertaining market power.
- 2) Competition policy can be nullified by digital market and the digital economy. New competition regulation must be “Fit for Purpose” given the changed context. Ms. Gittos alluded to effects of digitalization of businesses and its emerging business models (online marketplace, digital platforms, market aggregators, online services) raises 4 core questions: (1) Who are we regulating? (2) Who should be regulating (3) Who should be ensuring accountability and enforcement? (4) How these powers continue to work effectively?
- 3) The mass global digital adoption took only 8 weeks which was compared to 5 years of adoption fast forwarded to date, brought about by COVID-19 pandemic.
- 4) Further accentuating the importance of digital platforms as a lifeline for citizens and the changing dynamics between government with its citizens. Massive adoption at this scale, has a profound meaning on the new social contract in all areas of social-economic-technological-legal ramification (e.g. labour law, social security, competition law, universal access for healthcare and Internet, consumer protection, privacy, data protection, etc.).
- 5) Convergence of services through digital transformation via technology and online platforms mean that service provisioning must ensure appropriate regulation and legal framework are in place to ensure online rights of citizens to have equal and fair access to online services regardless of providers (private sector or public agency).
- 6) Enforcement is also more complex due to the interdisciplinary nature of digital markets due to several factors namely, cross-jurisdictional, multisided market, market power, cross cutting across many unrelated industries or business sectors, interagency, universal access, data protection and privacy, etc.

*Note: 10 recommendations based on survey results conducted under the “Workshop on Competition Law and Regulation in Digital Markets Project.”*

- (1) Coordinate and facilitate discussion between existing working groups and for a to fast-track digital discussions*
- (2) Develop a digital services market framework*
- (3) Economies strengthen competition policies for the digital age and align these approaches across the APEC region*
- (4) Consider ways to increase the pace in which competition cases are processed, and the use of interim measures*
- (5) Promote cooperation and coordination between competition authorities and relevant public sector agencies responsible for broader digital regulation*
- (6) Facilitate capacity building encourage appropriate and relevant training*
- (7) Promote knowledge sharing between APEC member economies*
- (8) Develop a model data governance framework*
- (9) Consider data portability requirements and/or interoperability*
- (10) Progress implementation of APEC Cross Border Privacy Rules*

2) **“Considerations for Regulation and Enforcement in Digital Markets,”** delivered by *Mr. James Mancini, Competition Expert, OECD*

1) Evidence suggests market power is on the rise across OECD digital markets. This suggests that competitive intensity has declined, particularly in digital-intensive sectors. Potential causes can include growing structural barriers to competition (preempting new competitors from entering the market), potential limitations of existing competition enforcement frameworks, and sector regulations that unnecessarily restrict competition.

2) Digitalisation has brought significant benefits for consumers in the form of new products, lower intermediation costs, and improved connectivity. At the same time, the features of these markets may give rise to the risk of tipping, amplified harm from anticompetitive conduct, and new forms of misconduct.

3) There have been a range of concerns about existing competition policy frameworks, including gaps in legislation, slow enforcement, and a need for greater digital expertise within competition authorities. Competition policy has responded through a range of measures, including new legislation and new investigations.

4) International cooperation will be crucial in addressing these issues given the global nature of digital markets and the risk of significant regulatory divergence.

3) **“Case Investigation in the Digital Field,”** delivered by *Mr. Yasuhiro Yoshikawa, Senior Investigator, Japan Fair Trade Commission, Japan*

The Japan Fair Trade Commission (JFTC), based on its investigation, suspected that Apple’s market practice such as requiring developers of application (app) to use in-app purchases (IAP) for sales of their digital content and prohibiting them from including in-app links to their website, might violate Japan’s anti-monopoly regulation (article 3 or 19). "App Store" containing the IAP was the only channel where iPhone users can access content and digital services. Apple collected 15% or 30% of sales as commission from app developers when they sold their digital content through IAP, which was very burdensome for app developers. The JFTC has evaluated such restrictive practice could violate Japan’s anti-monopoly regulation ("Trading on Restrictive Terms") if it unreasonably forced app developers to use IAP and prohibit a payment outside of the IAP or prevent sellers unreasonably from providing information on the payment outside of the IAP.

In addition, app developers pointed out that the App Store Review Guidelines (Guidelines), published by Apple as its criteria for reviewing apps in the App Store, contains ambiguous articles and it was unclear why their apps were judged not to comply with the Guideline (so-called "rejection"). It could be recognized as a problem if Apple rejects developers’ apps in order to achieve an unjustifiable purpose under the Japan's anti-monopoly regulation. Even if there is no unjustifiable purpose, such conduct could impair the predictability of developers' business activities and limit new entrants and investments.

The JFTC reached a breakthrough through consultation with Apple over time. Apple proposed to voluntarily take measures to allow developers to include an in-app link and to revise the Guidelines. This has opened up competition through allowing more choices for app developers and consumers.

The key lessons from Japan experience with digital platform operator:

1) Pursuing legal action was not necessarily a priority. In order to promptly recover competitive environment, the important thing is to have candid conversation with companies in question and withdraw effective remedial action from them.

2) Business activities of dominant players in digital sector are worldwide and it is important for all market competition regulators to have a convergent approach to these dominant players.

