



ASEAN EXPERTS GROUP ON COMPETITION REPORT

2020 - 2022

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FOREWORD

As we reflect upon the challenging times that have marked 2020 to 2022, it is with great pride and appreciation that we present the Triennial Report of the ASEAN Experts Group on Competition (AEGC). These years have tested our responsiveness, adaptability, and commitment to fostering fair and competitive market environments within the ASEAN region.

The global COVID-19 pandemic presented unparalleled obstacles to economies worldwide, and ASEAN was no exception. However, amidst the uncertainty and economic downturn, the ASEAN competition agencies, through the AEGC, stood steadfast in their dedication to upholding competition laws and ensuring a level playing field for businesses across the region.

Throughout the pandemic, the AEGC reiterated the importance of adherence to competition laws, calling upon businesses from all sectors to remain vigilant and compliant despite the unprecedented circumstances. Recognizing the essential role of competition policy and law in maintaining economic stability, the AEGC encouraged businesses to engage with their national competition authorities to ensure compliance with local laws.

Moreover, as we shift our focus towards recovery and resilience in the post-pandemic era, the AEGC remains committed to supporting ASEAN's comprehensive recovery efforts outlined in the ASEAN Comprehensive Recovery Framework (ACRF). In this pursuit, a Joint Statement was issued emphasizing the integral role of competition policy and law in achieving the objectives set forth in the ACRF. It underscored the necessity for closer governmental engagement to facilitate economic recovery and promote sustainable growth across the ASEAN region.

This Triennial Report serves as a testament to the unwavering cooperation and collaboration among ASEAN competition agencies, and with dialogue partners during both the pandemic and the subsequent recovery period. It highlights the collective efforts undertaken to safeguard competition, foster innovation, and promote economic resilience across ASEAN nations.

As we navigate the challenges and opportunities that lie ahead, let us remain steadfast in our commitment to fostering fair and competitive markets for the prosperity and well-being of all ASEAN citizens.

Chairperson of the ASEAN Experts Group on Competition,



Mr. Trinh Anh Tuan
Viet Nam (2020)



Mr. Deswin Nur
Indonesia (2021)



Ms. Nik Hafimi Abdul Haadii
Brunei Darussalam (2022)

I. INTRODUCTION

From 2020 to 2021, the world faced a global pandemic due to the impact of the COVID-19 outbreak, which caused significant challenges to people's wellbeing and the development of countries both regionally and globally. In 2020, growth in the region contracted by 3.2 percent, bringing the region's GDP to USD 3 trillion, a fall from USD 3.2 trillion in 2019. In addition, foreign direct investment was significantly affected, dropping by 24.6% year-on-year to USD 137.2 billion, after witnessing the region's highest-ever inflows in 2019, at USD 182 billion – making ASEAN the largest recipient of Foreign Direct Investment (FDI) in the developing world.

As with the world, the region started to recover in 2021 and is leveraging opportunities to recover lost progress. ASEAN's economic growth was at 3%, with a total FDI at 28.3% amounting to USD 176.2 billion.

While governments work towards a swift, comprehensive and sustainable regional recovery from the pandemic to develop long-term resilience, businesses had to adapt quickly to the new normal, which not only resulted in the growth of the digital markets and online platforms, but also strengthened collaboration amongst businesses to secure supply chains for

essential goods and services. Many authorities temporarily relaxed rules for collaboration. This was done while maintaining a strict vigilance to prevent opportunistic exploitation and abuse of market power. For example, the Philippines Competition Commission (PCC) exempts mergers and acquisitions amounting to less than USD 1.03 billion from compulsory notification. Meanwhile, the Competition and Consumer Commission of Singapore (CCS) exempts collaborations that fulfil several criteria and are likely to generate net economic benefit and therefore unlikely to infringe the Competition Act. Such criteria include collaborations that are limited in scope and time, and do not involve price fixing, bid rigging, market sharing or output limitation.

Other notable initiatives of several competition authorities in the region in response to the pandemic include the issuance of guidelines on economic concentration or collaborations amongst competitors, monitoring trade behaviors in priority sectors which include food, medical supplies, sanitation and face masks supplies, convening market studies on e-Commerce platforms, and the issuance of public advisories.

At the regional level, ASEAN is united to emerge strongly and recover from the pandemic. It is also committed to refrain from imposing unnecessary measures and keep markets open, strengthen the resiliency and sustainability of regional

supply chains, ensure economic stability and recovery, and promote inclusive growth, especially for MSMEs and vulnerable groups.

Since the start of the COVID-19 Pandemic, the ASEAN Heads of Competition Agencies' (AHCA), and the ASEAN Experts Group on Competition (AEGC), have worked towards strengthening regional cooperation to combat anti-competitive activities during the pandemic, and engage in competition advocacy to ensure that COVID-19 initiatives will only last as long as is necessary.

In 2020 alone, the AEGC held four online meetings in addition to its scheduled meetings, to discuss ASEAN competition authorities' approach to the pandemic, the progress of the AEGC Deliverables, Mid-Term Review of the ASEAN Competition Action Plan, and the ongoing upgrade of the AANZFTA Competition Chapter. These Meetings ultimately led to the issuance of the *AEGC Joint Statement in response to the COVID-19 Pandemic*, which calls on all business sectors to continue to comply with the competition law and contact their respective national competition authorities to ensure their activities do not contravene the laws. It also reiterates the AEGC's commitment to strengthen cooperation and ensure timely exchange of information and best practices to address anti-competitive conduct during the pandemic.

The Meetings also invited several competition authorities, such as the Australian Competition and Consumer Commission (ACCC), United States Department of Justice (US-DOJ) and the Italian Competition Commission, and the United Nations Conference on Trade and Development (UNCTAD), to exchange emerging competition issues brought about by the pandemic and best practices adopted by competition authorities in response.

The Pandemic also did not deter the AEGC from completing its annual deliverables and other notable achievements. In 2020, the AEGC developed the Study on Recommended Procedures for Cooperation on Cross-border Cases as led by Indonesia and Thailand, completed a Study on the Exclusions and Exemptions from Competition Law in ASEAN as led by Myanmar, and updated the *ASEAN Regional Guidelines on Competition Policy and Law 2020*. In 2021, the AEGC updated the *ASEAN Regional Capacity Building Roadmap for Competition 2021-2025*, and developed Recommendations on Substantive as well as Procedural Standards in Competition Policy and Law Enforcement for ASEAN. In the same year, the *9th ASEAN Competition Conference* was convened, the Mid-Term Review (MTR) of the ASEAN Competition Action Plan (ACAP) 2025 was completed, and the *Launch of the Reports on the ASEAN's Logistics Industry* by the ASEAN Economic Ministers.

2021 also marks an important milestone for regional cooperation in ASEAN, where finally 14 years after the establishment of the AEGC, all 10 AMS have enacted their competition laws following the enactment of Cambodia's Competition Law in October 2021. Additionally, the negotiation to upgrade the Competition Chapter under the Second Protocol to Amend the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) was concluded.

