



**AEGC**  
PROMOTING & PROTECTING THE COMPETITIVE PROCESS

# 20 19



**AEGC  
ANNUAL REPORT**



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# INTRODUCTION

Competition encourages businesses to offer consumers goods and services at the most favourable terms. Through competitive pressures exerted by companies, competition encourages efficiency, innovation and lowers prices. It plays a central role by prohibiting business conducts that may impede effective competition in the markets and ensures fair and equitable business practices within the ASEAN. Following the enactment of competition laws in nine AMS - with Cambodia in the process of passing its laws, younger competition authorities across ASEAN are in various stages of development, ranging from reviewing its laws and regulations for those with matured competition regimes, to just setting-up the accompanying regulations and guidelines following the establishment

of its new competition authority. Over the past year, the AEGC has worked towards strengthening its capacity to enforce the competition laws by developing toolkits, e-learning modules, organizing capacity building activities and strengthening regional cooperation.

In addition, ASEAN recognizes the importance and benefits of convergence of competition policy and law in ASEAN. Businesses are increasingly engaging in international trade, and thus the ability of competition authorities to deal with cross-border competition issues will depend heavily on cooperation and coordination between ASEAN's competition regulators. Cooperation and coordination will be substantially easier when convergence of competition legislations can be achieved.



**THE 23<sup>RD</sup> MEETING OF THE ASEAN EXPERTS GROUP ON COMPETITION AND RELATED MEETINGS**  
8-11 APRIL 2019 | KUALA LUMPUR, MALAYSIA

# AEGC WORK PROGRAMME



**BRAINSTORMING MEETING ON THE DEVELOPMENT  
OF THE PEER REVIEW GUIDANCE  
17-18 JUNE 2019  
BALI, INDONESIA**

In respect of the work of the AEGC in implementing the ACAP 2025, the following highlights the on-going progress of initiatives and activities held in 2019:

***Strategic Goal 1: Effective competition regimes are established in all ASEAN Member States***

Following the setting-up of four additional competition authorities in AMS bringing the number of competition authorities in the region to a total of nine countries with younger competition regimes are starting to enforce its laws such as in the case of Brunei Darussalam where the first key prohibition on anti-competitive agreements and its related provisions will be enforced on 1 January 2020. Authorities have also been undergoing preliminary competition assessment on priority sectors and on the concerns raised by stakeholders as well as strengthening its advocacy activities. Meanwhile, several younger authorities such as Brunei Darussalam, Lao PDR, and Myanmar are in the process of drafting its implementing regulations and guidelines.

Meanwhile, more established authorities are in the process of undertaking amendments or revisions to its implementing regulations and to their Competition Law. The Malaysia Competition Commission (MyCC), is amending the Competition Act and Competition Commission Act, which is expected to look into the inclusion of the Mergers and Acquisition (M&A) power, among others.

In addition, to strengthen its enforcement work and expand the scope of the application of competition laws, cross-sectoral as well as cross-border engagements are being undertaken. For example, the PCC is entering into

Memorandum of Agreement (MOAs) with several sector regulators as well as the regional competition authorities on merger review, enforcement action and capacity building activities. Similarly, the Competition and Consumer Commission of Singapore (CCCS) has recently into a Memorandum of Understanding (MOU) with the Canada Competition Bureau, which is its first MOU with an overseas enforcement agency that covers competition and consumer protection cooperation initiatives.

As part of the assessment of the ASEAN competition regimes, AMS continues to self-assess its competition regimes by using the ASEAN Self-Assessment Toolkit on Competition Enforcement and Advocacy. This particular year, in-line with outcome 1.2.2 under the ACAP 2025, the results of the self-assessment exercise was presented at the 8<sup>th</sup> ASEAN Competition Conference (ACC) which was well received by the participants as it illustrates the substantive commonalities and differences in the competition regimes between AMS.

***Strategic Goal 2: The Capacities of Competition-related Agencies in AMS are Strengthened to Effectively Implement CPL***

Nine competition authorities have now been established, in which four authorities have only recently been set-up with less than five years of experience of enforcing their respective competition laws. Recognising the importance of demonstrating strong competition enforcement in the early years of a competition authority establishment so as to deter anti-competitive conduct, capacity building activities are still an essential part of ASEAN's regional

cooperation on competition policy and law.

As shown in **Table A** below, approximately 26 capacity building activities have been undertaken at the national, sub-regional and regional level in 2019. The capacity building activities were delivered through workshops and trainings, secondment of competition officials to another AMS competition authority, the ACCC, the NZCC, the EU Commission and the competition authority of an EU Member Country, expert placements to several ASEAN competition authorities, and staff exchanges among AMS.

**Table A: Number of Capacity Building Activities Convened (2019)**

No.	Capacity Building Activities	Number of Activities Convened
1.	Workshops and Trainings	12
2.	Secondment of Officials	7
3.	Expert Placements	6
4.	Staff Exchanges among AMS	1

The second batch of ASEAN officials participated in the two weeks Summer School at the College of Europe which was held from 1 – 12 July 2019 in Bruges, Belgium. The Summer School which introduced the participants' competition provisions under the Treaty of the Functioning of the European Union (TFEU) were participated by commissioners as well as case handlers from all AMS.

As part of the four AEGC Key Deliverables for 2019, the *Trainers Guide to Market Studies* has been developed and covers the processes and elements of a market study

as well as guidance on conducting trainings on market studies. The Guide is designed to cater to different types of market studies and includes the means to manage market studies that are outsourced.

To complement the capacity building activities, an additional e-learning modules has been developed on evidence gathering, bringing the total number of modules developed for ASEAN competition officers to five modules. The AEGC with the support from the ACCC is developing the sixth module on mergers.

To cater for the need to engage with the judiciary, the AMS participated in the annual OECD/ KPC Competition Law Workshop for Asia-Pacific Judges which was held from 30-31 May 2019 in Bangkok, Thailand.

The *Virtual ASEAN Competition Research Center* which was set-up in 2018, continues to invite interested academicians to submit their research work on competition development issues in the region, for it to be published. New research articles and researcher profiles, as well as additional collaboration opportunities have been uploaded onto the Virtual Center.

In addition, the *Toolkit for Formulating National Enforcement Strategies* have been developed which is aimed to guide agencies on the means to allocate resources effectively and to identify realistic entry points for enforcement activity. The Development of the Toolkit serve as one of the AEGC's Key Deliverable for 2019.

In terms of enforcement, **Table B** below shows the list of competition initiatives in each AMS in 2019. The table reflects the number of enforcement activities undertaken by each AMS, including advocacy activities, competition

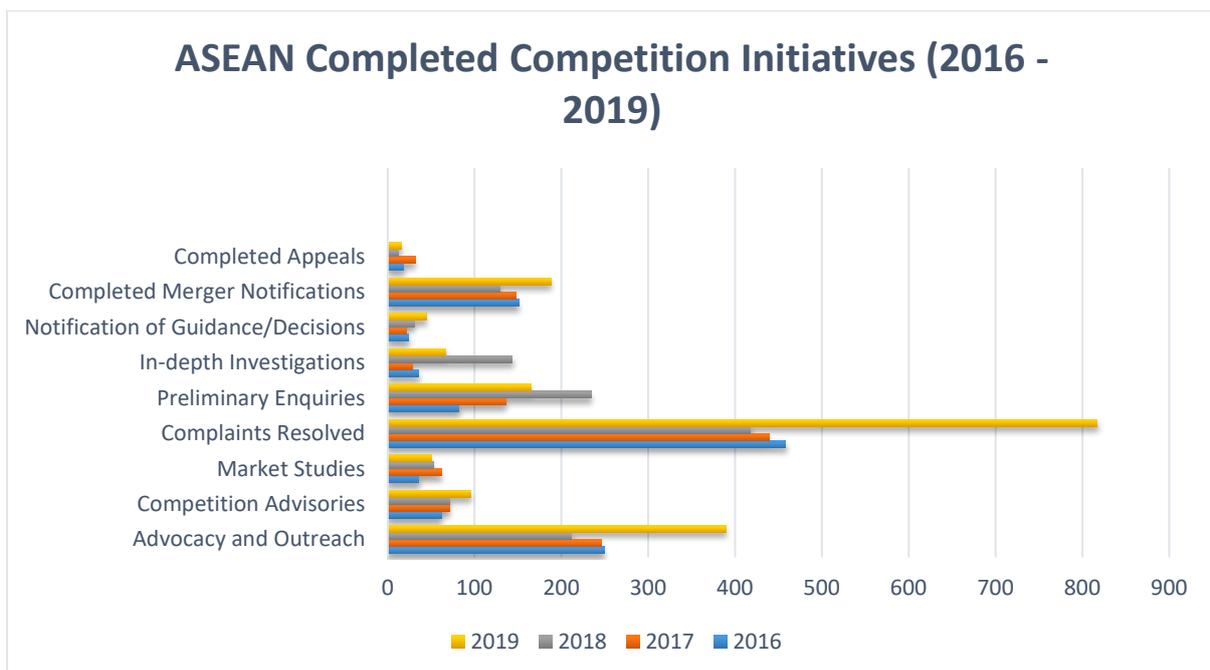
advisories, investigations and the number of completed merger notifications and appeals. It can be seen from **Graph 1**, that since 2016, there have been a rise in the number of complaints resolved compared

with previous years which includes completed merger notifications. In addition, the number of advocacy and outreach have peaked over the four years in which data have been collected.

**Table B: ASEAN Completed Competition Initiatives (2019)**

AMS	Advocacy and Outreach Events	Competition Advisories	Market Studies	Complaints Resolved	Preliminary Enquiries	In-depth Investigations	Notification of Guidance/Decisions	Completed Merger Notifications	Completed Appeals
BN	16	2	-	-	2	-	-	-	-
CA	12	2	-	-	-	-	-	-	-
ID	75	17	34	162	87	31	33	124	15
LA	18	3	-	2	3	-	-	-	-
MY	31	7	1	115	48	12	-	-	1
MM	16	1	1	3	9	7	-	-	-
PH	26	17	6	4	4	3	-	31	-
SGP	47	29	2	516	6	5	-	5	-
TH	103	11	7	13	-	8	12	23	-
VN	46	7	-	2	6	1	-	5	-
<b>Total 2019</b>	<b>390</b>	<b>96</b>	<b>51</b>	<b>817</b>	<b>165</b>	<b>67</b>	<b>45</b>	<b>188</b>	<b>16</b>

**Graph 1: ASEAN Completed Competition Initiatives (2016 - 2019)**



***Strategic Goal 3: Regional Cooperation Arrangements on CPL are in Place***

The ASEAN Competition Enforcers Network (ACEN) continues to meet on a regular basis at the sideline of the AEGC Meetings. Apart from deliberating on the preparation to undertake the Study on Recommended Procedures for Joint Investigations and Decisions on Cross-Border Cases which is scheduled to be undertaken in 2020, the ACEN is working to develop means to exchange confidential information to facilitate enforcement and merger cooperation by developing a common definition for confidential information, simplifying the channel of communication, and developing a template to exchange case-related information.

