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**Intergovernmental Group of Experts on Competition Law and Policy**

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**Revision of UNCTAD Model Law on Competition, Part 2 – Commentaries**

**Chapter IX and X**

**Presentation by Intergovernmental Group of Experts on  
Competition Law and Policy - UNCTAD**

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INTERGOVERNMENTAL GROUP OF EXPERTS ON  
**COMPETITION  
LAW AND POLICY**





# Revision of UNCTAD MODEL LAW ON COMPETITION, Part 2 - Commentaries, CHAPTERS IX AND X

## UNCTAD MODEL LAW ON COMPETITION

- A reference document used as a benchmark for competition law and policy drafting and revising purposes.
- Composed of two parts: Part 1, a permanent guide including model competition law provisions and is NOT subject to revision.
- Part 2 - Commentaries to relevant Chapters.
- Part 2 is a compilation of competition law and enforcement practices from both advanced and young competition regimes.
- The mandate to revise the Model Law is given by the UN Conference to Review the UN Set on Competition held every five years.
- Member States can contribute to the revision if they send their inputs by THE END OF FEBRUARY of the year following the IGE.

## REVISION OF CHAPTER IX

# THE ADMINISTERING AUTHORITY AND ITS ORGANIZATION

- The title of competition authority : Commission, Council, Tribunal, Authority
- Regardless of the title, the core is the Independence from other government bodies or political groups, especially in decision-making
  - Dependence : budgetarily and personally
- The composition of members
  - Stipulating the appointment procedure and the number of member (flexible or fixed) in competition law
- Qualification of members
  - Requirements in competition law : legal expertise, economic expertise, public administration skills, regulatory enforcement experience, etc.
  - Many legislations state that the member should not have interests which would conflict with the functions to be performed

# REVISION OF CHAPTER IX

## THE ADMINISTERING AUTHORITY AND ITS ORGANIZATION (CONT'D)

- Tenure of member : Various from country to country
  - 10 years (Mexico), 8 years (UK), 7 years (Italy), 6 years (Armenia), 5 years (Indonesia), 4 years (Brazil), 3 years (Republic of Korea), indefinite period (Switzerland)
  - Common things : Have the possibility of being reappointed only for a single period.
  
- Other measures for the independence of decision-making from political reasons
  - Prior stipulation on the removal conditions of members in competition such as being sentenced to disciplinary punishment or dismissal law (most of competition authorities)
  - Possible immunity of members against prosecution or lawsuit (Pakistan)

# REVISION OF CHAPTER X FUNCTIONS AND POWERS OF THE ADMINISTERING AUTHORITY



- The functions and powers of the Administering Authority could include
  - Making inquiries and investigations
  - Taking the necessary decisions
  - Undertaking studies, publishing reports and providing information to the public
  - Issuing forms and maintaining a register, or registers, for notifications
  - Making and issuing regulations
  - Promoting exchange of information with other States
- Confidentiality
  - Reasonable safeguards, Protecting the identity of persons who provides information and protecting the deliberations of government in regard to current or still uncompleted matters



# REVISION OF CHAPTER X FUNCTIONS AND POWERS OF THE ADMINISTERING AUTHORITY



- Last revised in 2010. The 2019 Revision includes:
- Updates of detailed information to reflect changes in competition legislation or institutions in relevant jurisdictions (but there are no big change on the function and powers of the jurisdictions)
- Additional examples on:
  - More than 60 jurisdictions operate leniency program, and Brazil, Russia Federation and South Africa have active leniency programmes, but most of medium and low income countries have no leniency programme
  - Malaysia has the protection of confidential information and that means trade, business or industrial information that has economic value and is not generally available to or known by others







# THANK YOU FOR YOUR ATTENTION!

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