Despite the multifaceted global challenges, ASEAN sustained its growth momentum in 2022 – steadfast in its commitment to recovery. The region achieved a growth rate of 5.7% as a result of resilient domestic consumption and thriving trade activities. Similarly, the intra-ASEAN trade ratio increased to 22.3% from 21.3% in 2021, reflecting the growing regional integration within ASEAN. Additionally, foreign direct investment (FDI) inflows rose by 5.5% amounting to USD 224.2 billion in 2022. Building on these solid foundations, ASEAN is projected to grow 4.7% in 2023 and 5% in 2024.

It can be concluded, that while the past years have left governments to effectively balance the needs of the COVID-19 Pandemic response while ensuring that the response is no more than necessary, the AHCA and the AEGC's commitment to strengthening regional cooperation has been unwavering and supports the region's priorities of securing economic

growth and prosperity, and social cohesion and integration. This is evident by the continuous timely delivery of the deliverables, which include the imperative review of the MTR of the ACAP 2025. As for the next steps, the ASEAN Member States recognises the importance of reviewing government interventions so as to avoid unnecessary market distortions and to maintain a level playing field.

ASEAN is now embarking on the second five-year phase of the AEC Blueprint 2025, that develops and put into practice policies for inclusive and sustainable development, as well as develop long term resilience, including taking advantage of the opportunities presented by the digital revolution. The AEGC supports this by implementing the new initiatives identified under the updated ACAP 2025.

II. AEGC WORK PROGRAMME

OUTCOMES OF THE MTR OF THE ASEAN COMPETITION ACTION PLAN (ACAP) 2025

Pursuant to the mid-term review of the ASEAN Economic Community Blueprint 2025, the ACAP 2025 undergone its own review in 2020. The review was conducted in five steps, namely through a document review, questionnaire-based consultation,

video and e-mail-based interviews, and validation workshop. All outcomes, including those that have been completed, continuing, and upcoming, are evaluated based on the four key factors to be considered for carrying over these outcomes to the new ACAP 2025. The four key factors used for the gap analysis are coherence, relevance, effectiveness, efficiency, and sustainability.

The mid-term review also assessed the top achievements of the AEGC in accordance with the benefits it has brought to the development of competition policy and law in the region. The top seven achievements are the establishment of the ASEAN Competition Enforcers' Network (ACEN), the organising of capacity development for AEGC members, the establishment of the Virtual ASEAN Competition Research Centre (V-ACRC), the adoption of the ASEAN Regional Cooperation Framework (ARCF), the publication of the ASEAN Handbook on Competition Policy and Law for Businesses, the development of E-learning modules, and the undertaking of staff exchanges.

In relation to the overall AEC Blueprint 2025, the AEGC perceived the ACAP as having a strong coherence with the AEC Blueprint 2025. The ACAP goals were also evaluated as highly relevant with the AEGC Members needs and priorities. The AEGC expected that the ACAP would be more relevant in the future, primarily due to the expectation of all AMS to have their

competition law enacted in the near future. Therefore, the Strategic Goals of the ACAP was maintained for implementation until 2025. The deliverables to complete the strategic goals were enhanced by the addition of the following four Deliverables:

- Deliverable 2.1.3 - Developing the Regional Capacity Building Roadmap 2021-2025 by 2021.
- Deliverable 2.4.2 - Developing an ASEAN Investigation Manual on CPL for the Digital Economy by 2022.
- Deliverable 3.1.2 - Developing Guidelines for Sharing Merger Cases in the AEGC Portal and establishing an Information Portal on Merger Cases by 2023.
- Deliverable 5.4.1 - Conducting meetings of Heads of Competition Agencies in ASEAN in 2021.

The addition of the four new deliverables is a response to ongoing developments in the international economy as well as regional developments in competition policy and law. On-going activities that are to be undertaken regularly by the AEGC, such as capacity buildings and the ASEAN Competition Conference, will continue to be implemented until 2025. The [new ACAP 2025](#) will guide the AEGC's work from 2021-2025.

PROGRESS OF THE IMPLEMENTATION OF THE ACAP 2025

In respect of the work of the AEGC in implementing the ACAP 2025, the following highlights the ongoing progress of initiatives and activities held from 2020-2022:

i. Strategic Goal 1: Effective competition regimes are established in all ASEAN Member States (AMS)

The enactment of competition law in Cambodia in October 2021 completed ASEAN's mission to have a legal framework on competition in all AMS. In the next few years, the AEGC will continue to render its support for the preparation of Cambodia to fully enforce her competition law. The enactment of Cambodia's competition law has changed the competition landscape in the region, allowing competition to be fully monitored and enforced. Moreover, the AEGC hoped to realise a more enhanced cooperation in the region, specifically pertaining to cross-border competition cases.

Further on the first Strategic Goal, the AEGC has concluded its first voluntary peer review exercise of the Malaysian Competition Commission (MyCC) advocacy function. The Peer Review exercise is conducted through both qualitative and quantitative approach to provide a comprehensive assessment on MyCC's past advocacy initiatives. The main stakeholders of MyCC's advocacy initiatives were approached to provide

their feedback on the advocacy activity attended in the past. The Indonesia Competition Commission and the Competition and Consumer Commission Singapore provided their evaluation and recommendations on the advocacy programs with the goal to improve MyCC's advocacy initiatives based on the experiences of the two agencies. A Plenary Meeting attended by all AMS to deliberate the outcomes and recommendations of the inaugural ASEAN Voluntary Peer Review was held virtually on 21 October 2022. The Meeting enabled AMS to learn from each other's experiences and helped deepen regional cooperation amongst AMS. The exercise has also helped to identify ways to improve the overall peer review exercise – to better select the methodology to be pursued, identify solutions to challenges presented throughout the peer review process, and obtain results that would best assist the peer-reviewed country to strengthen their competition law frameworks.

ii. Strategic Goal 2: The capacities of competition-related agencies in AMS are strengthened to effectively implement CPL

The ASEAN Capacity Building Roadmap (ACBR) on Competition 2021-2025 (ACAP Deliverable 2.1.3) was developed as a guidance on the capacity building initiatives to be undertaken by the AEGC

in the period of 2021-2025. The AEGC is planning its capacity building initiative annually by referring to the prioritized topics of the particular year in the ACBR. This ACBR was formulated by analysing the regional capacity building activities conducted under the preceding ACBR 2017-2020 against capacity building needs for the next five years. It is designed around two pillars, namely the enforcement pillar and the institution-building pillar. The activities within each pillar are further classified into six categories: Fundamental Training, Advocacy, Enforcement, Institution Building, Thematic Training and Cooperation.

The ACBR adopts a menu-style design, allowing flexibility for the AMS when selecting capacity building activities catered to their needs. Considering the different development phases amongst the AMS, the menu-style roadmap is useful for the planning of sub-regional workshops and may also be a reference for national capacity building activities. The focus of this ACBR is to ensure effective enforcement by strengthening the knowledge and capacity of competition authority officials on the three pillars of competition law (anti-competitive practices, abuse of dominance, and anti-competitive mergers) as well as on competition economics.