***Strategic Goal 4: Fostering a Competition-aware ASEAN Region***

As part of its flagship activity and as part of outcomes 4.4.1 under the ACAP 2025, the AEGC has since 2011 convened the ASEAN Competition Conference (ACC) as a platform to discuss emerging issues, share best practices and provide a platform for discussion and networking among competition-related authorities and stakeholders. The 8<sup>th</sup> ACC was held from 14-15 November 2019 in Phnom Penh, Cambodia which was held with the theme 'Attaining Milestones and Addressing Challenges'.

The participants which ranged from competition experts, academicians and businesses, deliberated on a wide range of topics relevant to the region which includes competition advocacy, detecting and investigating cartels, managing state-owned enterprise, as well as means to

strengthen regional cooperation and the digital economy.

In addition, the results of the first competition self-assessment exercise by competition authorities was presented. The Conference also provided a platform for competition authorities also deliberated on the recent Grab-UBER acquisition which impacted several jurisdictions in the region.

To continue the AEGC-lead initiative to facilitate cross-sectoral discussions, a Workshop on the Interface between Competition Law and Intellectual Property Rights (IPR) was held from 26 - 27 September 2019 in Manila, the Philippines. The Workshop which was participated by competition and IPR regulators, provided an avenue for interactive exchange and networking between competition and intellectual property officials within and among AMS. In addition, the Workshop recognised the necessity to build a complementary relationship between both regulators, primarily to facilitate innovation in the region.

The AEGC also held an interface workshop with energy regulators by way of organizing an interface workshop from 4-5 December 2019 in Jakarta Indonesia. The Workshop provided participants the opportunity to develop their understanding of current competition-related issues and challenges facing the energy sector in Southeast Asia through a series of presentations, moderated panel discussions, and facilitated break-out sessions. The participants from both jurisdictions recognizes the value of consumer empowerment through better competition, in ways that it widens choices and provides reasonable electricity prices for consumers. Accordingly getting energy and competition regulators together in one workshop is an important step towards achieving greater

complementarity in policies and rules, thus eliminating the “push-pull” effect of inconsistent policies.

In addition, as part of the initiatives carried out under this Strategic Goal, the AEGC is working to update ASEAN Handbook on Competition Policy and Law for Business and is in the process of finalising the Inaugural ASEAN Business Perception Index (ACBPI) Report.

***Strategic Goal 5: Moving Towards Greater Harmonisation of Competition Policy and Law in ASEAN***

In-line with initiative 5.1 under the ACAP 2025, and serving as one of the four annual key deliverables for 2019, the AEGC completed the *Study on the Commonalities and Differences across Legislations in ASEAN* which provided a comprehensive overview of the commonalities and differences of the substantive rules in ASEAN. The Study subsequently makes initial recommendations on the strategic options on how the gradual convergence of the laws could be initiated. The initiative illustrates the AEGC’s recognition of the necessity and benefits of aligning competition rules across the region. In particular, with increasing cross-border mergers and cartels worldwide and greater alignment of international competition laws.

In the absence of a supra-national competition regulator to regular and enforce a regional competition policy and law, convergence in the interpretation and application of competition laws across the region will be vital to ensure a robust ASEAN competition regime.

The next step will be to develop a strategy paper to identify areas for regional convergence backed with supporting

arguments. This initiative will be undertaken in 2020.

Another initiative the AEGC will be working on in 2020, is the updating of the *Regional Guidelines on Competition Policy* which was first published in 2010. This is consistent with Outcome 5.3.1 under the ACAP 2025. The Regional Guidelines set out different policy and institutional options that serve as a reference guide for AMS in their efforts to create a fair competition environment. The increasing cross-border competition issues emanating over the last ten years have all compounded the need for a timely review of the Guidelines.

# TECHNICAL ASSISTANCE



ENERGY AND COMPETITION REGULATION WORKSHOP  
4-5 DECEMBER 2019  
ASEAN SECRETARIAT

Through the ASEAN-help-ASEAN approach and with the support from dialogue partners, the AEGC have continued to endeavor to build the capacities of the ASEAN competition officials, by way of convening workshops, training programmes, conducting study visits and secondment of competition experts and officials.

Over the past year, demand-driven technical assistance from countries such as Australia/New Zealand, Germany, Japan, and the European Union (EU) have been received to assist in strengthening the capacity of competition authorities within the region. The assistance supported the AEGC in achieving the goals set under the ACAP 2025 and contributed towards legislative and institutional progress in each AMS.

This section highlights the main technical assistance provided by the dialogue partners of the AEGC:

***ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) Economic Cooperation Support Programme (AECSP) - Competition Law Implementation Programme (CLIP)***

The AECSP through the CLIP Phase III programme provides one of the most robust capacity building programmes for ASEAN competition officials. Continuing the success of CLIP Phases I and II, CLIP Phase III supports the convening of various capacity building initiatives which includes convening Workshops on the following topics; cartel investigations, evidence handling and interview skills, strategic investigations management, investigating abuse of dominance, remedies for competition law infringements, and market studies. The Workshops were organized sub-regionally and the contents

were tailored to the needs of the AMS, based on their stages of development. The workshop were supplemented by e-learning modules which provides access of knowledge to a wider number of competition officials in the region. In addition to competition specific capacity building activities, an interface workshop with the ASEAN energy sector regulators were convened to promote dialogue and strengthen cooperation amongst the authorities.

In addition, a 'Toolkit for Senior Competition Investigators' has been produced to provide a reference for building and managing investigation teams. The Toolkit also covers investigation management and stakeholder management in investigations, including managing international cooperation. This toolkit was timely as some competition agencies are preparing to enforce the competition law.

Secondments to the ACCC and NZCC continued to be implemented in 2019. The secondees were provided with the opportunity to pursue a five-days competition law course at the University of Queensland. In addition, Resident Advisors from the ACCC were placed in some AMS to assist in advancing towards the enactment and the enforcement of the competition law. Furthermore, a Commissioners' Retreat was convened to provide a dialogue between competition commissioners and agency leaders from the AANZFTA region on competition advocacy issues and the role of commissioners in promoting competition in the region.

In addition to CLIP Phase III, the AANZFTA Economic Cooperation Support Programme (ECWP) also supports interface activities between the competition and consumer protection through the Consumer Protection Scoping

Project (CPSP). The CPSP aims to facilitate the preparation for the review of the AANZFTA Competition Chapter to include consumer protection provisions and recommend a way forward for future cooperation on consumer protection under the AANZFTA Chapter on Competition. To attain this goal, a study on the interface between competition and consumer protection and a dialogue activity among the relevant authorities have been undertaken. The CPSP recognised the various institutional arrangements to help facilitate the enforcement of the competition and consumer protection laws in the AANZFTA region. Hence, several activities were recommended that could be undertaken to strengthen and advance the cooperation arrangements amongst the competition and consumer protection authorities in the region.

***ASEAN-German Promotion of Competitiveness within the Framework of the Initiative for ASEAN Integration (COMPETE) Project***

With the aim of enabling the CLMV countries to apply an investment-conducive and pro-competitive implementation of ASEAN agreements in the areas of “trade in services” and “competition policy”, the *ASEAN-German Promotion of Competitiveness within the Framework of the Initiative for ASEAN Integration (COMPETE)* project supports the attainment of initiatives under the ACAP 2025. The project supports both regional as well as national initiatives that aims to strengthen competition enforcement in the region with a special attention to the CLMV countries. This project gave the opportunity for the CLMV countries to take lead in shepherding several regional initiatives.

The project supported several important initiatives in 2019, such as the development of the *Competition Enforcement Strategy Toolkit for ASEAN Competition Agencies*, the *Trainers’ Guide to Market Studies*, and the *Commonalities and Differences across Competition Legislation in ASEAN*. In addition to these publications, the COMPETE project also supports the convening of the 8<sup>th</sup> ASEAN Competition Conference (ACC) on 14 – 15 November 2019 in Phnom Penh, Cambodia, with the theme of “Attaining Milestones and Addressing Challenges”. The 8<sup>th</sup> ACC gathered ASEAN national competition agencies, the Bundeskartellamt, the OECD, UNCTAD, academicians, and businesses to discuss competition issues in ASEAN.

***Technical Assistance for ASEAN Competition Authorities to Strengthen Competition Law Enforcement in ASEAN – Japan ASEAN Integration Fund (JAIF)***

The Government of Japan continued to support the development of ASEAN’s competition policy and law through the programme entitled ‘Technical Assistance for ASEAN Competition Authorities to Strengthen Competition Law Enforcement in ASEAN – Phase II’ which is funded under the Japan-ASEAN Integration Fund (JAIF). This project supported capacity building activities as well as the undertaking of four initiatives under the ACAP 2025. Two capacity building activities have been convened in 2019, namely the Training Course on Strategic Planning and Management of Enforcement Activities, and the Workshop on the Interface between Competition Law & IPR. The Workshop engaged both competition and IPR officials from each AMS.

Furthermore, the project supported the development of the ASEAN Competition Law and Policy Peer Review Guidance Document and the undertaking of the ASEAN Competition Business Perception Index (ACBPI). The [Peer Review Guidance Document](#) has been published on the AEGC website. The document will be used as reference to conduct the pilot peer review of Malaysia's competition regime in selected area, which will commence in 2020 as well as future peer review initiatives. The ACBPI survey conducted in 2019 serves as the baseline index and is hoped to be undertaken every five years.

### ***EU Competition Collaboration Project***

In 2019, three capacity building activities have been supported by the EU-ASEAN Competition Cooperation Project. The 1<sup>st</sup> ASEAN-EU Competition Week was held on 24 – 28 June 2019 in Kuala Lumpur, Malaysia and deliberated on issues of common interest in the field of mergers (including remedies), state interventions in markets, procedural fairness, and competition law issues in the digital economy. The convening of the Competition Week, facilitated dialogues between the ASEAN and EU Competition Authorities, DG Competition of the European Commission, OECD, relevant Malaysian governmental bodies, and the private sector.

