



**CCFReview**  
Consumer & Competition Framework Review

*Issues in Competition & Consumer Protection*  
*A Workshop for PNG Businesses*

*May 2016*

*Lae, Kokopo, Goroka, Port Moresby*

[www.CCFReview.info](http://www.CCFReview.info)

# In today's workshop:

- Review initiated by Dept. of Treasury and undertaken by ADB team
- Review welcomes comments from PNG businesses
- Issues Papers – three main concerns:
  - What changes will increase consumers' confidence?
  - What changes will promote fair competition?
  - What changes will improve regulated SOEs' performance?
- *Draft Report* (for public comments)
- *Report to Treasury*
- Implementation

# Why do competition and consumer protection matter?

## Without consumer protection...

- Consumers have less trust in traders, less confidence in products;
- Consumers spend less on goods and services.

## Without women's economic participation...

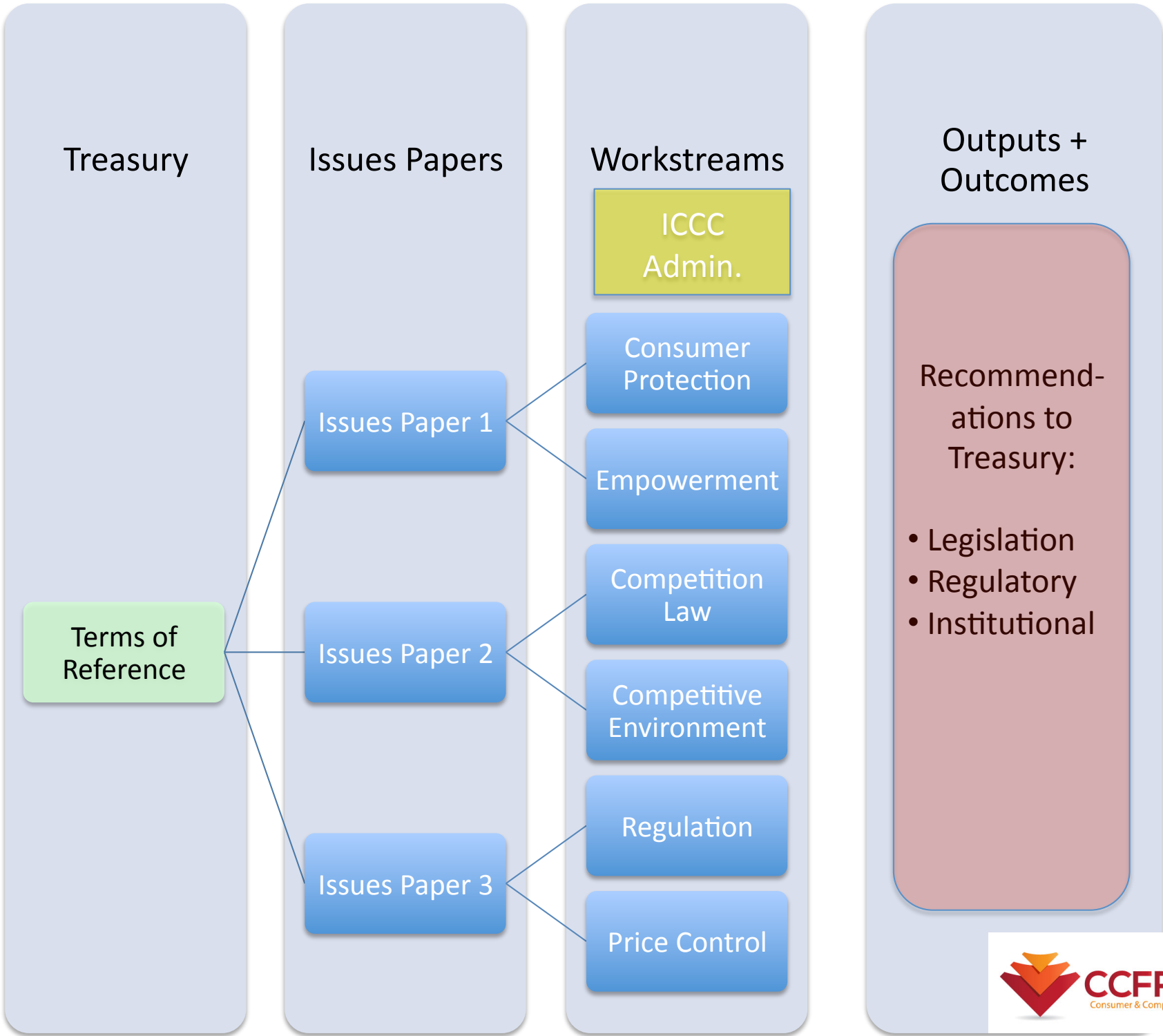
- Fewer women start businesses, join workforce;
- Economy is smaller than it would otherwise be.

