



ANNEX V

CASE STUDIES

This page is intentionally left blank



ANTI-COMPETITIVE AGREEMENTS

INDONESIA: TIRE MANUFACTURER PENALISED FOR PRICE-FIXING

In 2014, six tire manufacturers were found to have entered into a cartel for the production and marketing of tires in Indonesia. Specific types of tires were sold in Indonesia at prices between 20 and 25 percent higher than in neighbouring countries. In its decision, the Commission for the Supervision of Business Competition (KPPU) stated evidence from meetings of the Association of Indonesian Tire Producers (APBI) during which agreements to uphold production, maintain prices and control distribution to sustain market conditions in accordance with demand were discussed.

These findings were supplemented by an economic analysis by the KPPU.

The companies individually received fines of 25 billion IDR (approx. 1.6 million US\$), the highest amount that can be imposed under the Indonesian competition law. Some of the manufacturers were foreign companies with factories in Indonesia. KPPU also advised the Ministry of Industry and APBI to comply with the provisions and principles outlined in the competition law.



SINGAPORE: HIGHEST FINE IMPOSED ON GLOBAL-SCALE CAPACITOR CARTEL

In 2018, the Competition and Consumer Commission of Singapore (CCCS) issued a decision against five companies for engaging in anti-competitive agreements, including price-fixing, and the exchange of confidential sales, distribution and pricing information on aluminium electrolytic capacitors (AECs), an electrical component commonly used in computers and home appliances. This was CCCS's third case involving a global cartel. There were similar investigations by competition authorities in China, Japan, Korea, Taiwan, the European Union and the United States.

The fines imposed by CCCS amounted to 19.5 million SGD (approx. 14 million US\$), accounting for the protracted period of time of the cartel and due to the fact that the infringing companies held more than two-thirds of the market share of the relevant market in Singapore. Due to leniency applications, Panasonic received total immunity while two other companies were awarded a discount for coming forward with information on their cartel activities. Following the decision, prices for the capacitors were said to have gone down by about 10 percent.

These case studies were submitted by AEGC Members in July 2018. The name changes of the competition authorities in Singapore and Viet Nam are reflected (different from the description in the Handbook on Competition Policy and Law in ASEAN for Business 2017 which was published in January 2018).



ABUSE OF DOMINANCE CASE STUDIES



INDONESIA: STATE-OWNED AIRPORT OPERATOR PENALISED FOR ABUSE OF DOMINANCE

In June 2017, the Commission for the Supervision of Business Competition (KPPU) imposed a fine amounting to IDR 6.5 billion (approx. 470,000 US\$) on PT. Angkasa Pura Logistik for their monopoly practices at the cargo terminal of Sultan Hasanuddin International Airport, Makassar. The company was proved to have violated the competition law by significantly overcharging customers, among others doubling the price for comparable logistic services. A similar decision was issued to PT. Angkasa Pura II concerning cargo-handling services at Kualanamu Airport in Medan.

Complaints about steep price hikes for cargo handling had emerged after the so-called Restricted Security Area (for incoming cargo) and Regulated Agent (for outgoing cargo) policies were enacted. Following this case, the KPPU approached the Ministry of Transportation as well as the Ministry of State-owned Enterprises and the Airport Authority, recommending a number of regulatory changes to ensure that in the future, both private and state-owned operators provide their services in all airports across Indonesia according to competition principles.



MALAYSIA: DISCRIMINATORY PRACTICES IN MANDATORY INSURANCE SALES

In its first (and so far only) abuse of dominance decision, the Malaysian Competition Commission (MyCC) found that MyEG Services Bhd. and its subsidiary had abused their dominant position by entering into an agent agreement with RHB Insurance Bhd. to sell, among others, mandatory insurances for the renewal of temporary employment permits for foreign workers. This had resulted in extra verification steps and longer renewal times if customers chose other non-agent companies for insurance purchases.

In December 2017, the Competition Appeals Tribunal (CAT) upheld the decision and obliged the companies to cease and desist immediately from imposing different conditions for processing insurance applications. Aside from imposing significant fines amounting to a total of 6.4 million RM (approx. 1.5 million US\$), CAT also required the companies to provide an efficient, fair online system for all competitors and new entrants for mandatory insurances sales. This decision by the CAT can still be subject to judicial review by the High Court.