Secondly, the 2<sup>nd</sup> ASEAN-EU Competition Summer School (CSS) was held from 1 – 12 July 2019 in the College of Europe, Bruges, Belgium. The 2<sup>nd</sup> CSS which was participated by 19 competition officials from all ten AMS and an officer from the ASEAN Secretariat, comprised of lectures on the fundamentals of anti-trust provisions under the Treaty of the Functioning of the European Union (TFEU) and its implementing regulations. The

Summer School was complimented with a study visit to the DG Competition of the European Commission where the participants were briefed on the institutional arrangements and decision making process to facilitate competition law enforcement. The 2<sup>nd</sup> CSS was attended by 20 ASEAN competition officials. This activity provided an opportunity for ASEAN competition officials to share experiences with competition officials from China, India, and South Korea who also took part in the programme.

Thirdly, the Visitors Programme supported the secondment of ASEAN competition officials to the EC DG Competition and/or EU Member States' Competition Authorities. In 2019, a competition official from Indonesia was seconded to the EC DG Competition.

**Others**

The OECD has been supporting the AEGC since 2018 in conducting two studies on the Competition Assessment of the Logistics Sector, and the Competition Assessment of State-Owned Enterprises (SOEs) in the logistic sector. Study visits to several AMS have been conducted and is currently ongoing. Online interviews are also being undertaken in-light of the pandemic. The regional reports of the studies are expected to be published by 2021.

The United Nations Conference on Trade and Development (UNCTAD) continues to contribute its expertise by participating in the activities organized by the AEGC. In 2019, the UNCTAD participated as an expert in the Training Course on Strategic Planning and Management of Enforcement Activities and became one of the speakers at the 8<sup>th</sup> ASEAN Competition Conference. Moreover, the ASEAN Member States continues to participate in the annual Inter-governmental Group of Experts on Competition Law and Policy.



*2<sup>nd</sup> ASEAN-EU Competition Summer School, 1 – 12 July 2019, Bruges, Belgium*

# COUNTRY REPORTS



24TH AEGC MEETING  
4-5 OCTOBER 2019  
LANGKAWI, MALAYSIA

## BRUNEI DARUSSALAM



With the enforcement of Anti-Competitive Agreements prohibition on 1 January 2020, the Competition Commission Brunei Darussalam (CCBD) has ramped up its groundwork with continued focus on advocacy and internal preparation works including formulation of process and procedures; development of regulations and guidelines; establishment of priority areas through market review and preliminary enquiry as well as capacity building.

On advocacy and socializing front, 41 advocacy sessions have been conducted thus far, with a focus on creating awareness on the benefits of competition law and on promoting business compliance among professional bodies and trade associations. A great amount of focus has also been put in place in engaging with public procurement personnel in raising awareness on the harms of bid rigging and on the preventive measures towards safeguarding government spending.

To support the advocacy effort, the CCBD has prepared numerous advocacy materials in plain language to help key stakeholders in understanding the prohibitions. The materials are available in various formats and in different themes such as leaflets on Frequently Asked Questions about the Competition Order and on Fighting Bid Rigging; posters on Do's and Don'ts for Associations; banner on Cartel Prohibitions; and handbooks on Business Guidelines.

Increasing awareness and interest from key stakeholders including government agencies and business communities on competition law can be gauged from the number of advocacy demand, enquiries and advisory requests. A number of policy advisories have been shared on issues concerning barrier to entry in halal meat industry and local business development for construction sector.

Total of 10 procedural documents including 4 application forms; 2 internal manuals; and 4 external guidelines have been completed in 2019. The guidelines, namely, Guidelines on Anti-Competitive Agreements; Guidelines on Complaint Procedures; Guidelines on Extension of Transitional Period and Guidelines on Leniency are prepared to provide insights on how the CCBD will enforce and administer the Competition Order.

In the effort to provide the public and key stakeholders an easy gateway to information about the Competition Order, the CCBD has launched its official website, which can be accessed through [www.ccbd.gov.bn](http://www.ccbd.gov.bn). The CCBD website features practical information on conducts prohibited under anti-competitive agreements (cartels); competition guidelines; resource materials; latest news; and Frequently Asked Questions.

The CCBD has also introduced its official logo as part of its corporate branding and as an enhancement of the CCBD identity.

**CAMBODIA**



*Discussion on the draft Competition law between the Ministry of Commerce and the Ministry of Justice*

The draft law on Competition of Cambodia is currently being finalized – with particular attention to Chapter 4 and Chapter 6 on Investigation Process and Penalties Provisions, respectively. The Chapters have been put into a one-on-one discussion between the Ministry of Commerce and the Ministry of Justice. The two Chapters are expected to be finalized by end of 2019 and the draft law is to be considered at an Inter-Ministerial Meeting participated by the Council of Ministers. It will then be re-submitted and tabled at the Full Cabinet Meeting to be chaired by the Prime Minister in early 2020.

The draft Law applies to all Persons conducting business activities, or any actions supporting business activities, which significantly prevent, restrict or distort competition in the market of the Kingdom of Cambodia, regardless of whether the activities took place inside or outside the territory of the Kingdom. The Competition Commission will be established to promote a competitive market economy for Cambodia and to enforce the provisions of the law. The competition agency will be named Competition Commission of Cambodia

“CCC”, which the Consumer Protection Competition and Fraud Repression Directorate General “C.C.F” (hereinafter, “the Directorate”) will be the Secretariat of the Commission.

In April 2019, the Competition Department of Cambodia in cooperation with the German Cooperation Agency (GIZ) conducted a consultation meeting on the draft Law to discuss the topic of "Horizontal Agreement or Cartels" with other stakeholders, including private sectors as well as representatives from line ministries. The consultation meeting highlighted the importance of Cartels enforcement under the draft Law. It also introduced the objectives of the draft Competition Law to the participants.



*Consultation workshop on "Unlawful Horizontal Agreements or Cartel" 23rd April 2019*

An expert placement from the Australian Competition and Consumer Commission (ACCC) took place from 15 July to 09 August 2019 at the competition Department. The expert worked on the draft Competition Law of Cambodia based on practical enforcement experiences from ACCC, as well as to assist the Competition Department to move one step ahead in drafting the sub-decree on the establishment of the Competition Commission of Cambodia which will be an essential document when the Law is enacted.



*The Competition Department hosted an expert placement from the ACCC from 15th July to 09 August, 2019*

In November 2019, Cambodia hosted the 8<sup>th</sup> ASEAN Competition Conference (ACC) which was held at an especially momentous time for ASEAN as Cambodia being the last country in ASEAN to have a competition law, reaches the final stage of enacting its competition law. The 8<sup>th</sup> ACC deliberated on the challenges faced by ASEAN's young agencies in addressing competition issues. The discussions among others examined issues relating to business compliance, enforcement, monopolies/SOEs, cartels and the future of convergence in ASEAN's competition laws.

## INDONESIA

The effectiveness of Indonesia Competition Commission (ICC), as well as the regulatory framework which embodies it, affects the quantity and quality of investment in Indonesia. Ineffective prevention and enforcement of competition law can lead to industrial concentrations which are detrimental not only to business actors, but also to the consumers or public at large. This will certainly lessen Indonesia's competitiveness compared to neighbouring countries in ASEAN, including in obtaining foreign investment to support the Government's development program.

For this reason, the ICC continues to strive to enhance its work efficacy, by improving competition regulations which is relevant to business competition so as to create a fair and highly competitive business environment. 2019 has been an important year as the ICC had focused on reforming regulations that are directly related to business actors, such as improving procedural law, improving notification regulation for merger and acquisition transactions, and providing legal protection for micro, small and medium enterprises (MSMEs). We believe that these regulations can contribute positively to support the Indonesian Government programs in the following years.

Efforts to prevent and enforce competition law continues to increase in strategic sectors, especially the food sector. In 2019, the ICC successfully handled thirty-three competition cases with a total of IDR 165.6 billion of fines. Furthermore, ICC's contribution to Non-Tax State Revenues (PNBP) paid from violations of competition violations reached IDR 38.6 billion. There are still 45% of the total receivables from

fines or around IDR 335 billion as potential unpaid state revenues by violators. Most of the cases handled were related to collusion in the procurement of public goods and services.

In terms of merger and acquisitions, there were 124 (one hundred and twenty-four) transaction notifications submitted to ICC, with a total value of approximately IDR 154 trillion. The number of notifications increased 70% from the previous year. Most of them were transactions conducted by national companies, especially in the processing sector.

As part of the oversight of large business partnerships with micro, small and medium enterprises (MSMEs) as stipulated in the Law No. 20 of 2008 concerning SMEs, the Commission began to enforce violations on business partnerships. In the first year of implementation, ICC focused on the plantation sector. In total, ICC handled 7 (seven) cases related to violations in the business partnership. It is hoped that this role will be further enhanced in order to improve the competitiveness of MSMEs and oversee the implementation of Government policies in upgrading the Indonesian MSME classes.

On the competition policy side, ICC as a partner of the National Interest Team, has issued 8 (eight) policy recommendations on national product protection policies, which have been implemented in the form of Anti-Dumping Import Duty and Safeguard Duty Import Duty on various products. The imposition of import duties is in line with efforts to protect national competition, especially to anticipate the entry of products from other countries at very low prices (which can be caused by subsidies in the country of origin) which may have a negative impact on domestic competition. This problem is also in line with the interests of Indonesia which are

guarded by ICC in the ongoing bilateral trade agreement’s negotiation between Indonesia and the European Union.

Regarding competition in the region, as one of the most advanced competition authority in ASEAN, ICC has consistently increased south-south cooperation in helping to manage the capacity of competition authorities in ASEAN, while preparing a procedure for handling cross-border competition cases to anticipate various impacts of global competition which can inhibit the flow of investment into the country.

Existing developments indicate that competition policies and laws are the main instruments in protecting domestic competition, overcoming competition barriers that reduce incentives for

investment, and increasing the ability of MSMEs to grow and reach global markets. For this reason, we look forward to coordinating and harmonizing with the Government to jointly achieve the targets in line with the National Medium-Term Development Plan/RPJMN 2020-2024.

For the year 2020 on-wards, the Commission's program will be aligned with the President’s direction as stated in the RPJMN 2020-2024, in particular on defined prioritized sectors. The achievement of Competition Index Perception as an indicator for the increased of value added, employment, investment, exports and national competitiveness will also assist in strengthening the economic resilience for a quality growth.