The capacity building activities conducted by the AEGC range from a workshop/training, secondment of

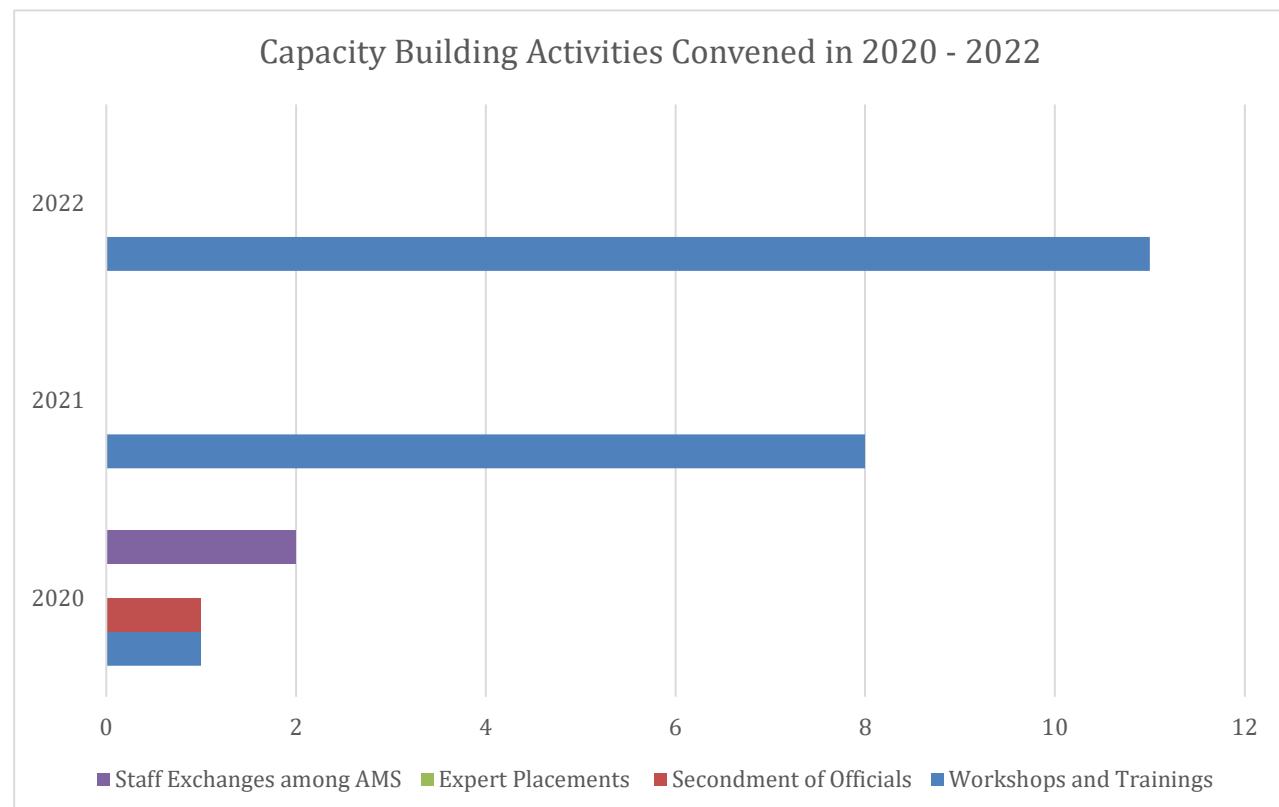
officials, expert placements, staff exchanges amongst AMS, as well as e-learning courses. During the pandemic, most of the activities were carried out online. Several secondments and staff exchanges were postponed due to the uncertainty of international travel and border closures. Nevertheless, the AEGC was able to carry out a number of capacity building activities as reflected in **Graph 1**. The activities were mostly attended by competition officials, however, MSME officials were also invited to the ASEAN Regional Policy Dialogue (ARPD) on Competition Policy and MSMEs in the post COVID19 Crisis on 2 March 2021. This Dialogue was co-organised by ASEAN, UNESCAP, and UNCTAD. The AEGC continued to engage the judiciary, businesses, and legal practitioners by inviting them to attend the 9th ASEAN Competition Conference held in 2021.

In addition to the figures above, two e-learning courses were developed with the support of the CLIP Programme in 2020. A special series of modules on the digital economy was also added in 2021, consisting of blog posts, recorded sessions, and interactive modules. In total there were 13 new e-learning materials added in 2021. All e-learning courses are accessible by competition and consumer protection officials in ASEAN, Australia, and New Zealand.

The capacity building activities organized for ASEAN's competition officials are hoped to increase the competition

initiatives in each AMS. The AEGC continues to monitor the completed competition initiatives each year. The data for 2020 – 2022 can be seen in **Graph 2**.

Graph 1. Capacity Building Activities Convened in 2020 - 2022



Graph 2: ASEAN Completed Competition Initiatives (2020 – 2022)



iii. Strategic Goal 3: Regional cooperation arrangements on CPL are in place

The Study on Recommended Procedures for Cooperation on Cross-Border Competition Cases has been completed and is aimed at promoting understanding

amongst case handlers to enable cross-border case cooperation between ASEAN Member States. It is divided into four main chapters which are:

- fundamentals of cross border case cooperation in ASEAN;
- cross-border case cooperation experience;

- c) recommended procedures for cross border case cooperation; and
- d) other recommendation to promote cross border case cooperation.

Members of the ASEAN Competition Enforcers Network (ACEN), led by Indonesia and Thailand, plays a leading role in completing the Study, and has held several rounds of brainstorming meetings and validation workshops in its development.

Additionally, the ACEN held its 4th Meeting to discuss various competition issues related to the digital platform and issues on cross-border cases of businesses operating outside their domestic jurisdictions, while exchanging best practices from the EU, Germany and Australia.

Specifically, under the updated ACAP 2025, discussions in ACEN are to be deepened on case and non-case related issues of common interest which could pertain to investigations, adjudications, fines, remedies, procedural rights and obligations, case handling, case management and inter-agency operation. The discussions will also extend to regional cooperation and will include emerging cross-border issues.

Finally, the *Launch of the Negotiations for an ASEAN Framework Agreement on Competition on Competition (AFAC)* has been identified as one of the Priority

Economic Deliverables for the ASEAN Economic Community under Cambodia's ASEAN Chairmanship in 2022. The AFAC is aimed at facilitating cross-border cooperation and coordination amongst AMS competition authorities on its enforcement work. With all ten AMS having enacted competition law, a Framework Agreement aimed at strengthening regional cooperation is timely. In preparation for the Launch which is expected to be held at the 54th ASEAN Economic Ministers Meeting, the AHCA, with the assistance from the AEGC, will lead the development of Guiding Principles for Negotiating the AFAC.

