

COMMISSIONER'S INTRODUCTORY STATEMENT DURING THE OCCASION OF THE JUDGES AND LAWYERS WORKSHOP

Minister for Finance and Treasury, Hon. Bart Philemon
Deputy Chief Justice and your colleagues
Distinguished Speakers from overseas
Members of the Diplomatic Corp
Members of the Legal Fraternity
ICCC Commissioners and senior staff of ICCC

I welcome all of you here today and wish to sincerely thank the Law Society for joining the ICCC in this bold initiative.

This Workshop is unique. We have the PNG legal profession and in particular the PNG judiciary in attendance at this workshop. I am not aware of this being done in other jurisdictions such as Australia or the US. In the development of PNG competition law this workshop is very timely.

Whilst in the PNG context we do not as yet have the Courts involved in a day to day role in the administration of the ICCC Act, the Courts will ultimately determine what the law means in PNG.

We have a substantial number of PNG legal practitioners here today. They are often the advisors to the regulated, i.e. business. As such they will be the interface between the ICCC and the business community.

PNG has joined the competition law club. PNG has the ICCC Act 2002 and the ICCC as its regulatory agency. The ICCC Act is law, economic law.

What is, and why does PNG have competition law?

The general aim of an effective domestic competition regime is to promote free and fair competition, where this is in the public interest, and therefore increase efficiency and productivity in the economy and promote enhanced consumer welfare.

The benefits of increased competition extend to all participants in the PNG economy:

- to *consumers* – through lower prices, more product choice and better service;

- to *businesses* – through cheaper inputs, better service from input suppliers, greater choice of suppliers and access to improved technology, all of which lead to greater competitiveness both in its domestic market and internationally.
- to *governments* – through increased revenue from expanding the economy, lower expenditure and improvements in government services; and
- to *the economy as a whole* – through lower inflation, increased growth, improved international competitiveness, greater investment, enhanced employment opportunities and improved standards of living.

The purpose of a competition regime is to ensure that markets work. Overall, this requires competition among producers and accurate information in the hands of consumers. Competition between producers selling to informed consumers will lead to the best prices and the best quality (or perhaps the best value, being a combination of quality and price). Competition spurs efficiency and innovation. It motivates firms to seek lower costs, lower prices, better quality and back-up services. It drives producers to produce what consumers want.

Competition is about ensuring that no producer can ever take its customers for granted. It is about ensuring that producers are always looking for better ways of doing business.

The development of an effective PNG competition regime is also a key element in achieving good governance and creating greater financial stability.

Having said that the ICCC will always be mindful that PNG is a developing economy and that competition issues need to be approached in a way that suits the PNG economy and that may necessitate a gradual approach to enforcement of the law and PNG approaches to competition issues that may differ from more developed economies.

A little about the ICCC.

We, at the ICCC, have accomplished a lot in a short period of time since the formal establishment of the Commission in 2003. This is attributed to the dedicated staff, our consultants and strong leadership from the Commissioners.

In my view we have started to have a major impact on the PNG economy and assisted to its improvement. I intend that we increase our impact to the benefit of all citizens of PNG. The ICCC has in my view developed very rapidly into an effective competition and consumer agency. One PNG can be proud of.

The fact that we have attracted such eminent speakers indicates our positive reputation.

Not only have we had economic impact but we have developed a governance regime to ensure a professional, ethical and independent agency .

Much was achieved in 2004. Among many others, the following major matters.

- release of pricing review reports for petroleum, water & sewerage and Post PNG;
- finalisation of a number of merger cases;
- established complaint handling and investigation procedures;
- establishment of regular column in the National newspaper and regular broadcast in the Karai Radio;
- signed MOU's with Provincial Governments and key government institutions;
- launched the 2005 – 2007 Corporate Plan; and
- approved the Terms and Conditions and Staff Code of Conduct.

The three priority areas for ICCC are;

- informing all stakeholders about the ICCC Act and the roles and functions of ICCC. This is important because the work of ICCC is new and there are a large number of the people across the county who have yet to be informed. This Workshop is part of this.
- The second priority area is to achieve compliance with the ICCC Act. Many small and medium businesses are still ignorant of the ICCC legislation hence strict enforcement has not been applied. This also applies to some of the regulated entities.
- The third priority is to mobilise ICCC resources efficiently and effectively to achieve desired outcomes. This covers human resource capacity strengthening and having the correct IT capacity in place to enhance our core functions.

This workshop has a number international experts. It is an honour to have them here. We have a senior judge of the Federal Court of Australia, we have the just retired General Counsel of the US Federal Trade Commission (a close counterpart

of the ICCC), Australian competition law practitioners and our consultants who have extensive regulatory and private sector experience.

We also have of course the ICCC Commissioners and senior staff. I am most honoured to host this workshop and hope to repeat it in the future.

The law.

Competition law is a complex issue .It is about market dynamics and many of the concepts seem vague to many lawyers. Such law has some language alien for lawyers,

Terms such as “Substantial lessening of competition”, “Competition”, “Market power”, “Exclusionary provision” “,Public benefit” and “Efficiency”.

Our speakers will put these terms and concepts into a legal framework and outline the litigation process in competition cases where such terms and concepts at the heart of such litigation.

Much of the analysis needed in competition law is not only legal but economic. In many cases not are lawyers involved but economists and those who understand the particular industry. Lawyers will need to work with others. Lawyers will need to become familiar with economic issues and how to collect and use economic evidence.

The ICC has to date developed a good working relationship with the PNG legal profession. We are learning together, even often on oppsoing sides of a matter. To date we have not had any litigation .That will no doubt come. The PNG legal profession and the ICCC still have much to learn about competition law litigation, both by the ICCC and against the ICCC.

The ICCC sees this workshop as being in preparation for that eventuality.

I look forward to the workshop.I hope that all of you will and that you actively participate.

As I call up the Minister for Finance and Treasury who has kindly accepted to open this workshop despite his busy schedule, I should mention here that it was the Minister’s foresight and leadership that directed the Department of Treasury to commence the ground works in October 2002, for the establishment of ICCC which

led to its formal launching in March 2003. For me personally, work in ICCC would not have progressed this far without the support of the Minister.

Therefore it is only fitting to acknowledge his efforts by asking him to open this very important landmark workshop.

Ladies and Gentlemen – Minister for Finance and Treasury.

**THOMAS ABE
COMMISSIONER
ICCC**

26 February 2005.