*Regional Workshop on the Interface between Competition Law and Intellectual Property Rights, 26 – 27 September 2019, Manila, the Philippines*

**LAO PDR**

Following the establishment of the Lao Competition Commission (LCC) in 14 October 2018, the LCC has organized its first conference in 2019. In addition the first action plan was developed with particular attention to institutional organization, cases processes and procedures, specific market observation and review, capacity building and advocacy activities.

Subsequently, the LCC has distributed the Law to business sectors including the Lao National Chamber of Commerce and Industry (LNCCI), related public sectors and line ministries who are members of LCC and several NGOs. The aim of the activities is to increase awareness of key agencies particularly business communities and government sectors. The LCC will launch cooperation with related strategic partners especially the police, the Lao Bar Association, law firms, inspection authority and attorney institutions. In addition, a draft competition strategy plan for 2021-2025 has been prepared. The strategy plan will outline priority sectors and capacity building activities as well as the LCC’s short and long term priority plans. The development of the plan will be supported by GIZ, which also supports the LCC’s capacity building initiatives.

In terms of advocacy efforts, the LCC has prepared advocacy materials to enhance awareness and understanding of competition prohibitions for businesses and public authorities. The LCC plans to distribute competition materials to key stakeholders.

In addition, the LCC is preparing to establish the Competition and Consumer Protection Information Center (CCPIC), which aims at focusing on collecting all

related competition and consumer protection information including guidelines, regulations, competition law, books and newsletters; and distributing the information gathered through offline and online means to key stakeholders and business communities.



*Consumer Protection Scoping Project (CPSP) Study Visit  
17 – 19 September 2019, Sydney, Australia*

The LCC has also developed internal processes and procedures to handle competition cases. Market Studies will also be conducted in specific market sectors and addition, GIZ will support the development of several implementing regulations which includes an implementing regulation on market share thresholds.

## MALAYSIA

Throughout 2019, the MyCC has carried out a wide range of work to ensure effective enforcement of competition law for the benefit of the Malaysian economy and consumers. This included issuing enforcement decisions and undertaking, sending out warning letter, issuing policy advices and guidelines, and a rolling programme of advocacy activities and market review.

### *Enforcement*

One of MyCC's key enforcement actions is the issuance of its proposed decision on 4 March 2019 for Malaysia's first-ever bid-rigging case involving eight (8) companies. MyCC also issued a proposed decision against Grab Malaysia on 3 October 2019 for abusing its dominant position by imposing several restrictive clauses.

Apart from that, a non-infringement decision was issued against Coca-Cola on 25 November 2019, where MyCC concluded that Coca-Cola, supermarket, and hypermarkets were not involved in any vertical agreement that would likely to cause a negative effect on the market.

Meanwhile, MyCC also accepted an official undertaking from the Sabah Tourist Guides Association regarding a competition concern in relation to fixing of tourist guides' professional fees on 3 September 2019.

### *Court Proceedings (Judicial Review)*

On 20 December 2018, the High Court of Kuala Lumpur upheld MyCC's decision against Malaysia Airlines and Air Asia for infringing the Competition Act 2010.

On 22 January 2019, the High Court of Kuala Lumpur upheld the decision of MyCC against MY E.G. Services Berhad and MYEG

Commerce Sdn. Bhd under section 10(2)(d)(iii) of the Competition Act 2010 for abusing its dominant position.

### *Policy Advice*

As of December 2019, a total of 51 policy advices were issued by MyCC to various government institutions on all matters relating to competition.

### *Institutional Relationship with the Sector Regulators*

The MyCC held a Special Committee Meeting on Competition on 27 September 2019 with nine (9) other sector regulators in Malaysia to discuss various issues affecting competition in markets involving different sectors that include telecommunications, land public transport, finance, electricity and water supply, aviation and intellectual property.

### *Guidelines*

The Guidelines on Intellectual Property Rights and Competition Law have been gazetted on 5 April 2019, with the focus to provide transparency on the complex interface between intellectual property law and competition law to the public; and to provide guidance for the Commission on competition law investigations involving intellectual property. The Guidelines also address related issue of competition in intellectual property rights particularly issues of anti-competitive behaviours that may occur among intellectual property licensees.

### *Market Review*

The MyCC has successfully completed the Market Review on Food Sector on 6 August 2019 where five (5) food sub-sectors were selected based on households spending on food groups (i.e. beef, indian mackerel, mustard leaf, round cabbage and infant formula); which accounts for 48% of households spending in accordance to the

data from the Household Spending Study, released by the Department of Statistics Malaysia (2016). The main objective of the Market Review was to understand the market structure and identify any anti-competitive behaviour, along with the supply chain. In addition, the study is aimed at understanding the legislation and policy regulation within this sector, while proposing the best solution to empower healthy competition within the sector.

#### *Block Exemption*

Before the expiry of the Block Exemption for Vessel Sharing Agreements (VSA) and Voluntary Discussion Agreements (VDA) in Respect of Liner Shipping Services on 6 July 2019, the MyCC has received an extension of the same on 29 August 2018. Upon receiving the extension application, the MyCC has conducted further evaluations of several key issues such as the efficiency and competitiveness of the shipping industry in Malaysia. An in-depth evaluation has been conducted for nine (9) months, along with several engagement sessions amongst key industrial players and stakeholders have been carried out to ensure that the block exemption assessment is transparent and comprehensive. The MyCC has then decided to approve the block exemption (specifically the VSA) which was applied on 7 July 2019 and subsequently published in the Gazette on 13 November 2019 through the Attorney General's Chambers.

#### *International Programmes*

The MyCC has attended a total of 39 programs including forums, workshops, secondment programs and other capacity building, and 11 international meetings. From 8 April 2019, the chairmanship of the ASEAN Experts Group on Competition (AEGC) was passed to Malaysia, where the 23<sup>rd</sup> and the 24<sup>th</sup> AEGC Meetings and Other Related Meetings were successfully held in

Malaysia. Among the key successes under Malaysia's chairmanship of the AEGC includes the finalization of Guidance Document for the Peer Review, Trainers Guide to Market Studies, Toolkit for Formulating the National Enforcement Strategies, and Research Paper on Commonalities and Differences in Competition Legislations in ASEAN. There were a total of 10 programmes and activities held during Malaysia's chairmanship of the AEGC, including the 1<sup>st</sup> EU-ASEAN Competition Week from 24 to 28 June 2019 which was held in Kuala Lumpur, Malaysia.

Other than that, expert dispatch programs have also been held at MyCC where competition experts from the Australian Competition and Consumer Commission (ACCC), the Korea Fair Trade Commission (KFTC) and Japan Fair Trade Commission (JFTC) have been in MyCC for 3 months to train and share their knowledge and expertise to the MyCC officers on enforcement issues. In addition, MyCC also participated in three attachment programs by sending officers to the EU Summer School in Belgium for 2 weeks, to the KFTC 2019 Internship Program in South Korea for 2 weeks and to the ACCC Secondment Program in Australia for 3 months.

MyCC also received working visits from the Australian High Commission on 1 August 2019, the Taiwan Fair Trade Commission (TFTC) on 24 September 2019, and The Authority for Fair Competition and Consumer Protection (AFCCP) Mongolia on 27 September 2019.

#### *Advocacy*

The MyCC has signed five Memorandum of Understandings (MoU); three with institutions of higher learning, namely Universiti Putra Malaysia, Brickfields Asia College and Monash University Malaysia, while the other two are with the Malaysian

Productivity Corporation (MPC) and the Malaysian Institute of Economic Research (MIER). The main aim of the MoU with the public and private institutions is to ensure that subjects or modules of competition law can be developed in the universities involved. The MoU with the MPC is focused to improve and enhance the process of reviewing policies and regulations in Malaysia by exploring the possibility to integrate competition impact assessment in the existing regulatory impact analysis. Meanwhile, the memorandum between the MyCC and MIER is seen as giving both agencies a chance to share their expertise

in the field of economic and policy research with the government.

A total of 31 advocacy programmes were successfully held in 2019 across Malaysia including in Sabah and Sarawak under the *Siri Seminar Persaingan 2019* campaign (Competition Seminar Series 2019) which focused on combatting bid-rigging activities within the government procurement and also ensuring competition compliances in businesses.



**1<sup>st</sup> EU-ASEAN Competition Week**  
**24 - 28 June 2019, Le Méridien Kuala Lumpur**

*1st EU-ASEAN Competition Week*  
*24 - 28 June 2019, Kuala Lumpur, Malaysia*

MYANMAR



*Launching Ceremony of Myanmar Competition Commission (10 June 2019)*

Following the establishment of the Myanmar Competition Commission (MmCC) in 2018, in addition to holding the Commission’s regular meetings, the MmCC has received many complaints as well as enquiries from various entities including law firms, businesses, university students. It has also provided policy recommendations to other government agencies which had required competition related comments and suggestions.

study visit was led by the Chairman and joined by all commissioners along with the officers from the Commission Office and representatives from GIZ and FNF. The Study provided the commissioners a chance to find out the organizational structure and functions of the PCC, the challenges faced in the early stage and dealings, decision makings, organizing advocacy and awareness activities, stakeholder engagement and cooperation with related departments and organizations, strategies adopted for the long-term.



*M & A Workshop: Discussion on Merger Threshold (25 October 2019)*



*Study Visit to Philippines Competition Commission (8 – 10 May 2019)*

The newly set-up Commission visited the Philippine Competition Commission (PCC) from 8 to 10 May 2019. This two-days

To promote public awareness of the brand-new commission and enforcement of Competition Law, a ceremony to launch the MmCC was held in Yangon, Nay Pyi Taw and Mandalay respectively in June 2019. The Launch was broadcasted on MRTV channel and raised awareness on fair competition nationwide.

The MmCC successfully hosted a Sub-Regional Workshop on Drafting Guidelines and Regulations which was supported under the CLIP program. The Workshop was primarily aimed at providing an opportunity for CLMV countries to consider and discuss their approaches,

experiences and challenges in drafting regulations and guidelines.

As part of the advocacy efforts, several seminars for both public and private sectors participated by relevant departments and organizations were held. In addition, media engagement initiatives were organized by the MmCC to develop good relationships with the media. An assessment on Competition Policy in Myanmar was also carried out in 2019.



*CLIP Drafting Guidelines and Regulations Workshop (26 – 28 February 2019)*

## PHILIPPINES

In 2019, the Philippine Competition Commission (PCC) sustained its momentum in enforcing competition law and made significant headway toward a strong and efficient competition regime in the country. The agency decided on two landmark cases: the Philippines' first merger prohibition and its first abuse of dominance case.