The AEGC in its discussions has also agreed to explore the mechanism of exchanging confidential information, to strengthen cooperation on case investigations that are of mutual interest.

The AEGC has developed the Guidelines for Sharing Merger Cases which was identified as a Key AEGC Deliverable for 2022. The aim of this guideline is to facilitate the sharing of merger information obtained from public or private sources between the competition agencies of AMS. The initiative is led by Cambodia and Thailand.

iv. Strategic Goal 4: Fostering a competition-aware ASEAN region

The Regional Study on Exclusions and Exemptions from Competition Laws in ASEAN aimed at assessing the different types of exclusions and exemptions from CPL available in AMS as well as to highlight actual and potential problems and challenges for national enforcement and cross-border enforcement, has been completed and ultimately integrated into the updated Commonalities Study on Commonalities and Differences across Competition Laws in ASEAN Feasible for Regional Convergence.

At the sidelines of the 44th ASEAN Economic Ministers Meeting, ASEAN and the OECD launched the OECD Competition Assessment Reviews: Logistics Sector in ASEAN and the OECD Competition Neutrality Reviews: Small-Package Delivery Services in ASEAN. The Studies compliments ASEAN's effort to ensure that markets are kept open to new entrants, and that anti-competitive behaviour does not distort fair competition.

Improving the logistic sector is vital as it allows economic growth to be optimised and strengthens the allocation of scarce resources. Recognising its importance, in 2006, the logistic sector has been placed as the twelfth Priority Sector by the ASEAN Economic Ministers, in addition to the eleven priority sectors that were identified in 2003.

Recognising the importance of the logistics sector, removing regulatory barriers in these five main sub-sectors, namely freight transportation, freight forwarding, warehousing, small package delivery services, and value-added services, will enable ASEAN to develop an efficient logistics system that would help to support a regionally integrated production facility.

In addition, by removing any unnecessary unfair competitive advantages given to State Owned Enterprises that restrict market forces, will generate greater efficiencies that can result in lower priced and better-quality products and services.

With the notable Launch of the Regional Reports - marking the first ASEAN-wide Competition Sectoral-Assessment Study, underscores ASEAN Member States' continued effort to develop an efficient logistic sector, and thereby supporting ASEAN's post-pandemic economic growth and recovery.

As one of the flagship deliverables of the AEGC, the 9th ASEAN Competition Conference was held from 1-2 December 2021 with the theme *Safeguarding Competition – A Post Pandemic Response*. The Conference was held in a hybrid format in which it was hosted by the Viet Nam Competition and Consumer Authority in Ha Noi Viet Nam and was live streamed from various platforms including through the ASEAN YouTube Channel.

The 9th ACC was attended by well over 700 participants which includes competition experts, academicians and private sectors, from within and beyond ASEAN, which was the most recorded total number of participants to have ever attended the Conference since it was first held in 2011.

The 9th ACC comprised of four panel discussions covering the following array of topics:

- a) Implications of the COVID-19 Pandemic to ASEAN Markets – A Review
- b) Maintaining Business Compliance
- c) Increasing Importance of Competition Policy for MSMEs in the Post-Pandemic Era
- d) The Rapid Shift Towards the Digital Economy and the Risk to Competition Enforcement
- e) Strengthening Cooperation in anticipation of future Crisis

The AEGC has also completed the inaugural ASEAN Competition Business Perception Index (ACBPI) Survey involving a total of 1,059 companies across AMS. The ACBPI is a tool to assist in measuring the level of business awareness and confidence in the competition regime. The index calculation shows that ACBPI score in 2019 is 64.61, which indicates that competition authorities and the application of competition law in ASEAN is perceived

positively in the business community. However, business awareness and understanding on competition policy and law is still low, thus advocacy efforts need to be intensified in the region.

The ACBPI Guidance Document, which was developed in 2018, is currently being reviewed to improve the conduct and enhance the outcomes of the next ACBPI survey which is to be conducted once every five years. The updated ACBPI Guidance Document will also include e-Commerce considerations.

Efforts to strengthen the interface between competition policy and other economic areas have been a constant priority in AEGC's agenda, especially going forward to identify and address cross-cutting competition issues. The Regional Policy Dialogue: the Role of Competition Policy in Supporting MSMEs Economic Recovery in the Post COVID19 crisis which was organized in collaboration with UNCTAD and the Economic and Social Commission for Asia and the Pacific (ESCAP). The Dialogue was also participated in by the ASEAN Coordinator Committee on Micro, Small and Medium Enterprises (ACCMSME). Future interface workshops will be held primarily with the ASEAN Committee on Consumer Protection (ACCP) (2022), the health sector (2023) and the other sectors including trade, e-Commerce, and financial services.

Finally, as the main platform to inform the public about the progress of the AEGC work, the AEGC Website (www.asean-competition.org) is continuously being updated and upgraded to serve its purpose. News of national and regional competition developments are posted more frequently and in real time. The Resources section incorporates two additional sections on Joint Statements and Annual Reports to ease viewers to find relevant information. Interested competition experts and academia working on competition developments in the region are encouraged to utilize the Virtual ASEAN Competition Research Centre, and to include their data under the researcher database which can be informed through the following link: <https://asean-competition.org/research/contact-us>. The AEGC has currently revamped the homepage of the AEGC Website in 2022.

v. Strategic Goal 5: Moving towards greater harmonization of competition policy and law in ASEAN

The *Study on Commonalities and Differences of National Competition Laws and Recommendations on Substantive as well as Procedural Standards* has been completed in January 2020. The Study provides; (i) a comprehensive overview of the commonalities and differences of the

substantive competition rules in ASEAN, (ii) identifies possible areas to prioritise for convergence and supporting arguments, and (iii) initial recommendations on strategic options regarding the way forward in the short to medium term. An update of the Study commenced in 2021 and is expected to be completed in 2022. The updated Study is expected to include Recommendations on Substantive as well as Procedural Standards in Competition Policy and Law Enforcement for ASEAN and the latest competition updates in AMS.

The AEGC has further updated the *Regional Guidelines on Competition Policy* which was initially published in 2010. The newly updated version of the Guidelines offers insights into the current status of competition law and authorities in ASEAN, serve as a general framework for AMS to introduce, implement, enforce and develop competition policy and law in-line with their respective legal and economic context. The Regional Guidelines are not binding and provide recommendations and practices adopted from the experiences of AMS, international best practices and studies carried out by ASEAN to act as a common reference guide for the implementation and enforcement of competition policy and law and to facilitate future cooperation between AMS. In addition, the updated Guidelines, which comprises 16 chapters, contains added sections such as an

assessment of emerging trends and challenges, covering the digital economy and sustainability, among others. The section recognizes that competition law needs to flexibly adapt to changing business and social environments.

