

CHAPTER 16

COMPETITION AND CONSUMER PROTECTION POLICY

Article 16.1

Competition Law and Authorities

1. Each Party shall maintain competition law in its territory that:
 - (a) proscribes anti-competitive agreements between enterprises, including cartel agreements;
 - (b) proscribes anti-competitive practices by enterprises that have substantial market power; and
 - (c) prevents or remedies mergers with substantial anti-competitive effects.
2. Subject to paragraph 3, each Party shall ensure that its competition law applies and is enforced with respect to all commercial activities in its territory in a manner that does not discriminate on the basis of an enterprise's nationality or ownership. This does not preclude a Party from providing that its competition law applies to commercial activities outside its borders that have the object, or which have or may have the effect of, restricting competition within its jurisdiction.
3. Each Party may provide for certain exemptions from its competition law provided that those exemptions are transparent and based on public policy grounds.
4. Each Party shall maintain an operationally independent national competition authority responsible for the enforcement of its competition law.

Article 16.2

Procedural Fairness

Each Party shall apply and enforce its competition law in a transparent and timely manner, respecting the principles of procedural fairness and rights of defence of the persons concerned, irrespective of their nationality or ownership status.

Article 16.3

Private Rights of Action

1. For the purposes of this Article, “**private right of action**” means the right of a person to seek redress, including injunctive, monetary or other remedies, from a court or national competition authority or other independent tribunal for injury to that person's business or property caused by a breach of competition law.

2. Recognising that a private right of action is an important supplement to the public enforcement of competition law, each Party shall endeavour to maintain measures that provide a private right of action, both independently and following a finding of breach by a national competition authority, in accordance with its laws.
3. Each Party shall ensure that a right provided pursuant to paragraph 2 is available to persons of the other Party on terms that are no less favourable than those available to its own persons.
4. A Party may establish reasonable criteria for the exercise of any rights it creates or maintains in accordance with this Article.

Article 16.4 **Consumer Protection**

1. The Parties recognise the importance of consumer protection policy and enforcement to enhancing consumer welfare in the territories of the Parties.
2. Each Party shall maintain measures against misleading or unfair commercial activities.
3. Each Party shall maintain laws and regulations that provide consumers with statutory rights in relation to goods and services supplied to them.
4. The Parties further recognise the importance of increasing awareness of and providing access to consumer redress mechanisms, including for consumers of a Party transacting with suppliers of the other Party.
5. The Parties recognise the benefits of dispute resolution mechanisms in facilitating the resolution of disputes between consumers and suppliers, including alternative dispute resolution mechanisms.

Article 16.5 **Cooperation**

1. The Parties recognise the importance of cooperation between their respective competition and consumer protection authorities to foster effective competition and consumer protection law enforcement in the territories of the Parties. To this end, the Parties may cooperate, through their competition and consumer protection authorities, on issues relating to the enforcement of competition and consumer protection law.
2. The Parties recognise that it is in their common interest to work together on technical cooperation activities to strengthen competition and consumer protection policy development and the enforcement of competition and consumer protection law.

3. Any cooperation under paragraphs 1 and 2 shall be undertaken only to the extent that it is compatible with each Party's law and important interests and within the Parties' available resources.
4. To implement the objectives of this Article, the Parties may enter into separate commitments or arrangements on cooperation.

Article 16.6 **Transparency**

1. The Parties recognise the value of transparency in relation to competition and consumer protection law and enforcement.
2. Subject to paragraph 3, each Party shall make public, or require the following to be made public:
 - (a) its competition laws and regulations;
 - (b) exemptions and immunities to its competition law;
 - (c) guidelines and any rules issued in relation to the administration and enforcement of its competition law; and
 - (d) information on the protection it provides consumers, including for consumers engaged in online commercial activities. This information shall include how consumers can pursue remedies and how enterprises can comply with any legal requirements.
3. Paragraph 2 does not require the Parties' respective national competition and consumer protection authorities to make public their internal operating procedures.
4. Each Party shall encourage enterprises to publish their policies and procedures related to consumer protection.

Article 16.7 **Consultation**

1. In order to foster understanding between the Parties, or to address specific matters that arise under this Chapter, a Party shall enter into consultations upon request by the other Party. In its request, the requesting Party shall indicate, if relevant, how the matter affects trade or investment between the Parties.
2. The requested Party shall accord full and sympathetic consideration to the concerns of the requesting Party and shall reply promptly to the request.

Article 16.8
Non-Application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 29 (Dispute Settlement) for any matter arising under this Chapter.