The PCC completed the review of 31 merger and acquisition (M&A) transactions, of which 30 were approved and one prohibited. In its first merger prohibition, the PCC blocked the proposed merger between Universal Robina Corporation on the one hand, and Central Azucarera Don Pedro Inc. and Roxas Holdings Inc. on the other, as the monopoly to be created will substantially lessen competition in the sugar milling services market in the region (*see Box 6*).

In December 2019, the PCC imposed a fine of PHP 16.15 million (≈USD 312,000) on Grab Philippines for violating its price and service quality commitments during the fourth quarter of the initial undertaking, marking the completion of PCC's first year of monitoring Grab on its voluntary commitments.

The PCC intensified its enforcement activities across a broad range of industries in 2019. Two verified complaints were received, two *motu proprio* cases initiated, and three full administrative investigations commenced. In October 2019, the PCC closed its first abuse of dominance case and ordered the termination of the exclusive deal between property developer Urban Deca Homes and its in-house internet service provider (ISP) Fiber to Deca Homes in nine projects across the country (*see Box 7*).

In a bid to strengthen its enforcement mechanisms, PCC launched its leniency program at the start of the year. The program offered either immunity from suit or reduction of administrative fines to an entity that took part in price-fixing, bid-rigging, market-allocation, or output-restriction agreements, in exchange for the entity's voluntary disclosure of information regarding such agreements. Before the year ended, the Supreme Court of the Philippines approved the Rule on Administrative Search and Inspection under the Philippine Competition Act, adding the conduct of dawn raids to the arsenal of tools that PCC can use in investigating violations of the country's antitrust law.



*CLIP Module 6 Workshop on Market Studies, 28 – 30 October 2019, Manila, Philippines*

In line with the Philippine government's efforts to improve ease of doing business in the country, the PCC initiated several reforms in its merger review process. In July 2019, the agency launched an expedited review process for qualified M&As. These pertain to transactions less likely to substantially prevent, restrict or lessen competition in their relevant markets based on PCC's experience. The following month, the PCC issued rules to streamline its merger review process for joint ventures formed for solicited public-private partnership (PPP) projects. The agency also increased its merger notification thresholds during the year,

pursuant to the annual adjustment that PCC put in place in 2018.

The PCC sustained its advocacy campaign throughout the year, conducting a total of 26 advocacy and capacity building activities for various stakeholders in the public sector and the business community. In line with its long-term mission of building a culture of competition in the country, the PCC advocated for pro-

competitive policies throughout the year. It commenced studies on sugar, agrochemicals, corn, and cargo services; and published policy notes on rice importation and other potential competition concerns in the rice sector.



*Secondment of ASEAN competition officials to the ACCC (14 September – 15 November 2019) and NZCC (14 September – 26 October 2019)*

## SINGAPORE

On 1 October 2019, Ms Sia Aik Kor took over the helm from Mr Toh Han Li as the Chief Executive and Commissioner of the Competition and Consumer Commission of Singapore (CCCS). Ms Sia was previously the Deputy Chief Counsel (Transactions & Administration, Civil Division) at the Attorney-General's Chambers.

### *Enforcement*

In January 2019, CCCS penalised the owners and operators of four hotels for exchanging commercially sensitive information relating to the provision of hotel room accommodation in Singapore to corporate customers. Such exchanges have likely influenced the hotels' subsequent conduct in the market or placed them in a position of advantage over their corporate customers in contract negotiations. This included critical factors that were taken into consideration in the determination of subsequent prices that were offered by the hotels to their corporate customers. As a result of the parties' conduct, there was less competitive prices and options for customers as competitive pressure faced by competitors were reduced.

CCCS tackled issues relating to market conduct and structures. CCCS also worked with industry players to facilitate market entry and expansion. In its investigations into the supply of spare parts for maintenance of lifts, CCCS accepted voluntary commitments that provided for the parties to sell lift spare parts to a purchaser on a fair, reasonable and non-discriminatory (FRAND) basis. These commitments would provide third-party maintenance companies in the market access to proprietary but essential lift spare parts, as well as allow these

companies to compete more effectively for contracts to maintain and service lifts.

CCCS looked into the removal of capacity commitments for an airline route between Singapore and Brisbane. The removal was approved after a thorough assessment which found that there continues to be competitive constraints for the route. CCCS is also reviewing another airline agreement involving commercial cooperation between two national carriers in relation to scheduling, pricing, sales and other areas.

Over the year, CCCS reviewed five merger notifications under its self-assessment voluntary regime, across different industries including food products, healthcare and building materials. CCCS cleared an acquisition involving food court operators, an acquisition involving distributors of food products as well as an acquisition involving the supply of plasterboards and modular suspended ceilings. CCCS raised competition concerns in a merger involving clinical laboratories because the merging parties were considered close competitors prior to the transaction. The merger was cleared following an in-depth review, after CCCS accepted commitments by the parties that included commitments on non-exclusivity and price. CCCS is also in the process of another in-depth review of a merger involving Korean shipbuilders. CCCS had raised competition concerns in its earlier review due to the removal of competition among suppliers post-transaction and the presence of relatively high barriers to entry and expansion.

To complement enforcement efforts, CCCS conducts market studies to analyse and better understand problematic sectors. In September 2019, CCCS completed a market study on the online provision of bookings for flight tickets and hotel accommodation to Singapore consumers.

CCCS examined various business practices adopted by industry players, as well as both competition and consumer protection issues associated with these practices. This was the first market study by CCCS which examined both competition and consumer protection issues. CCCS also set out a series of recommendations to encourage online travel booking providers to adopt transparent pricing practices to enable consumers to make informed choices and allow businesses to compete on a level playing field.

CCCS also issued its first enforcement action for consumer protection. Following an injunction application filed by CCCS, a Court Order was issued against a car retailer to cease unfair trade practices relating to misrepresentations over the terms and conditions of the sale agreement. Separately, CCCS secured an undertaking from a food and beverage outlet to end the unfair practice of misleading representations on discount periods in its promotional materials.

#### *Outreach and Advocacy*

CCCS engages businesses, trade associations and chambers to help them understand how to benefit from competition law, and to encourage compliance as part of good corporate governance. In 2019, CCCS participated in over 45 outreach sessions.

CCCS encourages government agencies to seek advice on the likely impact of their policies and initiatives on competition, as well as explore alternative options to reduce any adverse impact on competition. To date, CCCS has completed over 200 competition advisories to government agencies. CCCS also regularly conducts outreach activities for government agencies and their officers to raise awareness on competition matters. CCCS continues to facilitate the

Community of Practice for Competition and Economic Regulations (COPCOMER), an inter-agency platform, to share best practices and experiences on competition and regulatory matters. CCCS organized the COPCOMER 'Regulators Tea' on the topic of 'Digital Platforms – Interplay between Competition, Consumer Protection and Data Privacy' in 2019.

CCCS published three research papers. The first paper focused on price-based quantitative tools, the price co-movement analysis and the diversion ration analysis, which can be used to assess the extent of the closeness of rivalry between firms in price competition. The second paper looked at the use of FRAND commitments and whether they could be used as a behavioral remedy to address competition concerns in cases involving Standard Essential Patents (SEPs). The third paper was a collaboration with the Personal Data Protection Commission (PDPC) on the impact of data on business innovation, market competition and consumers.

In 2019, several experts were invited to conduct in-house seminars on competition and consumer protection issues for CCCS staff. These include Delia Rickard, deputy chair of the Australian Competition and Consumer Commission; Richard Whish, emeritus professor of law at King's College London; Philip Williams, head of the Legal and Competition Team at Frontier Economics (Asia-Pacific); and Adrian Majumdar, partner at RBB Economics and former deputy director of economics at the UK competition authority.

To build awareness on consumer protection issues, CCCS participated in a series of publicity events including roadshows, consumer fairs, bilingual radio talk shows and TV interviews, to educate the public on topics such as safe online transactions, pre-payment protection, common sales tactics, and tips for

consumers and suppliers. Other than collaborating with the Consumer Association of Singapore (CASE) to educate consumers, CCCS has also reached out to e-commerce platforms such as Qoo10, Carousell, Shopee and Lazada on the issues that consumers faced when using online platforms. Following the engagement, a notice by the CCCS was posted on Qoo10's sales management platform to inform sellers of the Consumer Protection (Fair Trading) Act and their obligations.

In the first combined outreach effort by CCCS, the Advertising Standards Authority of Singapore (ASAS) and the Health Sciences Authority (HSA), an influencer marketing engagement session #TRUTH was held to increase awareness of the regulations relevant to social media influencers.

#### *International and regional engagement*

Following the completion of the chairmanship of the ASEAN Experts Group on Competition (AEGC) by Singapore in April 2019, CCCS handed the baton over to Malaysia. CCCS remained active in supporting projects at the AEGC, one of which is the Virtual ASEAN Competition Research Centre (Virtual Centre). Content on the Virtual Centre website has been refreshed with new research articles in the repository and profiles of researchers with an interest in competition matters in the region.

To further encourage research on competition issues in the region, CCCS signed a two-year memorandum of understanding (MoU) with the Asian Law and Economics Association (AsLEA) in June 2019 to co-sponsor and act as a supporting organisation for the 2019 and 2020 AsLEA Annual Conferences. As part of the collaboration with AsLEA, the CCCS organised a plenary session 'Perspectives on Competition Issues in the New

Economy' during the 15th AsLEA Annual Conference 'Law and Economics in a Disruptive World', which was held on 28 June 2019 in Bangkok, Thailand. In addition, the CCCS organised a breakout session at the conference in which academics and researchers submitted research papers and articles on competition issues in ASEAN and presented them at the breakout session.