SINGAPORE: RESTRICTIVE PRACTICES ON LIFT SPARE PARTS

In 2016, the Competition and Consumer Commission of Singapore (CCCS) investigated several companies that were allegedly refusing to supply lift spare parts for maintenance in Housing and Development Board (HDB) estates. Across the country, there are over 20,000 lifts of multiple brands installed in HDB estates. While the majority of them are being maintained by the original manufacturers, town councils can also opt to appoint third-party lift maintenance contractors for multiple brands of lifts within the estate. This could potentially be more cost-efficient.

The refusal by any distributor to provide proper but essential lift spare parts to third-party lift maintenance companies prevents them from effectively competing for contracts to service lifts of particular brands, which is a violation of the Competition Act. As BNF Engineering and C&W Services Operations Pte Ltd., two companies under investigation, separately approached CCCS to propose voluntary commitments to address these competition concerns; no punitive measures against the companies. However, CCCS will continue its other investigations regarding access to essential lift spare parts for third-party lift maintenance contractors.



ANTI-COMPETITIVE MERGERS AND ACQUISITIONS



PHILIPPINES: VOLUNTARY COMMITMENTS FOR GLASS MANUFACTURERS

In 2017, the Philippine Competition Commission (PCC) accepted voluntary commitments from TQMP Glass Manufacturing Corp as a precondition to its acquisition of AGC Flat Glass Philippines, Inc., the sole domestic manufacturer of clear and bronze float glass. The PCC found that after the acquisition, TQMP and its related entities would control more than 50 percent of the relevant market in the Philippines, either via importation or domestic manufacture. There was also a concern that TQMP could increase prices in the downstream industries of glass processing and distribution.

The PCC approved the acquisition but required the parties to set fair process and maintain non-discriminatory practices against customers and competitors alike. Among others, TQMP is required to inform all customers about discounts and rebates to avoid exclusionary conduct. To monitor compliance, there are additional reporting requirements to the PCC and relevant stakeholders concerning the imposition or extension of any duties or quotas that may affect the prices of imported clear or bronze float glass.



SINGAPORE: CONDITIONAL APPROVAL FOR MERGER BETWEEN BOOK DISTRIBUTORS AND PUBLISHERS

In 2017, the Competition and Consumer Commission of Singapore (CCCS) received an application for the acquisition of Penguin Random House Pte. Ltd. And Penguin Books Malaysia Sdn. Bhd. By Times Publishing Ltd. CCCS initially raised competition concerns as the proposed merger may result in an exclusive distribution agreement and provide an incentive for the merged entity to discriminate or restrict the supply of the publishers' titles to other retailers.

The CCCS granted conditional approval to the merger of after accepting a number

of commitments from the merged entity, including to supply third-party retailers with the full range of books by the publishers on a fair, reasonable and non-discriminatory (FRAND) basis during the period of exclusive distribution. Furthermore, the merged entity committed to apply the same Distributor Recommended Retail Price to all retailers, and will apply discounts to retailers in a FRAND manner, based on a set of objective discount criteria. An independent auditor will be appointed to monitor compliance with the commitments.



VIET NAM: MONITORING COMPETITION CONCERNS IN THE RETAIL SECTOR

In 2016, the Viet Nam Competition and Consumer Authority (VCCA) was notified of a planned acquisition of Big C Supermarket, to be sold by Casino Group (France) to Central Group (Thailand), including many enterprises owning Big C supermarkets in Viet Nam. Foreign retail giants, especially from Thailand, have been buying retail chains in Viet Nam, resulting in difficulties for domestic enterprises to sell their products through the entities acquired by the foreign investors, among others due to failing to meet certain quality standards.

The VCCA consulted relevant agencies in order to determine the potential impact of the acquisition on competition, noting that the combined market share as a result of

the acquisition would be quite significant. However, upon further assessment, the combined market share of the involved companies was found to not be in violation of the competition law.

Similarly, the VCCA received a notification regarding a merger between Mobile World JSC and Tran Anh, two electronics retailers, in 2017. Competition concerns were raised as to the impact on the structure of the retail market for electronic products and information technology due to the increased market power of Mobile World. Upon careful analysis, VCCA found that there was indeed violation of the competition law, but decided to continue monitoring the activities of Mobile World to promptly detect and address any abuse of dominance.