

MEMORANDUM OF UNDERSTANDING ON COOPERATION

BETWEEN

**THE NATIONAL DEVELOPMENT AND REFORM COMMISSION OF
THE PEOPLE'S REPUBLIC OF CHINA**

AND

THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
(‘the Parties’)

1. Purpose

1.1 The Parties recognise the importance of cooperation, consultation and coordination to facilitate the effective implementation of competition law and policy in each country, including in their enforcement activity.

1.2 The Parties have agreed to this Memorandum as a framework for that purpose, consistent with the laws and regulations in force in their respective countries, their reasonably available resources, and their respective interests.

2. Co-operation

2.1 The Parties may co-operate in activities such as:

(a) training,

(b) advocating and promoting competition policy within government, legal, business sectors and the community more generally.

2.2 The parties may exchange information on their current or contemplated priorities.

3. Notification and Consultation

3.1 Each Party will notify the other of any investigation or proceedings (action) it is taking under its competition laws that it considers may significantly affect the interests of the other Party.

3.2 Each Party may notify the other Party of anti-competitive activities in the country of the other Party that significantly affect the notifying Party's interests.

3.3 Notification under subparagraphs 3.1 and 3.2 will be given as early as possible and, where practicable, in time for prior consultation on any such action being taken.

3.4 Where a Party considers its interests may be significantly affected by the actions of the other Party, it may request consultation with the other Party, who will consider whether its actions may be modified such that the concerns raised are addressed and its objectives are achieved.

4. Co-ordination

4.1 Where the Parties take any action in relation to the same or related anticompetitive conduct or practice (other than a merger), they may agree to co-ordinate their action, including to:

- (a) avoid conflicting approaches and outcomes including remedies,
- (b) reduce duplication of enforcement costs, and
- (c) make best use of available resources.

4.2 Where the parties take action in relation to the same or related anticompetitive conduct or practice they may also exchange information or evidence regarding action under its competition laws, consistent with the laws and regulations of the country providing the information.

5. Implementation of this Memorandum

5.1 This Memorandum commences when executed by the Parties and is effective for two years. If both sides agree it is of continued benefit it can be extended by a mutually agreed period of time.

5.2 The Parties will each appoint a liaison officer for the purposes of facilitating contact under this Memorandum.

5.3 The Parties shall periodically evaluate the effectiveness of this Memorandum and activities conducted under it.

5.4 The Parties may develop a work plan of co-operation activities if appropriate, which may be revised as agreed.

5.5 Cooperation under paragraph 2, notification or consultation under paragraph 3, and coordination under paragraph 4, shall not limit either Party's discretion to take its own action.

5.6 Each Party receiving confidential information from the other will, consistent with its laws, maintain the confidentiality of such information.

5.7 Nothing in this Memorandum is intended to create legally binding rights or obligations. This Memorandum will be conducted subject to the laws and regulations in force in the Parties' respective countries, and subject to the interests and available resources of each Party.

5.8 Any dispute regarding the interpretation or application of this Memorandum will be resolved amicably by consultation between the Parties.

5.9 Either Party may terminate the Memorandum by giving thirty days written notice to the other Party.

Signed in two originals, each in English and Chinese, both texts being equally authentic, and executed when all copies are signed, dated and delivered.

Representative of the
Australian Competition and
Consumer Commission

Representative of the
National Development and
Reform Commission of the
People's Republic of China



胡祖才

Date: 5/11/2015

Date: 30/10/2015