The AHCA conducted its first Meeting with the theme of the Indonesian AHCA and AEGC Chairmanship 2021, which is “Safeguarding Competition Policy for Economic Recovery”. The Meeting deliberated the progress of the implementation of the AEGC key priority deliverables and the outcomes of the MTR AEC Blueprint 2025, the ASEAN Comprehensive Recovery Framework (ACRF) and its Implementation Plan, the ASEAN Work Plan for the Implementation of the ASEAN Agreement on e-Commerce, and the outcomes of the Indonesia-led *Study on the Impact of COVID-19 Pandemic and Economic Recovery to Competition Law and Policy*. The findings of the Study were as follows:

- (i) Despite budget cuts, the pandemic did not affect the organisational structure of ASEAN competition agencies. There have also been no changes to the legal frameworks of AMS.
- (ii) Annual strategic priorities have been shifted to focus on health, food security, e-Commerce, and other

industries affected by the Pandemic.

(iii) There has been an increase in advocacy activities and coordination with other government sectors. Competition authority is routinely consulted by the government on proposed laws and policies particularly in the e-Commerce sector.

(iv) Regulatory adaptations were made towards the digital market with the aim of accelerating platforms to accommodate online transactions.

(v) There has been increased attention to MSMEs due to increasing complaints on potential abuse from large companies to MSME.

(vi) Advocacy measures by way of provision of policy recommendations or advice are often used by competition agencies to engage with the government throughout the recovery period.

The AHCA issued a Joint Statement on Maintaining Competition Policy in Post-Pandemic Economic Recovery in 2022, covering the key findings and proposed actions of the Study. The Joint Statement

highlighted AHCA's agreement to adopt the following actions to maintain and improve competition:

- a. Support economic recovery by focusing enforcement efforts on strategic markets and industries that are important for economic recovery, and streamlining processes to make them business-friendly;
- b. Strengthen advocacy efforts to policymakers from an early stage to ensure that competition issues form part of their considerations in developing new policies and regulations;
- c. Provide the government and other relevant legislative bodies with advice and recommendations on competition law and policy;
- d. Ensure that anti-competitive activities do not take place under the guise of economic recovery, and cooperate with other competition authorities as appropriate to curtail such anti-competitive activities;
- e. Enhance our national and regional capacity to assess and handle competition issues relating to digital markets; and
- f. Strengthen our outreach to small and medium-sized enterprises (SMEs).

COOPERATION WITH EXTERNAL PARTNERS

If there is any lesson that we can draw from the challenges of the Pandemic, it is that no country can handle any calamity alone. It requires strengthened partnership and a focus to review relevant domestic regulations and practices, that may hinder competition, to ensure an efficient and competitive market, which is at the heart of all international trade.

With the introduction of ten separate laws on competition over the span of 22 years (from 1999 – 2021) in ASEAN, this gives rise to national competition regimes which are at varying stages of maturity. There has been a rapid increase in the introduction and setting up of competition laws and agencies over the past six years. Meanwhile, the more mature agencies have undergone amendments to their laws and functions.

As identified under Strategic Goal 5 of the ACAP 2025, ASEAN recognizes the necessity and benefits of aligning competition rules across the region. The ACAP 2025 also recognizes the need to strengthen the capacities of competition-related agencies to effectively implement competition policy and law as stipulated under Strategic Goal 2. Thus, capacity building activities delivered through the ASEAN-help-ASEAN approach and delivered with the assistance from

dialogue partners remains crucial to bridge differences in legal and institutional frameworks amongst AMS, in order to strengthen cooperation and enforcement of competition law across the region.

The following sections present the main technical assistance provided by the dialogue partners of the AEGC:

i. AANZFTA Economic Cooperation Support Programme - Competition Law Implementation Programme

The Competition Law Implementation Program (CLIP) Phase IV, a Project supported under the AANZFTA Economic Cooperation Support Programme (AECS), commenced in September 2020. The multi-year project continues to build on its past work, by way of convening a range of capacity building activities delivered virtually, including the convening of competition clinics on Advocacy through the COVID-19 Recovery, Train-the-trainer programme, the updating of the ASEAN Capacity Building Roadmap, the development of new e-learning modules, and the provision of remote assistance to ASEAN competition agencies.

The Project has also supported tailored capacity building activities on digital markets in the form of a webcast series,

panel discussions and e-learning modules.

ii. ASEAN-German Competition Policy and Law in ASEAN Programme

In 2019, the Federal Ministry for Economic Cooperation and Development (BMZ) commissioned the COMPETE project to support the development of competition law in ASEAN, particularly its developments in Cambodia, Lao PDR, Myanmar and Viet Nam. The Project, which has been extended to 2022, has the overarching objective of enabling countries to apply an investment-conducive and pro-competitive implementation of ASEAN agreements in the areas of trade in services and competition policy. The Project is implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

The COMPETE has thus far supported both national and regional initiatives. At the national level, the Project has supported the development draft Competition Law of Cambodia, and development of the Strategic Plan for the Myanmar Competition Commission.

Meanwhile, at the regional level, deliverables such as the development of the Study on Commonalities and Differences across Competition

Legislations in ASEAN and its subsequent updates, the updating of the Handbook on Competition Policy for Business in ASEAN, the undertaking of the MTR of the ACAP 2025, and supports the convening of the 9th ASEAN Competition Conference.

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

The Government of Japan (GoJ) and the Japan Fair Trade Commission (JFTC) supported the Technical Assistance for ASEAN Competition Authorities to Strengthen Competition Law Enforcement in ASEAN – Phase 2 from 2019 under the Japan-ASEAN Integration Fund (JAIF). The technical assistance programme led by Indonesia Competition Commission as the proponent of the project continued its implementation despite the on-going pandemic in 2020-2021. The programme also received an extension until October 2022 to complete all its activities.

In early 2020, the programme supported a one-month secondment of experts from the Indonesia Competition Commission to Competition Commission Brunei Darussalam (CCBD) to share experiences and develop competition investigation skills of CCBD's competition officials.

Before the closure of borders in the early pandemic, the inaugural staff exchange between AMS was able to continue its implementation in March 2020. Competition officials from Cambodia and Myanmar were exchanged to the Indonesia Competition Commission. The exchange program was conducted in-person and virtually due to the development of the COVID-19 pandemic. The AEGC decided to cancel the remaining staff exchange programme which was scheduled for late 2020 due to the resurgence of another COVID-19 wave later that year.

Despite the on-going pandemic situation, activities under the programme that do not require in-person engagements were able to be undertaken in 2021. Two capacity building activities were convened virtually in 2021, namely Training Course on Unilateral Conduct and Abuse of Dominant Position and Regional Workshop on New Economic Issues in Merger Enforcement. The capacity building activities were not only participated by competition officials from AMS and Japan, but also from Australia and Taiwan. The online hosting of these activities has enabled it to be participated in by a number of participants that goes beyond its target. The undertaking of the pilot peer review on MyCC's advocacy activities is continuing since 2020 to test the effectiveness of the Peer Review Guidance Document. The Peer Review

exercise allows AMS competition agencies to provide recommendations to another AMS' function(s).

