



April 08, 2019.

Competition and Consumer Policy
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Email: competition.policy@mbie.govt.nz

**Ref. SUBMISSION REGARDING THE NEW ZEALAND MINISTRY OF
BUSINESS, INNOVATION & EMPLOYMENT DISCUSSION PAPER
“REVIEW OF SECTION 36 OF THE COMMERCE ACT AND OTHER
MATTERS”**

Dear Sirs,

We have pleasure in enclosing a submission that has been prepared by members¹ of the Unilateral Conduct Working Group of the Antitrust Committee of the International Bar Association (the “Working Group”).

The Working Group wishes to congratulate the NZMBIE on producing a thorough and extremely well-researched Discussion Paper. Given that the Working Group consists of a number of practitioners and experts in various jurisdictions, so that a clear consensus on each of the questions raised in the Discussion Paper is difficult to reach, it considers that an appropriate approach to its commentary is with regard to specific themes raised in the Discussion Paper. In line with the International Bar Association's value proposition of bringing together antitrust practitioners and experts from among its membership around the world, with a blend of jurisdictional backgrounds and professional experience spanning all continents, this submission also seeks to draw on the Working Group's

¹ Co-Chairs of the Working Group Chris Charter (Cliffe Dekker Hofmeyr, South Africa) and Andrew Ward (Cuatrecasas, Spain); Andrew Matthews and Elsie Stone (Matthews Law, New Zealand), Carolyn Oddie (Allens, Australia), Joanna Goyder (Freshfields, Belgium) Omar Wakil (Torys, Canada)

international and New Zealand experience in a manner that the NZMBIE will hopefully find constructive and helpful.

While we hope that this high-level approach will be helpful to the NZBIE as it further conducts its review, the Working Group also notes that the core issues raised in the Discussion Paper traverse topics of considerable complexity and topicality the world over, for regulators, businesses and their advisors alike.

The Co-chairs and representatives of this Working Group of the Antitrust Committee of the IBA would be delighted to discuss the enclosed submission in more detail with the representatives of the Ministry.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Reysen', with a large, stylized initial 'R'.

Elizabeth Morony
Co-Chair Antitrust Committee

Marc Reysen
Co-Chair Antitrust Committee