## Without competitive markets...

- Large businesses limit opportunities for SMEs;
- Consumers and SMEs face higher prices and inferior service;
- Economic growth is held back.

# Competition and consumer protection are Government priorities

- The Independent Consumer and Competition Commission (ICCC) has been operating since 2002.
- “Consumer protection goes hand in hand with competition - unethical traders who mislead and deceive consumers and reap profits should not erode the market position of ethical traders who provide good value for money.”
  - Treasurer, Hon. Patrick Pruaitch, *2013 National Budget*.
- Competition and consumer laws are not a ‘magic bullet’:
  - Good competition and consumer laws help -- but they cannot drive investment and growth by themselves.
  - Other conditions also matter: law & order, access to finance, etc.



# Three Issues Papers available now:

- **Issues Paper 1:** *Consumer protection and Economic Empowerment of Women*
  - Gaps in the law for consumers
  - Supporting women as business owners, traders, consumers
- **Issues Paper 2:** *Competitive Markets and Fair Trading*
  - Core rules of 'competition law'
  - Legal environment for business
  - Enforcement
- **Issues Paper 3:** *Regulated Industries and Prices Oversight*
  - Regulation of SOEs – Ports, Electricity, Post, MVIL
  - Price control
  - ICCC procedures

download from: [www.CCFReview.info](http://www.CCFReview.info)

# 1. CONSUMER PROTECTION & ECONOMIC EMPOWERMENT

- Are existing consumer laws helpful for businesses and their customers?
  - *ICCC Act*
  - *Goods Act*
  - *Hire Purchase Act*
  - *Telecommunications Act*
  - *Packaging Act*
- Do consumers have a good understanding of their rights and responsibilities?
- What are the most common consumer complaints?
- What would help businesses to resolve complaints?

# Consumer & EEOW contd.

- Are safety standards clear for importers & retailers?
- Are product labelling rules fair?
- Should a rule against 'misleading or deceptive' conduct apply to dealings between businesses? Or only to dealings with consumers?
- How can the ICCC assist retail businesses?
- Do retailers treat women consumers differently to men?
- Do women face obstacles in doing business that men do not?
- How can the ICCC assist women consumers and business owners?



## 2. COMPETITION LAW

- Are the ICCC's objectives clear?
- Should Govt adopt a "National Competition Policy"?
- Should competition rules apply to the Govt's SOEs?
- Should Govt be prohibited from giving an SOE a competitive advantage?

# Competitive conduct rules

- Do you feel confident that you know what the ICCC Act prohibits and what it permits?
- Where do you look for help with ICCC Act questions?
- Are ICCC “guidelines” useful to businesses?
- Should the ICCC Act be simplified / revised?
  - Repeal ‘covenants’ provisions
  - Allow self-assessment of defences (‘rule of reason’)
  - ‘Cartel conduct’ rule instead of ‘exclusionary provisions’
  - Specific prohibition on bid-rigging
  - Refocus abuse of market power rule on *effects*
  - Focus territorial jurisdiction on *effect in PNG*
  - Streamline authorisations & clearances
  - Introduce ‘collaborative activity’ exemption

# Merger review

The ICCC Act prohibits acquisitions that are likely to substantially lessen competition.

- Should an appeal against an ICCC decision be heard by a Judge or by an panel of experts?
- Should it be compulsory to notify the ICCC of a merger before it happens?  
→ *ICCC will discuss proposed changes...*

# **MERGER NOTIFICATION -- OUTLINE**

**A. BACKGROUND**

**B. EXISTING REGIME & ASSOCIATED ISSUES**

**C. PROPOSED REGIME**



# A. BACKGROUND

- The ICCC has three key objectives:
  1. Promoting competition and fair trading and protecting consumer interests;
  2. Promoting economic efficiency in specific industries; and
  3. Protecting consumers in regard to price, quality and reliability of significant goods and services.
- ICCC will implement any approved recommendations coming from the CCF Review.
- Keen on devising a system that works for all stakeholders.
- Creating a balance between business competition and protecting consumers.
- Drafts that were circulated are not final drafts, these will need to be refined – system that works for all.