The technical assistance programme also supported the development of the Study on Recommended Procedures for Cooperation on Cross-Border Competition Cases which was developed to recommend means and suggested procedures which can be applied by the competition authority in the AMS in dealing with cooperation on cross-border competition cases. The first ASEAN Competition Business Perception Index (ACBPI) Report was also finalized in 2021 and agreed to be an internal document to provide the bottom value for the subsequent index.

iv. EU Competition Cooperation Project

The AEGC's cooperation with the EU continued to take shape through the implementation of the EU-ASEAN Competition Cooperation Project as part of the greater EU-Asia Competition Cooperation Project. Three activities are to be implemented annually under this project, namely the Competition Summer School, ASEAN-EU Competition Week, and the Visitors Programme. Due to the pandemic, the planned Competition Summer School and Visitors Programme was cancelled in 2020. The Competition

Summer School commenced virtually in 2021 with activities that included self-paced online learning, interactive sessions though video conference, and virtual meetings with high level competition officials to discuss recent competition issues in both regions. The topics covered in the 2021 Competition Summer School are Institutions and decision making in EU; Competition Policy and Fundamentals of EU Competition Law; instruments of EU Competition Law; Horizontal and Vertical Restraints; Abuse of Dominance; mergers & acquisitions; antitrust procedure; State Aid Control; public and privileged undertaking; Court of Justice of the EU and Economics of Competition law.

The 2nd ASEAN-EU Competition Week and Visitors Programme are postponed due to the challenges faced in meeting the desired objectives of these two activities virtually. Both the AEGC and EU are committed to continue implementing both activities once the condition is conducive to conducting these activities physically.

v. United States

The inaugural workshop series co-organised by the AEGC and the US Department of Justice (US DOJ) on Mergers Investigation were held on 27 January, 10 and 17 February 2021. This workshop marked the establishment of

cooperation between the AEGC and the US DOJ. Subsequent to the first workshop, the US DOJ has shown its commitment to strengthen the cooperation with AEGC by mapping out AEGC's capacity building priorities. Several prioritized topics were discussed with the US DOJ and tailored to refer to the ASEAN Capacity Building Roadmap 2021-2025 as well as AEGC's Annual Key Deliverables. In preparation for the 2022 AEGC Annual Key Deliverables, namely the development of the Guidelines for Sharing Merger Cases, the AEGC agreed to focus on covering Mergers-related topics in the next workshop.

Therefore, the ASEAN-US Merger Case Study Workshop was held virtually on 30 June – 1 July 2021. The Workshop builds on the discussion from the first workshop on Merger Investigations. The second workshop was received positively by the AEGC. The co-organisation of a demand-driven capacity building activities with the US DOJ has brought new perspectives and enriched the discussion on case investigations in the region.

vi. OECD

The OECD has recently completed its extensive Competition Assessment Reviews of ASEAN's Logistics Sector, that aims at assessing regulatory constraints that hinder the effective functioning of markets in the logistics sector in all 10 AMS, primarily freight transport, freight forwarding, warehousing, small package delivery services and value-added services. The Project also undertakes competitive neutrality reviews of small-package delivery services. Recommendations are incorporated in the Reports to mitigate harm to competition from regulatory barriers.

Upon the completion of the Study and its Regional Launch in September 2021, the Country Reports have been equally launched in each AMS in order to disseminate the reports' key results and recommendations to stakeholders for effective implementation.



III. COUNTRY REPORTS

Brunei Darussalam

The Competition Commission Brunei Darussalam (CCBD) enforced the first key prohibition of its Competition Act, Chapter 253 (“the Act”), namely the Section 11: Anti-Competitive Agreements, in the beginning of January 2020.

In ensuring an effective enforcement of the law, the CCBD continues to prioritise carrying out its advocacy work, developing the legislative framework with formulation of regulations and guidelines, and developing its institutional capacity.

The CCBD has gazetted 4 Regulations to the Act, which consist of i) Competition Regulations; ii) Competition (Appeals) Regulations; iii) Competition (Transitional Provisions) Regulations; and iv) Competition (Composition of Offences) Regulations. Furthermore, 5 procedural documents have been finalised, including 3 internal procedures titled ‘Definition of Relevant Market, Confidential Information’ and ‘Investigation Procedures’, as well as 2 external guidelines, namely ‘Guidelines on Financial Penalty’ and ‘Guidelines on Confidential Information Application’.

As for the CCBD’s advocacy efforts, a total of 31 outreach sessions were conducted from 2020 – 2022, involving several key stakeholders from different backgrounds, such as (i) government

institutions, including sector regulators and policy makers, (ii) businesses including vendors registered in various ministries, (iii) professional associations, (iv) universities, and (v) Micro, Small and Medium Enterprises (MSMEs). Outreach sessions also covered the general public, noting the importance of having a society who understands the benefits of competition in enhancing consumer welfare. Engagements with the media were also carried out in early 2020, considering their crucial role in disseminating information and educating the mass audience in fostering competition towards achieving a healthy market.





The CCBD also held a launch event of the Organisation for Economic Cooperation and Development (OECD) Reports, as the outcomes of an independent study by the OECD as part of the ASEAN Competition Action Plan 2016-2025. The Reports, namely the "Competition Assessment Reviews of the Logistics Sector in Brunei Darussalam" and "Competitive Neutrality Reviews of Small Package Delivery Services in Brunei Darussalam", provide recommendations to promote a pro-competitive environment in the logistics sector.



With bid rigging being the focus of the CCBD's enforcement work during this period, a series of workshops for procurement officials from several different government ministries were conducted, aimed at training the officials on how to detect and deter bid rigging in

public procurement. A Bid Rigging awareness campaign was launched in December 2021, whereby the CCBD issued a series of posters on bid rigging, as well as conducting several advocacy sessions that were focused on fighting Bid Rigging.



CCBD also stepped up its efforts to advise the stakeholders in the public sector, including policy makers, to consider incorporating competition principles in policy-making decisions. A total of 8 competition advisories were issued, specifically on matters relating to sole-distributorship practices and pro-competition tendering processes.

Competition Workshop for Younger Competition Agencies - First Steps

OECD Competition Programme
OECD KOREA Policy Centre



Over the past three years, the CCBD remained committed to building its internal capacities. The CCBD participated in over 50 capacity building activities, which included 30 workshops/forums conducted virtually during the pandemic. In addition, the CCBD successfully hosted the OECD Competition Workshop for Younger Competition Agencies virtually in 2020.

Also in the same year, the CCBD had the privilege to receive a two-week expert placement, supported by the Japan-ASEAN Integration Fund Phase II (JAIF 2.0) Programme. The expert, Mr. Mohammad Reza from the Indonesia Competition Commission (ICC), provided insights on methodologies in case investigations and aided on the drafting and development of investigation manuals. In further efforts to build its investigation capacity, the CCBD has conducted a training session with the Royal Brunei Police Force (RBPF), which shed light on proper investigation techniques as well as best practices in implementing and enforcing the law according to its due process.

