

# MEMORANDUM OF UNDERSTANDING

between the

COMMERCE COMMISSION OF THE FIJI ISLANDS

and the

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

The Commerce Commission of the Ministry of Commerce, Business Development and Investment, Fiji Islands, having its head office at 9 Goodenough Street, Suva, Fiji Islands and the Australian Competition and Consumer Commission (hereinafter referred to as ACCC), having its head office at 470 Northbourne Avenue, Dickson ACT 2602, Australia (hereinafter referred to as the "Parties"), understand as follows:

## 1.0 Purpose

1.1 The purpose of the Memorandum is to:

- (i) promote cooperation and coordination between the Parties, recognising that such cooperation and coordination of enforcement, training and technical assistance activities may result in more effective resolution of the Parties' respective competition and consumer law issues than would otherwise be attained through independent action;
- (ii) achieve a more efficient use of the Parties' scarce resources; and
- (iii) create benefits for the economies of both Australia and the Fiji Islands.

## 2.0 Definitions

- 2.1 *Party* - refers, in the case of the Fiji Islands, to the Commerce Commission, which is at present established within the Ministry of Commerce, Business Development and Investment. In the case of Australia, the term refers to the ACCC.
- 2.2 *Competition and consumer laws* - refers, in the case of the Fiji Islands, to the Fair Trading Decree 1992, Fair Trading (Amendment) Act 1998 and the Commerce Act 1998. In the case of Australia, refers to the Trade Practices Act 1974.
- 2.3 *Requested Party* - refers, to the Party from which assistance is sought under this Memorandum, or which has provided such assistance.
- 2.4 *Requesting Party* - refers, to the Party seeking or receiving assistance under this Memorandum.

### **3.0 Confidentiality**

- 3.1 Each Party shall, to the fullest extent possible consistent with its laws, maintain the confidentiality of any request and of any information communicated to it in confidence by the other Party.
- 3.2 Each Party shall oppose, to the fullest extent possible consistent with its laws, any application by a third party for disclosure of such confidential information.

### **4.0 Scope of cooperation**

4.1 This Memorandum relates to all of the activities of the agencies including enforcement, mergers, access, adjudication, compliance education, research, human resource development and corporate services.

#### *4.2 Exchange of information*

4.2.1 The Parties agree that it is in their common interests to share information that will:

- facilitate effective application of their competition and consumer laws;
- avoid unnecessary duplication;
- facilitate coordinated investigations, research, education and training activities; and;
- promote a better understanding by each of economic and legal conditions and theories relevant to their respective competition and consumer law enforcement and related activities.

4.2.2 In furtherance of this common interest the Parties will, on a regular basis, exchange and provide information in relation to:

- regular publications, including annual reports, journals and information bulletins;
- investigations and research;
- speeches, research papers, journal articles etc.;
- compliance education programs;
- amendments to relevant legislation;
- developments in their respective countries or companies based in that country; and
- human resource development and corporate resources.

#### *4.3 Enforcement cooperation*

4.3.1 In accordance with clause 5, the Parties will coordinate, and provide assistance on, enforcement matters where the Parties agree that it would be beneficial in a particular case.

#### 4.4 *Education and training*

4.4.1 The Parties will cooperate in the development and provision of education and training programs where possible and feasible.

#### 4.5 *International and regional activities*

4.5.1 Where appropriate, and by mutual agreement, the Parties will cooperate on issues related to their work with international and regional organisations.

#### 4.6 *Technical Assistance Proposal*

4.6.1 Where appropriate, the ACCC will assist the Commerce Commission in the drafting and development of technical assistance proposals for consideration by AusAID and other aid donors.

### **5.0 Requests for assistance**

5.1 All initial inquiries and requests for advice and assistance shall be made, in the case of the ACCC, to the Director of the International Unit.

5.2 Formal requests for assistance, where considered appropriate in the circumstances, shall be made in accordance with clause 10 of this Memorandum.

5.3 A request for assistance will include:

- a description of the parties involved in the conduct;
- an outline of the industry characteristics;
- details of the alleged breach;
- a detailed description of the type of assistance sought;
- a description of the information sought and the purpose for which it is sought;
- a suggested time period for reply; and
- requirements for confidentiality.

5.4 The Requested Party will acknowledge the request for assistance, and expeditiously provide that assistance in accordance with its procedures.

5.5 The Requested Party may deny or limit its assistance, as appropriate, if:

- a request is not made in accordance with the provisions of this Memorandum;
- execution of a request would exceed the Requested Party's reasonably available resources;
- execution of a request would not be authorised by the domestic law of the Requested Party; or
- execution of a request would be contrary to the public interest of the Requested Party.

5.6 Before denying a request, the Requested Party shall consult with the Requesting Party to determine whether assistance may be given in whole or in part, subject to specified terms and conditions.

5.7 If a request for assistance is denied, the Requested Party will provide to Requesting Party an explanation in writing of the basis for denial.

## **6.0 Meetings**

6.1 The Parties will meet annually to discuss subjects of interest to both Parties. Such meetings may be conducted by audio/video conferencing.

## **7.0 Avoidance of conflict**

7.1 Within the framework of its own laws and to the extent compatible with its own interest, each Party will seek at all stages in its activities to take into account the important interests of the other. Where there are any instances where the other's interests may be impinged, urgent and immediate consultation will take place.

## **8.0 Variation**

8.1 This Memorandum may be varied by the agreement of the Parties and any such variation shall be set out in writing and signed by both Parties.

## **9.0 Entry into force and termination**

9.1 This Memorandum will enter into force on the date of signature by the Parties.

9.2 Either Party may at any time, upon giving 60 days notice in writing of its intention to do so, terminate this Memorandum.

9.3 This Memorandum may otherwise be terminated by the agreement of both Parties at any time.

**10.0 Communication under the Memorandum**

10.1 Notices or communication under the Memorandum, unless otherwise stated, are to be addressed,

in the case of Fiji, to:

The Chairman	or	The Secretariat
Commerce Commission		Commerce Commission
P O Box 2118, Govt. Buildings		Ministry of Commerce, Business
9 Goodenough Street		Development & Investment
SUVA		P O Box 2118, Govt Bldgs
FIJI ISLANDS		SUVA, Fiji Islands
Email : <a href="mailto:traju@is.com.fj">traju@is.com.fj</a>		E-mail : <a href="mailto:mracule@govnet.gov.fj">mracule@govnet.gov.fj</a>
Fax : (679) 302 617		

and in the case of Australia, to:

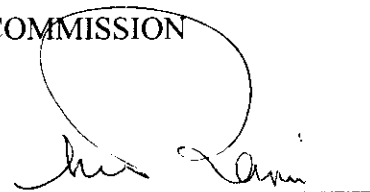
Chief Executive Officer  
Australian Competition and Consumer Commission  
PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
AUSTRALIA

10.2 Notices may be served by post, or by facsimile transmission to the facsimile receiver last known to the sender.

SIGNED for and on behalf of

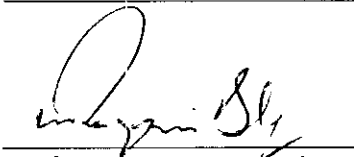
The COMMERCE COMMISSION

By the Chairman



in the presence of

(the Permanent Secretary for Commerce, Business Development and Investment)



on

16 May 2002

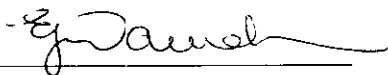
SIGNED for and on behalf of

The AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

By the Chairman



in the presence of



on

30 April 2002