

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
SUBMISSION TO THE PRODUCTIVITY COMMISSION STUDY OF
AUSTRALIAN AND NEW ZEALAND COMPETITION AND CONSUMER
PROTECTION REGIMES

The Australian Government requested the Productivity Commission to undertake a study to examine the potential for greater cooperation, coordination and integration of the general competition and consumer protection regimes in Australia and New Zealand.

This submission seeks to inform the Commission about the bilateral and trading relationship between Australia and New Zealand and the important role of integration of the competition and consumer protection regimes as the two countries work towards a single economic market.

Bilateral Relations

Australia and New Zealand have traditionally been, and continue to be, natural allies with strong trans-Tasman ties. Migration, trade and defence ties, and strong people-to-people links have helped shape a close and co-operative relationship. Freedom of travel, facilitated through the Trans-Tasman Travel Arrangement, results in hundreds of thousands of Australians and New Zealanders crossing the Tasman each year as tourists, for business purposes, or to visit family members. Around 450,000 New Zealand citizens now live in Australia, and around 60,000 Australian citizens live in New Zealand.

At the government-to-government level, Australia's relationship with New Zealand is better developed and more extensive than with any other country. Ministers and public servants from both countries participate in meetings and conferences on a plethora of issues, including quarantine, justice, health, education, transport and many others. New Zealand ministers and their senior officials participate, with their Australian Federal and State counterparts, in many of the ministerial council meetings which span the domestic policy agenda. Ministers and officials also cooperate closely in the international arena, in regional bodies such as the Pacific Islands Forum, APEC and the ASEAN Regional Security Forum and in dialogue with countries of ASEAN and Latin America. Both countries cooperate closely in pursuing WTO goals, notably through participation in the Cairns Group.

In recent years, coordination has been enhanced on a range of issues, including:

- establishment in July 1996 of a system for the development of joint food standards (now known as Food Standards Australia and New Zealand);
- the Trans-Tasman Mutual Recognition Arrangement (TTMRA), which entered into effect in May 1998; and
- the signing of a Treaty in December 2003 to establish a Joint Therapeutics Agency (JTA) agency to regulate therapeutic products in both countries under a harmonised regulatory scheme.

Other examples where Australia and New Zealand are engaged in activities designed to coordinate more closely include:

- the Australian Treasury and New Zealand Ministry of Economic Development jointly released a discussion paper in May 2004 relating to the establishment of a trans-Tasman mutual recognition arrangement for offers of securities and interests in managed investment schemes;
- in January 2004, Ministers Cullen and Costello announced the formation of the trans-Tasman Accounting Standards Advisory Group, a main objective of

which is to progress work towards common accounting standards in Australia and New Zealand to reduce transaction costs for businesses operating in both countries;

- Australia and New Zealand are exploring the scope for allowing direct access to information held by the New Zealand regulator for Australian investors and vice versa in order to achieve efficiencies in cross border reporting; and
- The Trans-Tasman Working Group on Court Proceedings and Regulatory Enforcement met in June 2004 to consider areas of potential future co-operation between the court systems to improve and streamline proceedings and regulatory enforcement between the two countries.

Trade relations and progress towards a single economic market

The *Australia New Zealand Closer Economic Relations Trade Agreement* (ANZCERTA or commonly known as CER), which came into effect on 1 January 1983, created one of the world's most open and successful free trade agreements. Two-way trade with New Zealand has expanded some 550 per cent since 1983. Over the last 10 years trans-Tasman trade has increased annually on average by nine per cent. New Zealand is now Australia's fourth largest market, taking seven per cent of our exports and providing the sixth-largest source of imports. Australia is New Zealand's principal trading partner with 20 per cent of its merchandise exports and 23 per cent of merchandise imports sourced to/from Australia.

At 30 June 2003, total two-way investment was valued at \$47.2 billion, and it continues to trend upwards. The 1988 *CER Protocol on Trade in Services* has accelerated investment flows, and since 1991 two-way investment has increased by 167.9 per cent. While New Zealand is the sixth largest source of overall foreign investment in Australia (\$18 billion), Australia is the largest investor in New Zealand (\$29 billion). Over half of Australia's total investment in New Zealand is foreign direct investment, reflecting the high level of economic integration. Recently there has been significant new commercial investment from Australia in New Zealand's transport and banking sectors.

With most of the trade goals of CER met, the way ahead is to create a more favourable climate for trans-Tasman business collaboration through regulatory harmonisation. Various initiatives are underway to move the two countries towards a single economic market based on common regulatory frameworks. The meeting between Treasurer Costello and NZ Deputy Prime Minister and Finance Minister, Michael Cullen, in January 2004 marked a significant advance in this direction, with agreement on measures to harmonise accounting standards, banking regulations and business competition, as well as co-operation in the taxation field.

The role of competition and consumer protection regimes

Competition law enforcement is taking on more and more of an international dimension. Globalisation means that a higher percentage of competition cases have significant international components and to the extent that trade and investment liberalisation reduces entry barriers, it could provide businesses with greater incentives to engage in anti-competitive conduct and mergers.

Likewise, as a consequence of advances in technology, competition and consumer protection regimes operate in a rapidly changing global marketplace. While consumers have increased access to information and goods, unconscionable operators have greater potential to propagate scams, frauds and other detrimental activities. Legislation is a cornerstone of the regulatory framework to achieve this and

consumers in Australia are protected by legislation and common law remedies for unconscionable or deceptive practices. Commonwealth, State and Territory governments also engage in licensing and registration; compliance monitoring; provision of information and community education; and dispute resolution.

Australia and New Zealand share a common desire to improve economic efficiency, while at the same time protecting consumer welfare through the promotion of vigorous competition and fair business practices. Close integration of the competition and consumer protection regimes of Australia and New Zealand remains an essential element in the development of a single economic market.

DFAT therefore encourages efforts towards harmonisation of laws in competition and consumer protection regimes.