*Annual Conference of the Asian Law and Economics Association (AsLEA), June 2019*

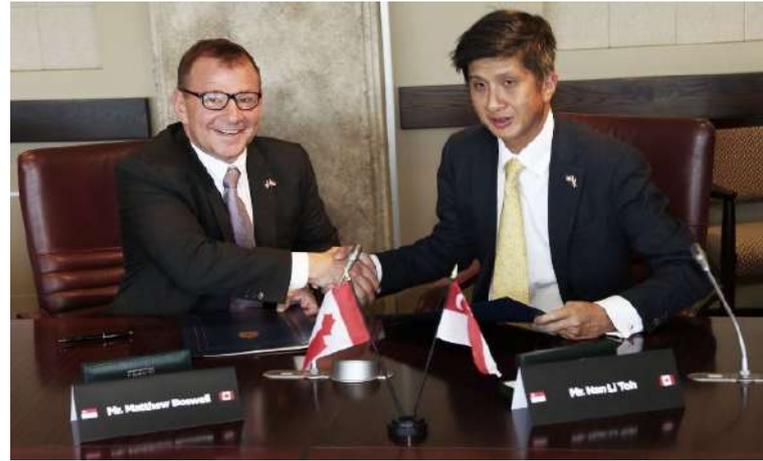
The CCCS continues to play an active role in the International Competition Network (ICN) as a member of the steering group and co-chair of the ICN Advocacy Working Group (AWG). As co-chair of the AWG, the CCCS led and completed a project that collated agencies' experiences in conducting competition advocacy in relation to digital markets. The CCCS also partnered with the other AWG co-chairs (the Norwegian Competition Authority and the Hong Kong Competition Commission) and the Antimonopoly Committee of Ukraine to jointly organise the ICN Advocacy Workshop. More than 80 participants from 48 jurisdictions attended the workshop in Kiev, Ukraine to exchange ideas and share experiences on competition advocacy. In September 2019, the CCCS signed onto the ICN Framework

on Competition Agency Procedures (CAP) as a founding member. Members of the CAP agree to adhere to a set of agreed best practices to ensure fair and effective procedures for competition law enforcement.



*Representatives from CCCS, Norwegian Competition Authority, Antimonopoly Committee of Ukraine and Hong Kong Competition Commission at the 2019 ICN Advocacy Workshop in Kiev, Ukraine*

At the bilateral level, the CCCS signed a MoU with the Competition Bureau Canada. This is the first MoU between the CCCS and an overseas enforcement agency that covers both competition and consumer protection laws. The MoU formalised and reinforced the existing cooperation and technical assistance activities between the two agencies, including areas such as case notification, enforcement coordination, information exchange and technical cooperation and experience sharing.



*Signing of MOU between CCCS and Competition Bureau Canada*

Since the broadening of our mandate to include consumer protection enforcement, the CCCS actively participates in both international and regional consumer platforms such as the ASEAN Consumer Committee on Consumer Protection (ACCP) meetings and the International Consumer Protection Enforcement Network (ICPEN)'s annual conferences and best practices workshops. Further, in November 2019, the CCCS was invited to participate in a training session with the Ministry of Finance and Economy, Brunei Darussalam to share Singapore's consumer protection policy framework and our role in both advocacy and enforcement.

To explore how competition and consumer protection law could work together to support consumer welfare and economic efficiency, the CCCS participated in the ASEAN Consumer Protection Scoping Project Study Visit in Sydney, Australia in September 2019. Key discussion areas included the challenges that competition and consumer agencies face, work prioritisation and stakeholder engagement with consumers and businesses.

## THAILAND

On 5<sup>th</sup> October 2017, the “Trade Competition Act B.E. 2560 (2017)” became effective and established the Trade Competition Commission (TCC) and the Office of Trade Competition Commission (OTCC) as a legal and independent government agency. In 2019, the OTCC achieved its vision by enforcing competition law and regulating anti-competitive issues in various business sectors, as well as promoting knowledge and better understanding on competition to maintain a level-playing field and enhance free and fair competition in the market. These efforts were well-recognized by all stakeholders, including the public and private sectors, as well as civil society. Furthermore, the OTCC established collaboration with relevant organizations domestically and internationally to strengthen its institutional capacity, and ensure the effectiveness of the competition regulation by reviewing and revising the criteria and operating procedures to increase clarity, comprehensiveness, and suitability to the trade environment of Thailand. The works and efforts of OTCC in 2019 are highlighted as follows.

### Competition Law Enforcements

The Trade Competition Commission (TCC) issued two verdicts in 2019. The first verdict is on a case involving a business operator with a dominant position in the energy drink market, preventing sales representatives from selling a competitor's products. The TCC decided to set a fine of 12 million Baht to the business operator. The second case involves a business operator with a dominant position in the market of asphalt

emulsion products. However, it was discovered that the business operator's conduct, in this case, did not violate the Trade Competition Act, B.E. 2560.

The TCC considered 10 pending complaints during the enactment of the previous act (the Trade Competition Act B.E. 2542) and 34 complaints under the Trade Competition Act B.E. 2560. There were two complaints that resulted to the TCC imposing administrative fines. Out of the complaints received, 22 complaints were concluded. Additionally, the OTCC issued and enacted 25 regulations and notifications in 2019 consisting of eight criteria, five guidelines, one notification of fine setting, one notification regarding the complaints, and five relevant regulations.

In terms of competition policy recommendations to government agencies on rules, regulations, or orders according to section 17(2) of the Trade Competition Act B.E. 2560, the OTCC may provide recommendations regarding the law, regulations, and orders on activities that may cause a restriction of competition in markets - to other government agencies.

There are three main recommendation cases consisting of 1) the determination of the cost of medicines and hospital treatment, 2) the authorization of the right to sell/distribute tax-free products and the right to manage and conduct commercial activities in passenger terminals of Airports of Thailand Public Limited Company (AOT), and 3) the authorization of the right to manage underground communication cables of the Bangkok Metropolitan Authority (BMA).

### Competition Regulation in terms of Trade Structures

Section 51 of the Trade Competition Act B.E. 2563 regulates mergers and acquisitions (M&As) so as to enhance the Thai economy with pro-competitive environment, as well as to maintain a market structure that facilitates free and fair competition among business operators and prevents monopolization. In 2019, the OTCC proceeded with the merger control in proactive approaches and passive operations.

Proactive approaches include collecting, research, and analyzing information on market structure, as well as business structure and behavior - to determine the scope of the market in advance so as to enhance the effectiveness in proceeding relevant tasks, such as considering request for business merger approvals and providing views and recommendations on business mergers that may lead to a monopoly, such as the airline industry, the retail business, and the private hospital business. Furthermore, the OTCC closely monitors anti-competitive mergers in the market of restaurants that TCC within the period prescribed under the Trade Competition Act B.E. 2017.

Passive operations consists of two main tasks which are; 1) considering the request for the approval of a business merger in which the TCC had a decision to allow manufacturers and distributors of brake parts to proceed with the M&A because it will facilitate technology development and innovation of products, as well as increase the competitiveness of manufacturing the product in the global market, and 2) receiving 23 merger notifications from various industries including motor

vehicles, commercial and services, and food-and-beverage.

### Advocacy and Domestic Collaboration

In relation to competition advocacy, the OTCC engaged various sectors through public seminars and events with engagement from the public and private sectors and civil society to disseminate and promote business compliance. In addition, OTCC organized several public seminars and public hearing events to issue secondary laws and relevant regulations under the Trade Competition Act B.E. 2560.



*Advocacy event*



*Public hearing event for issuing the guideline on competition regulation in food delivery platform*

Furthermore, the OTCC enhanced and established the network of cooperation among private enterprises and sector regulators, such as the Office of the Judiciary, the Office of the National Broadcasting and Telecommunications Commission (NBTC), the Thai Chamber of Commerce and Board of Trade of Thailand, the Federation of Thai Industries, and Thai universities to promote competition advocacy and competition culture leading to a pro-competitive environment in Thailand.

introduce the roles and duties, as well as significant tasks of the TCC.



*MOU signing ceremony with the Office of the Judiciary*



*Interviewing on the topic of Defending Competition in the Market during COVID – 19*



*Interviewing on the topic of Competition Law of Thailand*



*MOU signing ceremony with the NBTC*

Lastly, the OTCC continued its public outreach by way of using online and offline channels such as newspaper, television programs, radio shows, and social media to

### **International Cooperation**

The OTCC extended its international cooperation on competition law and policy with competition authorities and international organizations such as the JFTC, The Asia Foundation, the ACCC, the (OECD), and UNCTAD to strengthen institutional capacities in terms of competition law enforcement, enhance advocacy activities, as well as to regulate challenging monopolistic issues.



*Competition Day*



*Consultation Meeting with JICA Thailand*



*The Launching Event of Thailand's Competition Assessment Reports*

In addition, several Workshops and international events have been co-organized by the OTCC, such as the National Competition Day, the OECD – OTCC Competition Assessment Workshop under OECD – Thailand Country Programme, OTCC – KPPU Staff Exchange Programme under JAIF, and the Launching Event of Thailand's Competition Assessment Reports under the OECD – ASEAN Competition Assessment Project.

The OTCC initiated several technical assistance projects with international partners, including undertaking a market study of Online Travel Agencies (OTAs) with UNCTAD, designing the curriculum for the competition academy with the JICA and the JFTC, and undertook a project on competition index with the Asia Foundation and The Australian Department of Foreign Affairs and Trade (DAFT).



*Consultation Meeting with the Asia Foundation and the DFAT*

## VIET NAM

Viet Nam Competition Law No. 23/2018/QH14 officially took effect on 1 July 2019. The Law contains amendments that will contribute greatly to the enhancement of competition enforcement, as well as the development of businesses in the country.

Some important changes in the Law are highlighted as follows:

- extends the scope and subjects of the application of the Law;
- provides prohibited acts related to competition conducted by State agencies;
- introduces the leniency program;
- provides fundamental changes to the regulations of economic concentration; and
- establishment of the Viet Nam National Competition Commission which is a combination of the *Viet Nam Competition and Consumer Authority (VCCA)* and *Viet Nam National Council*.

On 26 September 2019, the Government issued a Decree No.75/2019/ND-CP on penalties for administrative violations in the field of competition. This Decree creates an important legal ground for handling violations under the new competition law.

To complete the legal framework, the VCCA will need to promulgate the Government's Decree detailing the task, powers and organizational structure of the National Competition Commission and the Government's Decree detailing regulations for implementation of the Competition Law.

## *Competition Policy and Law enforcement*

On law enforcement, the VCCA investigated a number of cases on competition restriction practices (the merger between Uber and Grab) and unfair competition practices (issued sanctions on five unfair competition cases relating to misleading instructions and multi-level marketing activities). Throughout 2019, the VCCA reviewed and handled one economic concentration notification in accordance with Competition Law 2004, and five economic concentration notifications in accordance with Competition Law 2018. The notifications are in varied sectors of the economy including retail, dairy, beverage, retail, e-commerce and animal feed products.

In addition, the VCCA also examined and supervised the exemption decision on competition restriction agreements in certain industries including airlines and banking, as well as competition law compliance within the entertainment industry.

