



**COOPERATION ARRANGEMENT BETWEEN  
THE NEW ZEALAND COMMERCE COMMISSION  
AND THE COMMISSIONER OF COMPETITION (CANADA)  
IN RELATION TO THE SHARING OF INFORMATION  
AND PROVISION OF INVESTIGATIVE ASSISTANCE**

**THE NEW ZEALAND COMMERCE COMMISSION (“NZCC”)**, an independent Crown entity established under section 8 of the *Commerce Act 1986*, (1986 No 5) (the “Commerce Act 1986”) and **THE COMMISSIONER OF COMPETITION**, Competition Bureau Canada, appointed under section 7(1) of the *Competition Act*, R.S.C. 1985, c. C-34 (the “Competition Act”), together referred to as the “Participants”,

**PURPOSE OF THIS ARRANGEMENT**

1. The Commissioner of Competition is the head of the Canadian Competition Bureau, an independent law enforcement agency with responsibility for enforcing the Competition Act, the *Consumer Packaging and Labelling Act*, R.S.C. 1985, c. C-38 (except as it relates to food), the *Precious Metals Marking Act*, R.S.C. 1985, c. P-19, the *Textile Labelling Act*, R.S.C. 1985, c. T-10 and any regulations made under those Acts.
2. The NZCC is New Zealand's primary competition regulatory agency, with responsibility for enforcing Acts including the Commerce Act 1986 and the Fair Trading Act 1986 (1986 No 121) (the “Fair Trading Act 1986”).
3. The Participants accept that the mutual sharing of information and provision of assistance will increase the efficiency of their respective investigations and facilitate effective outcomes.
4. Amendments made in 2012 to New Zealand's Commerce Act 1986 and Fair Trading Act 1986, allow the NZCC to provide compulsorily-acquired information and investigative assistance to overseas regulators with whom a cooperation arrangement is in place (subject to the safeguards set out in those Acts). This Arrangement is intended to give effect to those amendments in relation to the provision of compulsorily-acquired information and/or investigative assistance to the Commissioner of Competition.

5. This Arrangement will not affect the understandings of the Participants contained in existing treaties, agreements, and arrangements (including with other foreign regulators), in particular the *Cooperation Arrangement between the Commissioner of Competition (Canada), the Australian Competition and Consumer Commission and the New Zealand Commerce Commission Regarding the Application of their Competition and Consumer Laws*, signed at Paris on 25 October 2000.

## DEFINITIONS

6. In this Arrangement, these terms will have the following definitions:
  - 6.1. “competition and consumer laws” means:
    - 6.1.1. for the Commissioner of Competition, the Competition Act, the Consumer Packaging and Labelling Act (except as it relates to food), the Precious Metals Marking Act, the Textile Labelling Act and any regulations made under those Acts; and
    - 6.1.2. for the NZCC, the Commerce Act 1986 and the Fair Trading Act 1986.as well as any amendments to these Acts;
  - 6.2. “information” means:
    - 6.2.1. for the Commissioner of Competition, any information in its possession or control; and
    - 6.2.2. for the NZCC, information that is not in the public domain, and which has been compulsorily-acquired by the NZCC as a result of, or in relation to, the exercise by the NZCC of its search and notice powers under its competition and consumer laws and any power incidental to those powers (“compulsorily-acquired information”);
  - 6.3. “investigative assistance” includes the provision of assistance by way of the NZCC exercising any of its search and notice powers under, or in relation to, its competition and consumer law and any power express or implied that is incidental to those powers;
  - 6.4. “request” means:
    - 6.4.1. a request from the Commissioner of Competition to the NZCC for the NZCC to provide information or investigative assistance; or
    - 6.4.2. a request from the NZCC to the Commissioner of Competition for the Commissioner of Competition to provide information and/or assistance under, or in relation to, Canada’s competition and consumer laws;
  - 6.5. “search and notice powers” means any of the NZCC’s powers under:
    - 6.5.1. sections 98, 98A and 98H of the Commerce Act 1986; and
    - 6.5.2. sections 47 and 47G of the Fair Trading Act 1986.

## REQUESTS FOR INFORMATION AND/OR ASSISTANCE

7. The Participants may make a request under this Arrangement:
  - 7.1. by notice in writing sent by post to the following address:
    - 7.1.1. The Chair  
Commerce Commission  
PO Box 2351  
Wellington 6140  
New Zealand;
    - 7.1.2. The Commissioner of Competition  
Place du Portage I  
50 Victoria Street  
Gatineau, Québec  
K1A 0C9 Canada; or
  - 7.2. by email sent directly to the Chair of the NZCC, or to the Commissioner of Competition.
8. Any request under paragraph 7 will be accompanied by a statement:
  - 8.1. confirming that the requesting Participant considers that the provision of the information and/or assistance will assist, or will be likely to assist, the requesting Participant in performing functions or exercising powers in relation to its competition and consumer laws; and
  - 8.2. explaining why the requesting Participant considers that the information and/or assistance may not be more conveniently obtained from another source.