4) **“Policy Dialogue: Considerations Competition Policy and Digital Transformation,”** presented by Mr. Benjamin Radoc Jr., Director of Economics Office, The Philippines Competition Commission, the Philippines

Mr. Radoc Jr. shared challenges faced in Philippines digital markets and its needs.

- 1) Regional capacity building for regulators in digital market governance and next-generation of regulators
- 2) Development of an APEC standard basic capacity building programme and curriculum (content) for regulators includes tools, legal frameworks, forensic investigation skills, etc.
- 3) Development cooperation among regulators to develop tools and training curriculum common competition policies to include regional capacity building for regulators, cooperation among APEC regulators, interoperability of policies for joint-enforcement initiatives, tools development, fostering healthy ecosystem, etc.
- 4) Development framework to address structural reform

Competition policies and regulations for digital market need to consider adopting a developmental approach especially for nascent digital markets where there is the dual role of fostering healthy ecosystem and promoting new businesses.

- a. Address growing inequalities in social-economic spheres has far reaching implications and digital market development can help address this. In order to address structural reform, empowerment is key. This relates to empowerment for regulators and society (consumer and future digital business).
- b. Going beyond business competition, developing future entrepreneurs and digital workforce should be essential as building public trust, institutional building and establishing competition regulations for marketplace.
- c. Developing new education curriculum for the digital economy and new set of skillsets for regulators and local businesses (MSMEs).
- d. Structural reform may be needed to make development more inclusive by supplementing with policies that improve the participation of minorities such as women, rural and indigenous communities, and persons with disabilities in the economy and support investment in education and skills, innovation programs and the provision of infrastructure (including in remote areas).

5) **“Current Russian Regulation of Competition on Digital Markets”** presented by Mr. Stanislav Kotelnikov, Head of Information Technology Division, The Federal Antimonopoly Service of Russia, **Russia**

Mr. Kotelnikov highlighted the current regulatory environment including its new set of anti-monopoly regulations to keep up with the growing market and the need for self-regulation as part of enabling fair competition among market players. The softer approach means that the industry agrees and adopts core principles such as openness, neutrality, user autonomy, user protection and rules of transparency as its modus operandi. The new regulation is expected to be introduced by the end of 2022. Russia in many instances has been successful in regulating key players in the past which included the some of the big 5s and other key digital platforms with the likes of Yandex, Google, Apple, Microsoft and Booking.com.

## Appendix II: Survey Response Summary

### APEC CPLG Policy Dialogue on Digital Transformation and Competition Policy Survey

This survey is an extension of the Policy Dialogue on Digital Transformation and Competition Policy held during the CPLG 2022 meeting on 18 February 2022. The objective is to reveal common interests among APEC competition agencies in the digital markets on which future capacity building and cooperation can be built upon. Your responses will help complete the final report by identifying challenges affecting competition policy enforcement in the digital markets, stocktaking current efforts to address these challenges, and reveal current shortcomings. We thank you for your support.

**Economy name: A total of 10 economies have responded (Australia; Chile; Hong Kong, China; Indonesia, Japan, Mexico (COFECE and IFT), New Zealand, Thailand, and The US (US Department of Justice (DOJ) and US Federal Trade Commission (FTC))**

**Agency: A total of 11 agencies have responded**

1. **How often does your agency handle competition cases pertaining to digital markets? Please explain. How would you rate your level of enforcement experience in digital markets?**

**1) No experience (0 cases in the last 5 years), (2) little experience (1-5 cases in the last 5 years), (3) some experience (6-15 cases in the last 5 years), (4) experienced (more than 15 cases in the last 5 years)**

No experience: 0

Little experience: 4 (Chile; Hong Kong, China; Indonesia; Thailand)

Some experience: 2 (Australia; New Zealand)

Experienced: 5 (Japan; Mexico COFECE; Mexico IFT; US DOJ; USA FTC)

2. **For agencies with no experience (or little experience) in enforcing competition in the digital markets, what do you think are reasons for the lack of such cases/experience? Are there any initiatives in place to boost your agency's enforcement activities in the digital market?**

#### Chile

1. Few complaints received
2. A new chapter regarding the effects on competition in digital markets in the updated horizontal merger guidelines released last year.

#### Hong Kong, China:

3. Slower development in digital markets, which has been accelerated by the pandemic.
4. The question also assumes 5 cases is "little experience" without regard to the proper context – e.g. without taking into account the size of the organisation or what initiating a case involves.

#### Indonesia

##### Obstacles

1. Lack of enforcement power (no authority to conduct search and seizure),
2. Lack of adequate capacity to analyze cases in the digital market,
3. Lack of resources, as the analysis of such cases requires specific tools and experts.

**Initiatives**

1. We will **develop the necessary capacities** for our investigators to handle and analyze cases in the digital market by having workshops and bilateral discussions with international competition agencies who have advanced experience in handling cases in the digital market;
2. Pursuing the **amendment of our competition law** to include the power to conduct search and seizure and to include extraterritorial jurisdiction, considering the borderless nature of the digital market;
3. On the matter of resources, we are putting **a request to the parliament for a larger budget to handle cases in the digital market.**

**Mexico IFT**

Although the IFT has handled several cases pertaining to digital market, in our experience we have found that correct and appropriate course of action could be diminished because some of the following reasons:

- **Lack of formal or informal coordination arrangements** between regulatory agencies and competition, privacy, and consumer protection authorities.
- **Lack of guiding principles for the economic analysis of dynamic and innovative markets**, IFT is aware that economic competition analysis is grounded on sound economic theories that have worked for many years; nonetheless, IFT also seeks to make its competition analysis more robust in mergers and market power assessment.
- **Lack of information gathering powers for market studies and investigations.** IFT considers that more advocacy should be done to promote formal information gathering powers.