### *Advocacy*

To enhance the awareness of relevant stakeholders on the newly revised Law and its complimenting guidelines, the VCCA has collaborated with many agencies to organize conferences, seminars, training courses, workshops to advocate and disseminate laws and regulations on competition, as well as consumer protection and the state management of multi-level marketing across the country. Accumulatively, the VCCA has organized 46 advocacy conferences and seminars. The three major events held in Hanoi, Ho Chi Minh City and Da Nang were attended by over 1,500 participants who are the representatives of enterprises and business associations, universities and other interested agencies and

organizations. In addition, the VCCA organized many training courses on analytical and investigation skills in competition cases for its staff and other relevant stakeholders. The VCCA has developed a number of publications to complement its advocacy activities.



*Training course on Competition Law Enforcement skills on August 8-11, 2019 in Quang Ninh, Viet Nam*

*International Cooperation*

As a member of the ASEAN Experts Group on Competition (AEGC) and the ASEAN Committee on Consumer Protection (ACCP), in 2019, the VCCA has fully participated and actively contributed ideas/opinions at the AEGC and ACCP annual meetings (the 23rd and 24th AEGC Meetings in Malaysia; the 19th ACCP Meeting in Thailand) and other events on competition and consumer protection.

In preparation for the VCCA's Chairmanship in 2020, the VCCA has agreed to lead two ASEAN deliverables on competition and jointly developed a report on consumer protection, which are specifically highlighted as follows:

- (i) Study on the Commonalities and Differences of National Competition Laws and Areas feasible for Convergence;

- (ii) Competition Enforcement Strategy Toolkit for ASEAN Competition Agencies; and
- (iii) Report on the ASEAN Consumer Empowerment Index (ACEI).

Furthermore, the VCCA has strengthened cooperation activities with relevant international organizations on competition by sending officials to participate and contribute ideas at conferences/workshops organised by the International Competition Network (ICN), the Competition Policy and Law Group APEC (CPLG), United Nations Conference on Trade and Development (UNCTAD), and the Organization for Economic Cooperation and Development (OECD).

*Bilateral Cooperation*

In 2019, the VCCA collaborated with the Japan Fair Trade Commission (JFTC) and the Japan International Cooperation Agency (JICA) to implement the Project entitled "Enhancing the effectiveness of building and enforcing the Competition law in Vietnam". The VCCA conducted a study visit to learn the experiences of building a competition authority and enforcing competition legislations from competition agencies of Germany, Netherlands and Australia. The VCCA also sent their officials to participate in a long-term internship course (three months) at the ACCC. In addition, the VCCA organised many training courses, seminars and invited experts from the US Federal Trade Commission (US-FTC), the JFTC, and the ACCC to share valuable experiences of law and policy enforcement.

*Research activities*

In 2019, the VCCA among others undertook a research on the "Application

of leniency program in investigating and handling anti-competitive agreements: International experiences and lessons for Vietnam"; A research on "Improving the ASEAN regional cooperation framework for enhancing the enforcement capacity of ASEAN competition authorities to enforce competition law and policies, A report on assessing the impact of competition

commitments in the CPTPP on the implementation of the Competition Law 2018.



*Signing ceremony between VCCA, JFTC and JICA to implement the Project "Enhancing the effectiveness of building and enforcing the Competition law in Vietnam" in 2019*

# COMPETITION CASES



8TH ASEAN COMPETITION CONFERENCE  
14-15 NOVEMBER 2019  
PHNOM PENH, CAMBODIA

**Box Article 1****Supreme Court confirms ICC's Decision on the ScooterMatic Cartel****Indonesia**

The Supreme Court through its official website stated that the cassation petition on the Decision of the North Jakarta District Court No. 163/Pdt.G/KPPU/2017/PN.Jkt.Utr., dated December 5, 2017 confirming the Decision of the ICC by reported parties (I. PT. Astra Honda Motor, II. PT. Yamaha Indonesia Motor Manufacturing) was overruled. In other words, the District Court and the Supreme Court both confirms the decision of the ICC in regard to the Alleged Violation of Law Number 5 Year 1999 on Anti-Monopoly Practices and Unfair Business Competition – which in this case was found in the Motorcycle Industry of the scootermatic class 110-125 CC. In addition to the above, upon the rejection of the petition of the Petitioners to take an extraordinary remedy through Judicial Review by the Supreme Court, consequently, Decision of ICC Number 04/KPPU-I/2016 has a permanent legal force (*inkracht*).

Previously, the ICC decided that two business actors in the Motorcycle Industry of the Automatic Scooter Type, namely PT. Yamaha Indonesia Motor Manufacturing (Reported Party I) and PT. Astra Honda Motor (Reported Party II) legally and convincingly have violated Article 5 paragraph (1) of Law No. 5 Year 1999 regarding Price Fixing. The Panel of Commissioners considered the Behaviors of the Reported Parties in three matters, namely as follows:

1. Regarding the Meeting at the Golf Course;
2. Regarding the Email dated April 28, 2014;
3. Regarding the Email dated January 10, 2015.

The email dated 10 January 2015 was an Email sent by Witness Mr. Yutaka Terada who at that time served as Marketing Director of the Reported Party<sup>1</sup> I sent an email to Dyonisius Beti as Vice President Director of Reported Party I. The Panel of Commissioners considered the Email as an official exchange between the top level management of Reported Party I. Taking into account the capacity of the sender and the recipient of the email as well as the media used (the official email of the company), the Panel of Commissioners used the Email as an instrument of evidence. The Panel of Commissioners imposed penalties on the Reported Party I, amounting to IDR25 billion and on Reported Party II amounting to IDR22.5 billion - that had to be remitted to the state treasury.

The confirmation of the Decision substantially proves that the Supreme Court agrees on the importance of due process in implementing the law by way of examining the proceedings and applying Article 5 (Price Fixing) on the case. The ICC accords its highest appreciation to the Supreme Court's decision which serves as a strong drive for the ICC to continue to maintain fair business competition as mandated under the law.

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<sup>1</sup> By using the email address teradayu@yamaha-motor.co.id.

**Box Article 2****Four Shipping Companies Proven to Enter Into a Tariff Agreement*****Indonesia***

The ICC has completed an examination of Case Number 08/KPPU-L/2018 concerning the alleged violation of Article 5 Paragraph (1) of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, within the Freight Container Service Industry in Surabaya to Ambon Route by four Shipping Companies.

The freight container service tariff agreement for the Surabaya to Ambon route was entered into by four shipping companies, namely PT Tanto Intim Line, PT Pelayaran Tempuran Emas Tbk, PT Meratus Line, and PT Salam Pasific Indonesia Lines. The existence of the price adjustment letter from each of the Reported Parties proves the existence of a form of agreement to fix the amount of the tariff of freight containers.

The ICC then decides to impose fines to the Reported Parties - PT Tanto Intim Line (fined: IDR 7,154 billion), PT Pelayaran Tempuran Emas, Tbk (fined: IDR5,642 billion), PT Meratus Line (fined: IDR6,58 billion), and PT Salam Pacific Indonesia Lines (fined: IDR1,415 billion).

In its decision, the ICC puts forward a recommendation to the Ministry of Transportation c.q. the Directorate General of Sea Transportation to properly manage the shipping industry so that fair business competition could be maintained. If the business actors in the shipping industry do not apply the principles of fair business competition, the Government is expected to review the business permits of the said shipping companies.

**Box Article 3****Alleged Bid Rigging Proven in the Balige Bypass Development****Indonesia**

*The ICC has decided that the 4 (four) reported parties of the Balige Bypass Development at the National Road Implementing Working Unit of Region I of North Sumatra Province Fiscal Year 2017 as guilty of violating Article 22 of Law Number 5 Year 1999.*

The said conclusion was read out on 20 August 2019 in a hearing of the ruling on Case Number 13/KPPUL/2018. The case began with a report that lead to a pre-investigation phase of alleged violation on Article 22 of Law Number 5 Year 1999 committed by PT Karya Agung Pratama Cipta as **Reported Party I**, PT Swakarsa Tunggal Mandiri as **Reported Party II**, PT Anugrah Bahari Sejahtera Mandiri as **Reported Party III**, and the Working Group for the Procurement of Goods/Services of the National Road Implementing Working Unit of Region I of North Sumatra Province Fiscal Year 2017 as **Reported Party IV**.

The said Balige Bypass Development Work Package project is valued at IDR30 billion - originating from the State Revenues and Expenditures Budget (APBN) of the Ministry of Public Works and Public Housing Fiscal Year 2017.

Following a hearing by the Panel of Commissioners and deciding the case based on adequate instruments of proof, the following was concluded:

1. the quotation documents submitted by Parties based on the hearing facts are the same and do not differ in terms of contents/narrations/descriptions, spacing formats, and writing formats;
2. the hearing facts and proof shows that the action has been conducted deliberately so as to create a pseudo competition and obstructing other business actors to rival competitively in the tendering process;
3. The similarities of the bidding documents among the Reported Parties have proved the existence of a form of communication, coordination, and cooperation among the Reported Parties in preparing for tender.
4. The Panel of Commissioners is of the opinion that the non-meticulousness of the Reported Party IV in evaluating the entire bidding documents of the participants resulting in the non-finding of the same facts of the bidding documents and the support letter of the equipment of UD Sumber Mas Diesel and Mister Raya Sirait owned by Reported Party I and Reported Party II, constitutes a form of an act of omission purposely committed by Reported Party IV.
5. The Panel of Commissioners is of the view that the existence of the action of Reported Party IV in (i) not clarifying the Support Work in the Implementation Method; (ii) not clarifying the main equipment; and (iii) not clarifying the veracity of the Quality

Control Manager Personnel of Reported Party I<sup>2</sup> constitutes a form of facilitation of Reported Party IV to Reported Party I so as to become the winner of the a quo tender.

In addition to the above, the Commission provided suggestions and considerations to the following Parties:

1. The Minister of Public Works and Public Housing (PUPR) as well as the Governor of the Province of North Sumatra to provide instruction to the related agencies to ensure that the land to be used for a project has already been acquired and has had a legal force before administering a construction service tender process;
2. The Head of Grand Centre for the Implementation of the National Road II of the Province of North Sumatra to:
  - (i) Impose an administrative sanction on Reported Party IV for administering a tender process prior to the completion of the land acquisition process and having legal rights;
  - (ii) Provide effective and proper guidance of goods and services procurement processes by way of disseminating and providing technical guidance in an in-depth manner to all planning officials, executors, and supervisors within the related agencies so that the subsequent tenders may be conducted with due observance of the principles of fair competition<sup>3</sup>;
  - (iii) The Team for Guarding and Safeguarding Government and Regional Development (TP4D) of the Province of North Sumatra is to optimize its main duties and functions so that the national strategic projects in the region shall face no legal issues.

