E-Commerce & ASEAN

Competition Law Cooperation

E-Commerce, ASEAN Economic Integration and Competition Policy and Law

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Why the need for cooperation in ASEAN e-commerce competition law
E-Commerce Competition Law
Focus

• International price fixing cartels,
• Export cartels,
• Exclusionary conduct aimed at imports (market access),
• International single firm conduct (single firm conduct that has international effects), and
• International mergers (either transnational mergers or a national merger with significant transnational effects)
The (special) Problems with E-commerce and Online

• Winner-takes-all syndrome
  – Search is now recognised as monopolistic
• Critical role of operating systems and platforms
  – They are the bedrock of the service
  – Network effects
• Invisible power of algorithms
  – Agreements and intention difficult to prove
Other Challenges

• Jurisdictional restraints
  – Subject-matter jurisdiction: origin of conduct
  – Enforcement jurisdiction: permission to enforce

• Multistakeholder process, involving not just government but also business and civil society
  – Necessary for legitimacy
  – But complicates agreement

• Small economies vs Large MNCs
Next Step

- Consultation,
- Cooperation,
- Coordination, and
- Dispute settlement mechanism.