**New Zealand**

1. New Zealand is a small and distant economy that is unlikely to be effective alone in curbing the market power of large international digital firms and platforms through enforcement action.
2. The NZCC is continuing to liaise with its international counterparts on developments relating to digital markets in those economies, particularly in Australia. It is also looking internally at expanding its capabilities in terms of digitalisation and the use of data analytics. For example, in 2021 it appointed a Chief Data Officer to establish a data and analytics function for the NZCC.
3. Overall, the current approach of the NZCC is to monitor and assess the success of overseas approaches to regulating digital services, rather than seek to be a leader in this field. That is, to have the capability and tools such that the NZCC can be a fast follower of international responses.

**Thailand**

1. Lack of awareness of competition law among the public
2. Transnational companies such as Google and Facebook have their headquarters outside Thailand, making their offenses to be more likely to be caught by other competition authorities.

**3. Which of these policy objectives best align with your agency’s goals towards the digital markets? (Choose at least 1)**

Safeguard fair competition	11	Australia; Chile; Hong Kong, China; Indonesia; Japan; Mexico COFECE; Mexico IFT; New Zealand; Thailand; US DOJ; US FTC
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Promote entrepreneurs, MSMEs	3	Hong Kong, China; Indonesia; Thailand
Consumer protection	7	Australia, Chile, Hong Kong, China, Japan, Mexico IFT, New Zealand, US FTC
Ensure free and fair competition in emerging markets	8	Australia, Hong Kong, China, Japan, Mexico COFECE, Mexico IFT, New Zealand, Thailand, US DOJ,
Build an overarching digital economy development framework in collaboration with other regulators and legislators	6	Australia, Indonesia, Japan, Mexico COFECE, Mexico IFT, US FTC
Improve quality of online services	5	Australia, Hong Kong, China, Mexico IFT, US DOJ, US FTC
Address unfair business practices by local players	7	Australia, Indonesia, Japan, Mexico IFT, New Zealand, Thailand, US FTC
Address unfair business practice by foreign players	6	Australia, Indonesia, Japan, Mexico IFT, Thailand, US FTC
Support sustainable development i.e., universal access, internet access for all, circular economy, gender, fake news, etc.	2	Australia, Mexico IFT,
Attract foreign investors in the digital technology	1	Hong Kong, China
Promote interagency cooperation	8	Australia, Hong Kong, China, Mexico COFECE, Mexico IFT, New Zealand, Thailand, US DOJ, US FTC
Promote transparency and digital taxes (avoidance)		
Others such as promote local language content development, e-commerce, or new digital standard, promote cross-border trader, data localization, IPR, etc.	2	US DOJ, US FTC

#### Questions for prioritized areas of increasing the capacity of competition authorities

4. For agencies with at least some enforcement experience in the digital markets, please rank the below challenges by their frequency and challenge imposed on competition law enforcement (1 being the most frequent/most negative)? (Challenges never encountered can be left blank.)

\*\*\* As not every response has filled out this section, and the scaling varies: below are issues that has been highlighted by 3 or more responses. \*\*\*

	List of Challenges	Frequency	Challenge
	<b>1. Competition Policy Issues</b>		
a.	<b>Insufficient and unclear legal frameworks for regulating digital platforms (e.g., Scoping digital markets and defining</b>	Australia, Mexico COFECE, Mexico IFT, Thailand	

	<b>digital services to regulate and not regulate)</b>		
<b>b.</b>	<b>Lack of understanding on new and evolving business models in digital market (e.g., zero-price products and services)</b>	Australia, Indonesia, Mexico COFECE	
<b>2. Competition Enforcement Issues</b>			
<b>c.</b>	<b>Unclear market definitions</b>	Indonesia, Japan, Mexico COFECE, Thailand	
<b>d.</b>	<b>Lack of case examples to guide investigations</b>	Indonesia, Thailand	
<b>e.</b>	<b>Jurisdiction limitations (cross-border matters)</b>	Indonesia, Mexico IFT, Thailand	
<b>f.</b>	<b>data processing difficulties (due to large amount of data or in hard to interpret format)</b>	Indonesia, Mexico COFECE, Mexico IFT, Thailand	
<b>g.</b>	<b>Slow and/or ineffective remedy design and implementation</b>	Australia, Indonesia	
<b>h.</b>	<b>Limited cooperation among industry regulators</b>	Indonesia, Mexico IFT, Thailand	
<b>i.</b>	<b>Existing investigative and enforcement procedures are outpaced by developments in the markets</b>	Indonesia, Thailand	
<b>j.</b>	<b>Lack of resources and/or specialized skills</b>	Indonesia, Japan, Mexico COFECE, Thailand	
<b>k.</b>	<b>Others (please specify _____)</b>		

5. **For challenges you have ranked as having most challenge on the enforcement (at least the top 3), please suggest capacity development initiatives both short-term (1-2 years) and long-term 3-5 years) you believe could address them.**

#### **Australia:**

The ACCC has recently proposed, through its Digital Platform Services Inquiry fifth report, a new regulatory regime to work alongside Australia's existing competition laws.<sup>3</sup> More specifically, the fifth report has recommended the introduction of mandatory service-specific codes of conduct for 'designated' digital platforms to address anti-competitive issues. Such codes could include targeted obligations to:

- Prevent competitive self-preferencing, tying and exclusive pre-installation agreements.
- address data advantages.
- ensure fair treatment of business users; and
- improve switching, transparency, and interoperability.