## RESPONDING TO REQUESTS

9. The NZCC will respond to any request in accordance with sections 99B to 99P of the Commerce Act 1986 or sections 48B to 48O of the Fair Trading Act 1986 (as appropriate) and with any policies, guidelines, or practices promulgated by the NZCC in relation to the provision of compulsorily-acquired information and/or investigative assistance.
10. The Commissioner of Competition will respond to any request in accordance with section 29 of the Competition Act, or any other relevant information sharing powers related to the administration or enforcement of Canadian competition and consumer laws, and with any policies, guidelines, or practices promulgated by the Commissioner in relation to the provision of information and/or assistance.
11. In responding to a request, a Participant may impose conditions (including privacy protections) on the provision of information and/or assistance, including as to:
  - 11.1. the confidentiality of information;
  - 11.2. the storage, use of, or access to any information provided;
  - 11.3. the copying, returning, or disposal of copies of any information provided; and
  - 11.4. the payment of costs reasonably incurred by the responding Participant.

12. The NZCC will not provide any communication or information that is protected by the privilege for settlement negotiations or mediation provided for in section 57 of the *Evidence Act 2006* (New Zealand) (2006 No 69), without the consent of every other party who holds that privilege.
13. In accordance with section 99J of the Commerce Act 1986, the NZCC will not provide copies of statements made by any person in answer to a question put by or before the NZCC that might tend to incriminate the person, unless the Commissioner of Competition gives a written undertaking that:
  - 13.1. the Commissioner of Competition will not use the statements as evidence in criminal proceedings against the person (other than in respect of the falsity of the person's testimony) or in proceedings against the person for a pecuniary penalty; and
  - 13.2. to the extent possible, the Commissioner of Competition will ensure that the statements are not used by any other person, authority, or agency as evidence in such proceedings.

#### **PROTECTION AND USE OF INFORMATION**

14. Where the responding Participant provides the requesting Participant with information in response to a request, the requesting Participant will:
  - 14.1. use the information only in accordance with any conditions imposed under paragraph 11 except as required by law; or except to the extent that the Commissioner of Competition may communicate information to a Canadian law enforcement agency or for the purposes of administration or enforcement in accordance with the Competition Act;
  - 14.2. keep the information secure in accordance with the Participants' standard evidence handling procedures, and in accordance with any conditions imposed under paragraph 11;
  - 14.3. protect to the fullest extent possible confidential information (including personal information about an identifiable individual) provided in accordance with this Arrangement, including in response to requests made by third parties under the Participants' privacy and access to information laws; and
  - 14.4. inform the responding Participant if it discloses the information to any person (including where the disclosure is inadvertent).
15. Where a Participant provides any communication or information that is identified as protected by privilege under its domestic laws:
  - 15.1. the responding Participant will not be regarded as having waived that privilege; and
  - 15.2. the requesting Participant will receive that communication or information in confidence and, to the fullest extent possible, will not disclose that communication or information without the consent of the responding Participant.

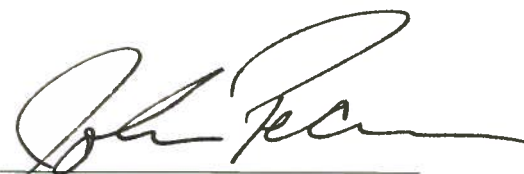
16. The Participants acknowledge that any information they receive under this Arrangement will be subject to their domestic laws (including privacy and access to information laws).

**COMMENCEMENT, AMENDMENT AND TERMINATION**

17. This Arrangement will come into effect when signed by both Participants.
18. All understandings created under the section entitled "Protection and use of information" will remain in effect despite any termination of this Arrangement.
19. The Participants will review the operation of this Arrangement periodically, as necessary.
20. This Arrangement may be amended by the mutual written consent of the Participants.
21. This Arrangement may be terminated by either Participant by giving 60 days written notice, or by mutual written consent of the Participants.

SIGNED in duplicate at *Vancouver* this *12<sup>th</sup>* of *April* 2016,  
in the English and French languages, each version being equally valid.

  
FOR THE NEW ZEALAND  
COMMERCE COMMISSION

  
FOR THE COMMISSIONER OF COMPETITION  
(CANADA)