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<sup>2</sup> Known for not attending any skill training in the field of construction service and never taking care of or possessing a Skill Certificate as Quality Management System Expert.

<sup>3</sup> In accordance with Article 83 paragraph (1) sub-paragraph e of Presidential Regulation Number 54 Year 2010 and the amendment thereof stating that "A Tender/Direct Appointment fails if (e) a proof/indication of the occurrence of unfair competition is found in the bidding evaluation".

**Box Article 4****The ICC Declared PT Pasifik Agro Sentosa Guilty*****Indonesia***

PT Pasifik Agro Sentosa as a Reported Party was declared guilty by the Panel of Commissioners and was fined IDR1,25 billion.

The ICC held the hearing on the ruling of case Number 09/KPPU-M/2019 regarding Alleged Violation of Article 29 of Law Number 5 Year 1999 in conjunction with Article 5 of Government Regulation Number 57 Year 2010 on the Delayed Notification of the Acquisition of Shares of PT Mitra Aneka Rezeki by PT Pasifik Agro Sentosa.

The Panel of Commissioners in the hearing was of the opinion that there had been a delay in notifying the ICC. As Following the effective acquisition of shares of PT Mitra Aneka Rezeki on 31 August 2016, thus, the deadline for Notification was October 13, 2016, however, PT Pasifik Agro Sentosa made the Notification on May 15, 2019.

Following the completion of the hearing, the Panel of Commissioners decided that the Reported Party has proven to have violated Article 29 of Law Number 5 Year 1999 in conjunction with Article 5 of Government Regulation Number 57 Year 2010 and issued a fine of IDR1,25 billion.

**Box Article 5****PT Wijaya Karya Beton Found Guilty by the ICC*****Indonesia***

The ICC held a hearing on the ruling of case Number 04/KPPUM/2019 regarding Alleged Violation of Article 29 of Law Number 5 Year 1999 Jo. (in conjunction with) Article 5 of Government Regulation Number 57 Year 2010 on the Delayed Notification of the Acquisition of Shares of PT Citra Lautan Teduh by PT Wijaya Karya Beton, Tbk. PT Wijaya Karya Beton, Tbk should have notified the ICC on 29 January 2015 (within the stipulated deadline), instead of on 7 May 2019.

In the hearing, the Panel of Commissioners was of the view that PT Wijaya Karya Beton, Tbk had delayed in notifying the Commission of the Acquisition of Shares of PT Citra Lautan Teduh.

Following the hearing phase and obtaining the necessary evidence, the Panel of Commissioners decided that PT Wijaya Karya Beton, Tbk is proved to have violated Article 29 of Law No. 5 Year 1999. The Panel of Commissioners decided to sentence PT Wijaya Karya Beton to pay for a penalty amounting to one billion Rupiah.

**Box Article 6****Sugar Milling Merger-to-Monopoly Deal Blocked*****The Philippines***

The Philippine Competition Commission (PCC) blocked the merger between the only two sugar millers in Southern Luzon—Universal Robina Corporation (URC), and Central Azucarera Don Pedro Inc. (CADPI) and Roxas Holdings Inc. (RHI). In a Commission Decision issued in February 2019, PCC found that URC's buyout of its only competitor in the sugarcane milling services market leads to a monopoly in Southern Luzon.

The PCC earlier raised competition concerns on URC's proposed acquisition of CADPI and RHI assets. In response, the merging parties submitted their proposed voluntary commitments, but failed to sufficiently address competition concerns raised by the Commission. While both mill operators are located in the province of Batangas, the monopoly to be created by the merger will substantially lessen competition in the sugar milling services market not only in the province, but also in neighboring provinces in the region.

The PCC's market investigation earlier showed that farmers stand to lose the benefits of competition --, especially in terms of planters' cut in sharing agreements, sugar recovery rates, and incentives—should the merger take place.

The PCC's Mergers and Acquisitions Office raised the following competition concerns:

- The transaction is a merger-to-monopoly and will eliminate the only competitor of URC in the relevant market;
- The transaction will create market power for URC and allow it to unilaterally reduce the planters' share in the planter-miller sharing agreement, the theoretical recovery rates quoted to planters, and the incentives provided to planters;
- Other sugar mills outside of Batangas province are too far and thus not sufficient to constrain URC from exercising market power; and
- Barriers to entry are high and the possibility of a new entrant seems remote and, if at all possible, may not be immediately forthcoming as to constrain URC from exercising market power after the transaction.

For more details on the case, the full text of the Commission Decision can be accessed at <https://phcc.gov.ph/commission-decision-no-03-m-021-2019-in-the-matter-of-the-proposed-acquisition-by-universal-robina-corporation-urc-of-assets-of-central-azucarera-don-pedro-inc-cadpi-and-roxas-holdings-inc-rh/>.

**Box Article 7****PCC Closes First Abuse of Dominance Case*****The Philippines***

In a landmark decision on competition law enforcement in the Philippines, the Philippine Competition Commission (PCC) closed its first abuse of dominance case in October 2019, ordering the termination of the exclusive deal between Urban Deca Homes (UDH) and its in-house internet service provider (ISP) Fiber to Deca Homes (FTDH) in nine projects across the country.

In a motion for settlement, UDH Manila Condominium Corporation and parent firm 8990 Holdings, Inc. admitted that they entered into an arrangement wherein only FTDH was allowed to provide internet service in their nine condominium projects. The PCC also found that UDH's property manager blocked other ISPs from marketing their services and installing fixed-line internet in the condominium units. UDH's imposition of a sole ISP prevented their residents from availing of alternative fixed-line ISPs, which constitutes an abuse of dominant position under the Philippine Competition Act.

In its decision, the Commission directed respondents to immediately cease and desist from their admitted conduct and pay an administrative fine of PHP 27.11 million (≈USD 540,000). The respondents will likewise be monitored on their compliance with the terms and conditions of settlement, which includes inviting other ISPs to offer their services to residents.

The PCC first became aware of the exclusive ISP arrangement in UDH's properties in 2017, when a tenant sent a private message to the PCC's official social media account. While PCC was assessing the first complaint, similar complaints poured in throughout 2018.

For more details on the case, the full text of the Commission Decision can be accessed at <https://phcc.gov.ph/commdecisionno-01e0012019-enforcement-vs-urbandecahomes-8990holdings-30sept2019/>.

**Box Article 8****Competing Hotels Penalised for Exchange of Commercially Sensitive Information*****Singapore***

The owners and operators of Capri by Fraser Changi City Singapore, Village Hotel Changi and Village Hotel Katong as well as Crowne Plaza Changi Airport Hotel were fined a total of S\$1.5 million by CCCS for infringing the Competition Act by exchanging commercially sensitive information in connection with the provision of hotel room accommodation in Singapore to corporate customers.

The sales representatives exchanged information which likely have influenced the hotels' subsequent conduct in the market or placed them in a position of advantage over their corporate customers in contract negotiations.

This included critical factors that were taken into consideration in the determination of subsequent prices that were offered by the hotels to their corporate customers.

In levying financial penalties, CCCS considered the relevant turnovers of the parties, the nature, duration and seriousness of the infringement, aggravating and mitigating factors (such as whether a party had co-operated with CCCS), as well as representations made by the parties. CCCS had earlier issued a Proposed Infringement Decision against the hotels on 2 August 2018.

# COMPETING HOTELS FINED \$1.5M FOR EXCHANGE OF COMMERCIAL SENSITIVE INFORMATION



## WHO ARE INVOLVED?

### Capri by Fraser Changi City Singapore ("Capri")

TOTAL FINES<sup>^</sup>  
S\$793,925

**Owner:** Ascendas Frasers Pte. Ltd. (until 30 March 2015)

**Operator\*:** Frasers Hospitality Pte. Ltd.

TOTAL FINES<sup>^</sup>  
S\$216,526

**Owner:** Frasers Hospitality Trustee Pte. Ltd. (from 31 March 2015)

**Operator\*:** Frasers Hospitality Pte. Ltd.

### Village Hotel Changi and Village Hotel Katong ("Village Hotels")

TOTAL FINES<sup>^</sup>  
S\$286,610

**Owner of Village Hotel Changi:** Far East Organisation Centre Pte. Ltd.

**Owner of Village Hotel Katong:** Orchard Mall Pte. Ltd.

**Operator\*:** Far East Hospitality Management (S) Pte. Ltd.

### Crowne Plaza Changi Hotel Airport Hotel ("Crowne Plaza")

TOTAL FINES<sup>^</sup>  
S\$225,293

**Owner/master lessee:** OUE Airport Hotel Pte. Ltd.

**Operator\*:** Inter-Continental Hotels (Singapore) Pte. Ltd.

\* Operator refers to the appointed agent for the management/operation of the hotel(s)  
^ Fines are imposed on both owner and operator of the hotel

## HOW DID THEY INFRINGE THE COMPETITION ACT?



 Sales representatives of the following hotels exchanged commercially sensitive information relating to their corporate customers:

- Capri and Village Hotels: From at least 3 July 2014 to 30 June 2015
- Capri and Crowne Plaza: From at least 14 January 2014 to 30 June 2015

These information is likely to have:

- Influenced the hotels' subsequent conduct in the market or
- Placed them in a position of advantage over their corporate customers in contract negotiations.



**Corporate room rates** that had been negotiated on a confidential basis and agreed upon with specific customers

**Future price-related strategies**, such as proposed price increases and bid prices

**Intention to agree to a particular customer's price reduction request** during corporate rate negotiations

## WHY IS IT HARMFUL TO COMPETITION AND CUSTOMERS?

“ Reduces competitive pressures faced by competing hotels in determining their commercial decisions, including the prices they will offer to customers.

Results in customers facing less competitive prices and options after such exchanges. ”

## WHAT SHOULD BUSINESSES DO?



If a business receives such information from its competitor, it should immediately and clearly distance itself from such conduct and report it to CCCS.



### CCCS's Leniency Programme

Businesses that are part of an anti-competitive/ cartel agreement can come forward to CCCS with information on their activities. Where eligible for lenient treatment, they can be granted total immunity or a reduction of up to either 100% or 50% in fines, subject to certain conditions.