#### **Indonesia:**

Short term:

1. Discussions with more experienced competition authorities
2. In house trainings based on current needs
3. Database of experts on data analysis
4. Increase cooperation with relevant ministries and sector regulators

Long term

1. Designing specific in-house training programs to handle cases and market studies in digital markets for junior and senior investigators and analysts;
2. Specific digital unit in the organization
3. Brining in outside experts
4. Develop more specific cooperation agreement with strategic law enforcers/ministries/sector regulators that could provide confidential information for studies and or cases in digital markets.

#### **Mexico COFECE**

1. **Organize fora with international experts** to update and strengthen knowledge on digital platform operation, learning from foreign case example, strengthen capacity for facing challenges, ensure the benefits to Mexican consumers
2. **Strengthen capacity building and technological infrastructure** COFECE has a General Directorate of Market Intelligence that provides specialized economic and data analytics services, as well as intelligence work.

#### **Mexico IFT**

1. **Stronger co-operation with other regulators**, such as **National Institute for the Access to Information**, collaboration could focus on the competition implications of **privacy protection** and could consist in advocacy measures to build consumer awareness, and new regulatory proposals;
2. The IFT should be granted the **right to co-operate directly across borders** within its scope of jurisdiction;
3. Cooperation agreements between the two competition authorities in Mexico for the **collection or exchange of information**;

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<sup>3</sup> See the ACCC's (2022) "Digital platform services inquiry, interim report no.5 – regulatory reform", available at: <https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-platform-services-inquiry-2020-25/september-2022-interim-report>.

4. Collaboration between the two competition authorities in Mexico in order to share and **develop each authority's understanding of the digital landscape and its rapid evolution**;
5. Collaboration to **strengthen international engagement with the competition authorities of other economies to exchange information and share best practices** regarding approaches to competition law enforcement and regulation of digital markets.
6. Collaboration to **inform authorities of new matters and planned execution decisions** and, where appropriate, **coordinate investigations** and exchange information that allows the effective application of the competition law and discourages the abuse of power or dominance.
7. **To launch an international survey, addressed to APEC Economies, that will allow us to identify the methodology and technological tools (hardware and software) used in the interpretation and processing of market-related data.**

#### Thailand

- 1) Lack of resources and specialized skills
  - a. On the short term – targeted training on issues that are relevant to competition enforcement in Thailand
  - b. On the long term – establishment of a unit in TCCT specifically addressing the digital market
- 2) Slow procedures
  - a. On the long term – procedural enhancement which prioritize the pace of investigations, cutting superfluous steps, requirements while preserving the integrity of the case/due process
- 3) Unclear market definitions
  - a. on the long term – a seamless, whole-of-government approach to competition regulation in digital markets

#### US FTC

The FTC has recently onboarded a number of technologists and other experts to assist with current enforcement and policy matters. We expect this may increase over time.

6. **Has your economy carried out or participated capacity development projects (workshops, seminars, etc.) to address these challenges? Please provide the specific topics/issues covered and a brief explanation. How effective were they to address such challenges?**

#### Australia:

The ACCC is currently undertaking a five-year inquiry into markets for the supply of digital platforms services.

The ACCC has also completed two other inquiries related to digital platforms including the Digital Platform Inquiry (published July 2019) and the Digital Advertising Services Inquiry (published September 2021). These inquiries involve extensive investigation and analysis, including public consultation.

The ACCC has engaged in international and domestic seminars e.g. (OECD) *Roundtable on the Evolving Concept of Market power in the Digital Economy* and the National Consumer Congress, which brings together members of the consumer advocacy movement and government agencies to discuss contemporary issues affecting consumers.

## Hong Kong:

Short term: various forms of **training**, such as online seminars and in-person workshops on digital market-related issues, such as relevant competition legislation and enforcement around the world.

Long term: a mechanism that enables regular and effective communications, cooperation, and coordination with local regulators and overseas competition peers.

## Indonesia:

Workshops and bilateral discussions with international competition agencies such as the US FTA, US DOJ, JFTC, DG Competition-European Commission, Bundeskartellamt, French Competition Authority, and Turkish Competition Authority to delve into specific cases in the digital market. **A discussion format is preferred as it allows intensive discussion between our investigators and the investigators from the relevant competition agencies.**