## B. EXISTING REGIME & ISSUES

### Voluntary regime at present:

- Section 69 prohibits any business acquisition that can or will be likely to substantially lessen competition (SLC).
- The ICCC can:
  - 1. Investigate** consummated acquisitions
  - 2. Summon witnesses and obtain information** generally; and
  - 3. Prosecute** if it finds that an acquisition has created SLC.
- System of notification is **voluntary**, no obligation to report a business acquisition. (ICCC Act ss 81 and 82).
- Currently, the Commission can:
  - encourage parties to apply for **clearance (under section 81)** or **authorization (under section 82)** to be exempt from prosecution,
  - go to court, if the Commission considers you are in breach of s 69.



## B. EXISTING REGIME & ISSUES cont...

### What is the problem?

- Existing powers are not preventive.
  - The market is highly concentrated.
  - Commission would like to be more proactive.
  - If the Commission learns about an acquisition after it has already taken place more resources are used investigating and prosecuting (costly and time consuming).
- A **proactive** approach is necessary, so ICCC can have more oversight over acquisitions that could lead to SLC.



## C. PROPOSED REGIME

- Make notification compulsory. Two-step approach:
  1. Companies notify ICCC; and
  2. ICCC tells you whether or not you should apply for clearance or authorization
- Will be an offence if an acquisition is not reported.
- Conditions can be imposed on a proposed acquisition.
- Power to vary or revoke a clearance or authorization determination.
- ICCC to put guidelines in place.





## C. PROPOSED REGIME cont...

- Public notice went out in Dec 2015 and Jan 2016
- Letters were sent to stakeholders inviting comments
- 9 stakeholders + 1 concerned citizen gave comments:
  1. Create thresholds to trigger notification e.g. monetary threshold, market share post and pre-acquisition etc.
  2. Put in place business acquisition review guidelines
  3. Do wider consultation (that's why we are here today)
- What businesses can take away from this presentation:
  1. The current drafts are not final, they will be refined so there is balance
  2. We need feedback so comments are welcome at the end of this presentation; or
  3. Feel free to contact the Commission or visit our website for more updates.

→ [Back to Review Team...](#)



# Investigative Powers

- Should ICCC have an “immunity policy” in relation to cartel conduct?
- Should firms that cooperate with ICCC get reduced penalties?
- Does ICCC have the powers that it needs? Any powers it does not need?

# Remedies and Sanctions

- Are monetary penalties sufficient?
  - PGK10million maximum for companies
  - PGK500,000 for individuals
  - PGK50,000 or six months for summary offences
- Should companies be able to compensate their directors for penalties?
- Should the law make it easier for victims to sue for damages?

# Competitive environment

- PNG businesses face a range of challenges...
  - competition cannot solve all problems.
- Do some laws limit your ability to compete?
- Do women entrepreneurs face particular obstacles?
- Is access to infrastructure facilities a problem?
- Should the ICCC have a greater role as advisor to Govt/Ministers on competition matters?

# 3. INDUSTRY REGULATION & PRICE CONTROL

Four SOEs are regulated:

- PNG Ports Corporation Ltd
- PNG Power Ltd
- Post PNG Ltd
- Motor Vehicle Insurance Ltd

Price controls apply to:

- Eda Ranu and PNG Water
- Refined fuels
- PMV and taxi fares

# Possible reforms to SOEs

SOE	Current regulation	Future reforms?
PNG Ports	Regulatory contract	+Separate ownership of ports? Implement <i>CSO Policy</i> ?
PNG Power	Regulatory contract	+Implement <i>Electricity Industry Policy</i> ? Encourage competitive generation?
Post PNG	Regulatory contract	+Deregulate? Move to price monitoring?
MVIL	Regulatory contract	+Open the market to competing insurers? Regulate service standards?

# Possible reforms to price controls

Activity	Current regulation	Future reforms?
Water and sewerage	Price control	Regulatory contract? Implement <i>CSO Policy</i> ?
Refined fuels	Price control	More focused price control? Reduce/remove entry barriers?
PMV and taxi fares	Price control	Greater reliance on industry regulator? Greater focus on service standards? move to price monitoring?

# NEXT STEPS

- Please provide your comments on all relevant issues - by [31 May 2016](#).
- A *Draft Report* containing proposed recommendations will be published for comments, later this year.
- The final *Report to Treasury* will take into account comments received on the Draft.



# Please have your say:

- Download the Issues Papers:

[www.ccfreview.info](http://www.ccfreview.info)

- Send your comments in before 31 May:

[comment@ccfreview.info](mailto:comment@ccfreview.info)

- Email or phone us if you have questions:

ph. [321 0400](tel:3210400) (ask for 'Competition Review')