In response to the price issues and supply chain disruptions in the market brought about by the COVID-19 pandemic, the CCBD, in collaboration with the Department of Consumer Affairs, carried out market monitoring exercises of certain essential goods. With a focus on the retail level, data on price and stock availability of monitored essentials such as face masks, hand sanitisers and several food items including chicken and eggs, were gathered and published in the public domain to promote information transparency and encourage consumers to make informed-purchase decisions. The exercise also served as a preventive strategy to deter unethical business practices, as well as cartel / abusive conducts.

In 2022, Brunei took over the Chairmanship of the ASEAN Experts Group on Competition. During its Chairmanship, the AEGC accomplished several deliverables, including the Guiding Principles for Negotiating the ASEAN Framework Agreement on Competition (AFAC) and the launch of the AFAC negotiation itself, as well as the Guidelines for Sharing Merger Cases.



As a result of the organizational restructuring of the Ministry of Finance and Economy, the parent Ministry of the Executive Secretariat of CCBD, in July 2022, the Executive Secretariat of CCBD was transitioned out from the Department of Economic Planning and Statistics and is now based directly under the Ministry.

Cambodia

Drafting Process on the Draft Sub-Decree on the Requirements and Procedures for Business Combinations



Meeting on the Draft Sub-Decree at Inter Ministerial Level on December 16, 2022

Following the technical level meeting, an inter-ministerial meeting was held to discuss the Draft Sub-Decree on the Requirements and Procedures for Business Combinations (“Sub-Decree”) in Cambodia. The session was led by H.E. Tekreth Samrach, Delegate Minister attached to the Prime Minister and Secretary of State of the Office of the Council of Ministers, with participation from line Ministries and relevant Institutions. On the Ministry of Commerce side, H.E. Mao Thora, along with H.E. Mak Pichrith, Secretary of State of the Ministry of Commerce, and H.E. Phan Oun, Delegate of the Royal Government of Cambodia in charge as Director

General of CCF and senior CCF officials also attended the meeting to ensure robust discussion and defend the Draft Sub-Decree.

The meeting aims to review and refine the Draft Sub-Decree, ensuring the intended provisions outlined in the Draft Sub-Decree align with the current business landscape and adhere to national legal context and international best practices. This initiative is part of the government’s broader effort to enhance the competitive business environment, promote transparency, and foster a more efficient regulatory landscape. The Draft Sub-Decree outlines key requirements and procedural steps on pre- and post-notifications for business combinations, subject to certain notification thresholds.

Advocacy



The Official Launch of National Dissemination Workshop on Competition Law under the theme of "Promoting Fair and Honest Business Relations: Economic Efficiency and Consumer Welfare" on March 17, 2022

On March 17, 2022, CCF Directorate-General of the Ministry of Commerce and GIZ Cambodia co-organized the Official Launch of National Dissemination Workshop on Competition Law under the theme of "Promoting Fair and Honest Business Relations: Economic Efficiency and Consumer Welfare". The workshop was officially inaugurated in the presence of H.E. Tekreth Kamrorn, Secretary of State of Commerce, representing H.E. Pan Sorasak, Minister of Commerce. The workshop also featured the participation of Dr. Angelika Stauder, First Secretary of the Embassy of the Federal Republic of Germany in Cambodia, Mr. Frank Tibitanzl, COMPETE Project Director of GIZ, and Mr. Frank Jattke, ASEAN Team Leader of GIZ. National and international

guests attended both physical and online, bringing the total number of participants to 300.



On July 07, 2022, the kicks start of the Nationwide Dissemination Workshop on Competition Law and Consumer Protection Law

The workshop aims to bring together government officials, businesses, and the public to discuss the benefits of competition law, including its role in boosting economic efficiency, safeguarding consumer interests, promoting innovation, competitive pricing, and enhance overall market conditions, underscoring the Cambodian government's dedication to establishing a fair and competitive market environment that fosters sustainable economic growth and benefits businesses and consumers alike.

(Battambang Province): On July 7, 2022, CCF Directorate General of the Ministry of Commerce in collaboration with GIZ Cambodia under COMPETE Project

organized a dissemination workshop on “the Law on Competition, Law on Consumer Protection and Law on Food Safety” at Stung Sangke Hotel, Battambang Province.

The dissemination workshop was officially inaugurated with opening remarks by H.E. Phan Oun, Delegate of the Royal Government of Cambodia in charge as Director General of CCF, high representative of H.E. Pan Sorasak, Minister of Commerce, and H.E. Sok Lou, Governor of Battambang Provincial Administration, together with Mr. Frank Jattke, ASEAN Team Leader of GIZ.

The workshop brought together a diverse group of participants, including representatives from the CCF provincial Branches, Department of Commerce, relevant departments and institutions in Battambang and surrounding provinces, especially members of the Cambodia Chamber of Commerce in Battambang, Pursat, Pailin and Kampong Chhnang provinces, a total of 150 participants.

International Cooperation



On September 29, 2022, Panelist at the East Asia Top Level Official Meeting on Competition Law and Policy (EATOP)

On September 28, 2022, in Manila, the Philippines, H.E. Phan Oun, Delegate of the Royal Government of Cambodia in charge as Director General of CCF, high representative of H.E. Pan Sorasak, Minister of Commerce, was invited to speak in the session on “Competition Policy and East Asian Regional Integration at the East Asia Top Level Official Meeting on Competition Law and Policy (EATOP). The session aims to address how Regional Comprehensive Economic Partnership (RCEP), and the creation of ASEAN Framework Agreement on Competition (AFAC) promotes coordination and cooperation in cross-border competition cases.

Notably, the 17th EATOP meeting was collectively organized by the Philippines

Competition Commission (PCC), the Japan Fair Trade Commission (JFTC) and the Asian Development Bank Institute (ADBI), including the participation of senior officials, representatives of Competition Agency from many other countries to come together to discuss and share experiences about the implementation and enforcement of the Law on Competition in the regionally and internationally.



On August 29-30, 2022, Panelist at the Global Competition Review (GCR Live Law Leaders Asia Pacific Conference) in Singapore



On August 29-30, 2022, Mr. Meng Songkheang, Director of the Department of Competition, CCF Directorate General of the Ministry of Commerce, was invited to share the recent development of competition policy and law in Cambodia at the GCR Live Law Leaders Asia Pacific conference held in Singapore. Interestingly, this event spotlighted key areas of competition law and practice across the region. The programme comprised experienced speakers – both external and internal counsel, academics, economists as well as a great number of enforcement officials - from across the region and globally.

Capacity-Building



On September 16, 2022, Training on Vertical Restraint, by Professor Ray Steinwall, University of New South Wales of Australia.

On September 16, 2022, CCF Directorate General of the Ministry of Commerce in collaboration with GIZ Cambodia organized a training course on the topic of “Unlawful Vertical Agreement and Abuses of Dominant Market Position” under the Law on Competition at the Headquarter of CCF Directorate General.