## Mexico COFECE

1. In 2017, COFECE organized the event: ***Competition-related challenges in the digital economy*** with the objective to better understand: (1) the characteristics of digital markets and their positive and/or negative effects on competition; (2) the need (or absence thereof) to regulate markets and new activities that emerge from the digital economy and, in such cases, other public policy objectives that new regulation should strive to meet as it promotes innovation and competition; and (3) the challenges and scope of the competition legal frameworks to prevent and correct firms' conducts and anticompetitive market structures in this context.
2. COFECE has had an active role in **OECD** roundtables and sessions about the digital economy including: Digital disruption in financial markets; Market power in the digital economy and competition policy; Practical approaches to assessing digital platform markets for competition law enforcement. Other OECD roundtables in which COFECE's officials have participated are: Ex ante regulation and competition in digital markets, Competition issues in news media and digital platforms, Competition economics of digital ecosystems, and Abuse of dominance in digital markets.
3. In 2019 COFECE organized in Mexico City, the **ICN** Unilateral Conduct Workshop which had the objective of promoting a deeper understanding of issues surrounding the assessment of unilateral conducts in the context of digital platforms. These issues included market definition and market power of digital platforms, and theory and practices on tying in digital markets. COFECE has also shared its experience on: the assessment of mergers in digital markets, actions to analyze digital markets, self-preferencing in abuse of dominance cases.
4. In **APEC** COFECE's officials have participated in the meetings of the Digital Economy Steering Group, and in the New Zealand's project on Competition Law and Regulation in Digital Markets. In the latter, participating in the related event with its experience on the analysis of digital mergers, and providing input for the corresponding report. COFECE has also submitted with the telecoms regulator a joint project proposal to the Digital Economy Steering Group on "*Policies and tools for improving digital economy and competition in digital markets: current issues*".

## Mexico IFT

1. Mexico (IFT) completed in 2019, the APEC Project CPLG 02 2018 named "**Competition Policy for Regulating Online Platforms in the APEC Region**" (<https://www.apec.org/publications/2019/08/competition-policy-for-regulating-online-platforms-in-the-apec-region>)

2. Since 2015, the IFT **organizes yearly the Forum “Challenges on Competition in the Digital Environment”**, gathering experts, scholars, industry members, and domestic and foreign competition and regulation authorities to discuss the current status regarding the challenges and opportunities that the telecommunications and broadcasting sectors face in the context of the digital economy concerning regulation and economic competition; The aim is to debate about the challenges that the new competitive dynamics, derived from technological advancements and users’ preferences, impose to markets within these sectors, from both preventive (ex ante competition policies and regulation) and corrective (ex post competition policies and enforcement) scopes.
3. Also, IFT members are in constant training and have participated in the following seminars in the last two years:
  - a. OECD workshop on “Market Power Definition” (2020).
  - b. Barcelona School of Economics, courses on: (i) Quantitative Methods for Competition Analysis (2020); (ii) Competition in Digital Markets (2021).
  - c. Others: (i) Merger control: recent developments in Digital Markets (2020); (ii) Digital Economy (2020).

### New Zealand

The NZCC participates in a **data analytics group** with other agencies which are members of the **Multilateral Mutual Assistance and Cooperation Framework for Competition Authorities (MMAC)**. Through this group, agencies share information on the digital and data tools and systems that they each use as part of their processes.

### Thailand

Yes. TCCT has designated the online platforms as one of organization’s strategic priorities and have recently participated in seminars and trainings such as presentation of the study of the digital platform landscape in Thailand, and a training from the JFTC on the topic of “Digital Forensics: Methodology for Collection and Use of Electronics Evidence.”

### US DOJ

The Antitrust Division and the Federal Trade Commission, the two U.S. agencies that enforce the antitrust laws, are in the process of revising their merger guidelines. As a part of this process, the agencies are seeking comments from outsiders on how the guidelines might be revised considering the rise of digital markets.

7. **Below are examples of emerging issues or topics suggested in CPLG 01 2020A “Competition Law and Regulation in Digital Markets” final report and during the dialogue. Please select ones you wish to be addressed in future capacity building initiatives.**

Defining the roles of competition authorities in regulating the digital markets vis-à-vis other regulators	7	Chile, Hong Kong, China, Mexico COFECE, Mexico IFT, Thailand, US DOJ, US FTC
Defining market powers in the digital markets	9	Chile, Hong Kong, China, Indonesia, Japan, Mexico COFECE, Mexico IFT, Thailand, US DOJ, US FTC
Detecting new abusive practices e.g., self-preferencing algorithms	11	Australia, Chile, Hong Kong, China, Indonesia, Japan, Mexico COFECE, Mexico IFT, New Zealand, Thailand, US DOJ, US FTC

Capturing and responding to 'killer acquisitions'	6	Chile, Hong Kong, China, Japan Mexico COFECE, Mexico IFT
Enhancing investigative tools e.g., ex-ante assessment and judgement, implementing behavioral and structural remedies	8	Australia, Hong Kong, China, Japan Mexico COFECE, Mexico IFT, Thailand, US DOJ, US FTC
Horizontal and vertical integration	3	Mexico COFECE, Mexico IFT, Thailand
Forensic investigation	4	Hong Kong, China, Indonesia, Mexico COFECE, Thailand
Soft skills building for enforcers	2	Hong Kong, China, Mexico IFT
Assessing business value of data and its impacts on market powers	6	Hong Kong, China, Indonesia, Japan, Mexico COFECE, Mexico IFT, Thailand
Creating more robust data governance to promote fair competition, protect consumers' privacy, and/or clarify liability	2	Hong Kong, China, Mexico IFT
Increasing interoperability of services and platforms	2	Hong Kong, China, Mexico IFT
Others (please specify_____)		

**Questions for prioritized areas of international cooperation for improving the enforcement in the digital economy**

8. Please categorize below technical cooperation areas/initiatives to enhance competition enforcement in the digital economy in your economy based on their implementation stages. For areas with no ongoing initiatives, please divide them based on their importance or potential contribution to enhancing competition law enforcement and provide brief description on the rationale, cooperation framework, result, or expected result.

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
a.	<b>Updates to competition laws or the introduction of new legislations or regulations to specifically address the digital market</b>	<b>3</b> Australia, Japan Chile	<b>5</b> Indonesia Mexico IFT, Thailand, US DOJ, US FTC	<b>1</b> Hong Kong, China	
	<p><b>Description:</b></p> <p><b>Australia</b></p> <ol style="list-style-type: none"> <li>1. The News Media and Digital Platforms Mandatory Bargaining Code 2021 (the code) is a mandatory code of conduct, which governs commercial relationships between Australian news businesses and 'designated' digital platforms who benefit from a significant bargaining power imbalance.'</li> <li>2. The ACCC, in the September 2022 report of the Digital Platform Services Inquiry, recommended a range of new measures to address harms from digital platforms to Australian consumers, small businesses and competition including mandatory codes of conduct for certain platforms and services to protect and promote competition. The Australian government is considering the ACCC's latest</li> </ol>				

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	<p>recommendations and would consult publicly to ensure Australia has the right regulations in place to be a leading digital economy.</p> <p><b>Indonesia</b></p> <ol style="list-style-type: none"> <li>The amendment of Indonesian Competition Law is still being processed.</li> </ol> <p><b>Japan</b></p> <ol style="list-style-type: none"> <li>Revising “Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination” in 2019</li> <li>Establishing “Guidelines Concerning Abuse of a Superior Bargaining Position in Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.” in 2019</li> <li>Establishing the Act on Improving Transparency and Fairness of Digital Platforms (TFDPA) in 2020</li> </ol> <p><b>Mexico IFT</b></p> <ol style="list-style-type: none"> <li><b>The new National Law for Transparency, Prevention and Fight Against Undue Practices in the Contracting of Advertising</b> (which includes Digital Advertising). The objective of this law is to promote transparency in the advertising market, as well as preventing and combating business practices that may constitute an undue advantage in favor of certain individuals to the detriment of advertisers and, ultimately, to consumers.</li> </ol> <p><b>Thailand</b></p> <p>TCCT has issued a guideline on food delivery platform providers. The upcoming review of the Trade Competition Act will look into whether competition issues in the digital economy warrant enduements to the Act.</p> <p><b>US DOJ</b></p> <ol style="list-style-type: none"> <li>The United States Congress currently is considering several bills that seek to address concerns about competition in the digital economy, including bills that <b>would ban self-preferencing and open up app stores</b>, both of which would facilitate greater competition. It is impossible to predict, however, whether any of the bills will become law.</li> </ol> <p><b>US FTC</b></p> <ol style="list-style-type: none"> <li>For example, FTC &amp; DOJ are currently drafting new Merger Guidelines.</li> </ol>				
b.	<b>Data processing/analysing tool development</b>	2 Japan Chile	5 Mexico COFECE, Mexico IFT, Thailand, US DOJ US FTC	2 Hong Kong, China, New Zealand	1 Indonesia
	<p><b>Description:</b></p> <p><b>Indonesia</b></p> <p>The development of this tool requires specific amount of <b>budget</b>, as our government is currently reducing the budget for Ministerial/Government Agencies/Institution to tackle economic recovery, this initiative needs to be postponed.</p>				



	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	<p><b>Mexico COFECE</b> COFECE's General Directorate of Market Intelligence supports the Directorates of the Investigative Authority by providing insights resultant of the collection and analysis of key information from markets, as well as undertakings. Furthermore, it conducts the forensic acquisition of digital information during dawn raids and processes economic and digital data from investigations to aid substantiate cases. <b>In 2020 this General Directorate developed a "DataLab project" which uses specialized infrastructure and an arrangement of several tools that facilitate virtual environments, big data operations as well as the design of algorithms, to explore the functioning of specific technologies and assess their potential competition impacts. The "DataLab project" will allow the Commission to understand how disruptive technologies work.</b> For example, for understanding blockchain, to exploring how the algorithms of search engines work, to assessing situations of algorithmic pricing, as well as experimenting with Artificial Intelligence and Machine Learning Techniques.</p> <p>We expect that the early results of the "DataLab project" could become evident as early as in 2022, with some preliminary observations that result from the exploitation of these disruptive technologies. In addition to this exploratory approach, the "DataLab project" is designed to provide other departments of the IA with access to powerful infrastructure and technological solutions to solve additional operational requirements, such as processing large volumes of information collected as part of ongoing investigations, web scrapping, text mining or even designing analytical routines and algorithms for complex data-intensive cases. International best practice from other competition agencies has been considered in this project.</p> <p><b>Thailand</b> TCCT is establishing the Business Intelligence Unit which will use information technology and big data to analyze market conditions in diverse industries to gain understanding of business operations and detect potential competition infringement</p> <p><b>US DOJ</b> The Antitrust Division is devoting more resources to ensuring that it has the physical and technical capacity to accept and analyze large data submissions that are common in digital markets investigations and litigations.</p> <p><b>US FTC</b> The FTC is devoting resources to develop more capability to accept and analyze large data submissions to support complex investigations and litigation,</p>				
c.	<b>Joint market research with competition agencies in other jurisdictions</b>	1 Australia,	1 US FTC	5 Chile Hong Kong, China, Japan, Mexico IFT, US DOJ	2 Indonesia, Thailand
	<p><b>Description:</b></p> <p><b>Australia:</b> <b>The Compendium of approaches to improving competition in digital markets 2021</b> The compendium highlights that there is a high level of commonality in the approaches that authorities are taking to address competition concerns.</p> <p>The ACCC provided a submission to the compendium and the submission included a discussion of key issues, such as:</p>				

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	<ul style="list-style-type: none"> <li>Opening investigations, conducting studies, or bringing enforcement actions to address concerns about the exercise of market power of platforms.</li> <li>Strengthening institutional capabilities by developing specialist teams staffed with technical experts or upskilling existing staff.</li> <li>Considering or introducing legislative reforms to either bolster enforcement tools or introduce an ex-ante regulatory regime or both.</li> <li>Ensuring regulatory cooperation both among domestic regulators working across disciplines as well as with foreign counterparts to promote interoperable systems.</li> </ul> <p><b>Indonesia</b> The cooperation frameworks with some economies are already available in the form of FTA or MoUs</p> <p><b>US FTC</b> While the FTC does not engage in formal joint market studies, we frequently discuss with and learn from other agencies when examining new topics.</p>				
d.	<b>Joint investigations with competition agencies in other jurisdictions</b>	1 Japan		6 Chile Hong Kong, China Mexico IFT, Thailand, US DOJ US FTC	1 Indonesia
	<p><b>Description:</b> <b>Japan</b></p> <ol style="list-style-type: none"> <li>The Acquisition of Fitbit by Google (2020) The European Commission and other foreign competition authorities also reviewed the Acquisition, and the JFTC conducted the business combination review while exchanging information with those authorities.</li> <li>The Integration of Salesforce.com, Inc. and Slack Technologies, Inc. (2021) The Transaction was also reviewed by overseas competition authorities and the JFTC exchanged information with the Australian Competition and Consumer Commission and the U.S. Department of Justice in the course of the review.</li> </ol>				
e.	<b>Other forms of information sharing with other competition agencies</b>	9 Hong Kong, China, Indonesia Japan, Mexico COFECE. Mexico IFT, New Zealand, Thailand, US DOJ US FTC	1 Australia	1 Chile	

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	<p><b>Description:</b></p> <p><b>Australia:</b> The ACCC regularly receives requests for information and investigative assistance from other competition agencies to discuss digital issues, investigations or to share general information about investigative techniques and progress. The ACCC also regularly reaches out to fellow competition agencies to discuss the above issues relating to digital issues.</p> <p><b>Hong Kong, China:</b> We have held meetings with our overseas counterparts, including the competition agencies in PRC, Malaysia and Singapore to exchange views and experiences (but not confidential information) in handling issues in relation to digital markets.</p> <p><b>Indonesia</b> The cooperation frameworks used are FTA or MoUs, some of them are also implemented informally. Most of the information shared are non-confidential information, however they are still beneficial to give further insights on certain cases.</p> <p><b>Mexico COFECE</b> COFECE has 19 cooperation agreements with other competition authorities that facilitate the exchange of public information in various areas of competition law enforcement and advocacy.</p> <p><b>Thailand</b> Under cooperation frameworks such as FTAs and MOUs, TCCT can exchange views and experiences that could aid investigations into the digital markets.</p> <p><b>Mexico IFT</b> Currently, the IFT has three Memoranda of Understanding with competition authorities from Costa Rica, Peru and Argentina. In addition, through confidentiality waivers the IFT has exchanged analysis on merger cases with other competition authorities in Latin America.</p> <p><b>US FTC</b> While the FTC does not engage in “joint investigations” with competition agencies in other jurisdictions, it does very actively cooperate and, where permitted by law or with party waivers of confidentiality, share information in parallel investigations.</p>				
f.	<p><b>Cooperation with other domestic industry regulators</b></p>	<p>8 Australia, Hong Kong, China, Indonesia Japan, Mexico IFT, Thailand, US DOJ US FTC</p>	<p>2 Mexico COFECE</p>	<p>1 Chile</p>	
	<p><b>Description:</b></p> <p><b>Australia</b> In March 2022, the ACCC, Australian Communications and Media Authority, Office of the Australian Information Commissioner, and Office of the eSafety Commissioner formed the <b>Digital Platform Regulators Forum (DP-Reg)</b>. The forum seeks to increase cooperation</p>				

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	<p>and information sharing between digital platform regulators on broad areas of intersection, including new and novel regulatory approaches.</p> <p><b>Hong Kong, China</b> The HKCC has previously engaged the Hong Kong Monetary Authority on fintech issues</p> <p><b>Indonesia</b> The cooperation frameworks used are MoUs, some of them are also implemented informally. Most of the cooperation activities consists of information and data sharing, policy recommendation, and coordination in formulating certain regulation. The result is quite effective, both in the enforcement of competition law and in internalization of competition principles.</p> <p><b>Japan</b> The JFTC has cooperated with the Ministry of Economy, Trade and Industry, the Ministry of Internal Affairs and Communications, the Consumer Affairs Agency, and the Personal Information Protection Commission, to contribute to the discussion on the development of rules for the digital markets under the Headquarters for Digital Market Competition in the Cabinet.</p> <p><b>Mexico COFECE</b> COFECE has 14 inter-institutional agreements that facilitate the exchange of public information in various areas of competition law enforcement and advocacy. These includes agreements signed with the telecom and financial regulators.</p> <p><b>Mexico IFT</b></p> <ol style="list-style-type: none"> <li>1. As part of the National Strategy of Cybersecurity, IFT works along with other Sectoral Regulators and National Sectoral Ministries (2019).</li> <li>2. IFT signed a Memoranda of Understanding with the National Institute of Information Access (public and private information regulator) (2021).</li> <li>3. IFT signed a Memoranda of Understanding with the National Consumer Protection Enforcer (2014).</li> </ol> <p><b>Thailand</b> TCCT has signed MOUs with other industry regulators for competition protection and promotion including The National Broadcasting and Telecommunication Commission</p>				
<b>g.</b>	<b>Secondments from another competition agency</b>	4 Australia, Indonesia, US DOJ US FTC	1 Mexico IFT	3 Chile Hong Kong, China, Japan, Thailand	
	<p><b>Description:</b></p> <p><b>Indonesia</b> The cooperation frameworks used are FTA and technical cooperation agreement. The main focus of secondees activities is sharing of knowledge and best practices.</p> <p><b>US FTC</b> At any given time, the FTC almost always has lawyers and/or economists from other agencies seconded to the FTC working with our staff as active members of investigations as permitted under the SAFEWEB Act.</p> <p><b>Mexico IFT</b></p>				

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	The IFT is designing a program to receive temporal transfers of staff from regulators and competition authorities for six months, expecting to launch it in 2023.				
h.	<b>Secondments to another competition agency</b>	4 Australia, Indonesia, US DOJ, US FTC	2 Mexico IFT, Thailand	3 Chile Hong Kong, China, Japan	
<p><b>Description:</b></p> <p><b>Australia:</b> The ACCC facilitates staff secondments to other competition agencies when there is a need or where doing so will enable the ACCC to contribute to relevant work or projects. Currently, there are no ACCC staff seconded to other competition agencies to provide assistance and expertise related to the digital economy.</p> <p><b>Indonesia</b> The seconded experts assisted other competition agencies in knowledge and best practice sharing, particularly in the field of law enforcement, merger analysis and market study.</p> <p><b>Mexico IFT</b> The IFT temporarily transfers staff to the National Commission on Markets and Competition (CNMC) and the Ministry of State for Digital Advancement (SEAD) for five months.</p> <p><b>Thailand</b> TCCT has sent some members of the staff to other competition agencies to gain experience from more advanced competition authorities such as the ACCC. Nonetheless, the experience is not focused on digital market issues.</p>					
i.	<b>Harmonization of competition policy on an international level</b>	1 Japan	2 Mexico IFT, Thailand, US FTC,	3 Chile Hong Kong, China, Indonesia	1 US DOJ
<p><b>Description:</b></p> <p><b>Australia</b> <b>OECD/ICN Report on International Co-operation in Competition Enforcement 2021</b> The report reflects the contributions of many individuals and competition authorities committed to improving enforcement co-operation.</p> <p>Key findings of the report include:</p> <ul style="list-style-type: none"> <li>• there has been an overall increase in international enforcement co operation across all enforcement areas.</li> <li>• authorities use various legal bases for enforcement co-operation, although there are some long-standing legal barriers to effective international enforcement co-operation.</li> <li>• authorities derive significant benefits from international enforcement co-operation, regardless of their respective size and level of maturity.</li> <li>• enforcement co-operation within regions (including through specific regional arrangements) is one of the most significant and successful types of co-operation for authorities, including for those outside highly developed and mature regional enforcement co-operation arrangements.</li> </ul>					

	Technical cooperation areas/initiatives	Implemented	In progress	No current initiatives (less urgent)	No current initiatives (more urgent)
	<ul style="list-style-type: none"> <li>key challenges and limitations to effective enforcement co-operation remain. While some are an inherent and ongoing part of engaging in international enforcement co-operation (such as managing limited resources), others could potentially be resolved.</li> </ul> <p><b>Mexico IFT</b></p> <ul style="list-style-type: none"> <li>Recommendation of the Council on Transparency and Procedural Fairness in Competition Law Enforcement.</li> <li>OECD Recommendation on Competition Assessment.</li> <li>The OECD Market Studies Guide for Competition Authorities</li> </ul> <p><b>Thailand</b></p> <p>Through FTAs and other cooperation frameworks such as ASEAN, TCCT is actively working to bring Thai competition law and enforcement to be in line with international standards.</p> <p><b>US DOJ</b></p> <p>The DOJ's efforts largely have been limited to better understanding the development of competition policy abroad to ensure that it understands the ways in which international developments may affect its policy and enforcement efforts.</p> <p><b>US FTC</b></p> <p>The FTC is active in multilateral discussions about good practice, benefiting from discussions and exchanges with counterpart agencies</p>				
j.	<b>Others (please specify _____)</b>				
	<p><b>Description:</b></p> <p><b>New Zealand</b></p> <p>Section 36 of New Zealand's Commerce Act 1986, which deals with misuse of market power, has recently been reformed. The reform comes into effect on 5 April 2023 and will improve the effectiveness of the provision against misuses of market power, including by digital firms and platforms. <b>This reform was not made specifically to enhance competition enforcement in the digital economy though.</b></p>				