The purpose of this training is to build the capacity of CCF's investigating officers in enforcing the Law on Competition by sharing knowledge and experience from the Australian competition regime, presented by Professor Ray Steinwall of the University of New South Wales. This training aims to enhance the effectiveness of CCF in enforcing competition laws in the near future. Additionally, it seeks to evaluate the impact of unlawful vertical agreements and the abuses of dominant market position, which significantly prevent, restrict, or distort competition in the market.

Training on Business Combinations and Experience Sharing from Korean Fair-Trade Commission (KFTC)

CCF Directorate-General, in cooperation with the Korean Fair-Trade Commission (KFTC) and GIZ Cambodia, organized the Training on Business Combination and Shared Experiences from KFTC on September 1, 2022, at the CCF Headquarter.

The opening remarks for the training were presided over by H.E PHAN Oun Delegate of the Royal Government of Cambodia in Charge as Director General of CCF, Mr. Frank Jettke, Team Leader of ASEAN, GIZ and Experts from the Korean Fair-Trade Commission. The training was attended by around 130 participants, including the Independent Commissioners of the Cambodia Competition Commission (CCC) and CCF officials.

The workshop aimed at exploring more into the draft Sub-Decree on the Requirements and Procedures for Business Combinations and also act as a platform for investigation officers from the CCF Directorate General to understand more on the requirements and procedures to conduct assessment on business combination that may significantly prevent, restrict and distort competition by learning international best practices from KFTC experts.

Indonesia

ICC 2021 Chairmanship at the ASEAN Experts Group on Competition (AEGC)

In 2021, Indonesia Competition Commission (ICC) was entrusted to be the Chair of the ASEAN Expert Group on Competition (AEGC). ICC raised the theme of “Safeguarding Competition Policy for Economic Recovery”, to convey a message about the role of competition authorities in maintaining the implementation of competition policies during economic recovery. There were 2 (two) key deliverables achieved during the ICC chairmanship; (i) ASEAN Regional Capacity Building Roadmap 2021-2025 (Deliverable 2.1.3) is a deliverable which was added following the Mid Term Review of the ASEAN Competition Action Plan (2016 – 2025). It will guide the regional capacity building activities for the next five years. The roadmap has identified two main pillars of capacity building needs: The Enforcement Pillar and the Institution Building Pillar. While both reinforce each other, the required focus will shift more towards enforcement as the institution develops. The roadmap has been designed around six (6) categories of activities - Fundamental Training, Advocacy, Enforcement, Institution

Building, Thematic Training and Cooperation. Each category identifies suggested activities for the five-year period (ii) Recommendations on substantive as well as procedural standards in CPL enforcement for ASEAN, which is a part of the updated Study on Commonalities and Differences.

As AEGC Chair, ICC led various meetings such as the ASEAN Expert Group on Competition Meeting (AEGC Meeting) and its Related Meeting, ASEAN Heads of Competition Agencies Meeting 2021 (AHCA Meeting 2021), and ASEAN Competition Enforcers’ Network (ACEN) Meeting.

The ASEAN Expert Group on Competition Meeting (AEGC Meeting) is held twice a year and aims to discuss the substance and development of the implementation of initiative under the AEGC strategic plan and discuss issues related to the implementation of competition law and policy in the ASEAN region.

The ASEAN Heads of Competition Agencies Meeting 2021 (AHCA Meeting 2021) was previously initiated by ICC in 2011 under the name of The ASEAN High Level Meeting on Competition (AHLMC), but its implementation was

halted. In 2021, ICC has the honor to chair this meeting among leaders from all competition authorities in ASEAN to discuss strategic regional competition issues. This meeting was held on October 11, 2021.

At the meeting, Indonesia presented the outcomes of its lead driven "Study on the Impact of COVID-19 Pandemic and Economic Recovery to Competition Law and Policy". The study was conducted independently by ICC with the competition authorities in ASEAN as the respondents. This study aims to map out the effect of government policies in enhancing economic recovery, to competition law and policy implementation in ASEAN, also to propose several recommendations to the competition authorities in ASEAN to implement competition law and policy effectively amid the obstacles brought by the covid-19 pandemic.

The findings from the study are:

- a. Impact of Government Policies toward Competition Landscape
Impacts experienced by competition agencies due to government policies from 2020 to now:
 - Budget cutting
 - Change in strategic or annual plan
- b. Adjustment Made by Competition Agency

Competition agencies among AMS have made some adjustments as responses to covid-19:

- Shifting enforcement priorities to industries that are highly impacted by pandemics and essential for the people.
 - Issued Commission Regulation and issued/Revised Competition Law Guidance
- c. Digital Economy as Government Priority
- Digital economy has grown significantly during pandemic time that pushed the governments to adapt and prioritize by establishing certain policies, such as issuing a regulation, promoting the adoption of the digital market among MSME and retail businesses, and launching e-commerce platforms.
 - Competition agencies have been more involved in managing the digital market and keeping a healthy competition climate in the digital economy: conducting a review and providing recommendations for regulation, advocacy, conducting monitoring,

enforcement activities, and market studies.

d. Competition Agency Contribution Towards MSME

The pandemic resulted in the growing concern of government and competition agencies toward MSME.

- Complaints related to the potential abusive conduct of large-sized enterprises since early 2020 have occurred in Indonesia, Vietnam, Malaysia, and Singapore
- To protect MSME from abusing the conduct of larger enterprises, the majority of AMS's competition agencies have proposed advocacy and policy recommendation

e. Support of Competition Agency Towards Economic Recovery Policies

- Competition agencies have been actively involved with the government during economic recovery to maintain a healthy competition climate, through advocacy efforts, such as policy recommendation and discussion with stakeholders
- Pandemic, and/or economic recovery is used as one of the considerations in AMS competition agency law and policy enforcement. The

methods are varying, such as to lessen the penalties, pay the financial penalties in installments, suggest the government to consider the survival of the industry, etc.

- The competition agencies in AMS do not have any specific timeline until when they apply this policy.

The recommendations from the study are:

- a. Competition agencies can support economic recovery by redirecting enforcement resources towards strategic markets and industries considered important for the recovery process. Sectors that may take priority may include, for instance, those that have been strongly implicated in the response to the crisis such as health and food sectors, or those that can generate positive spill-over on social welfare, such as the digital economy and MSME.
- b. The digital industry has been growing significantly during the pandemic and became one of the ways to revive the suffering economy, particularly for MSME. Since the characteristics of the digital economy are vastly different compared to traditional

- brick and mortar economies, such as that digital industry may traverse beyond national borders, then a different approach is needed in the enforcement of competition law and policy. Therefore, competition agencies in AMS need to strengthen coordination regarding digital industries, which may be in the form of workshops/sharing knowledge, memorandum of understanding, and joint force.
- c. Abuse of dominant position and MSME has been a concern since early 2020, in several AMS countries, and might still be a trend in the near future. Therefore, competition agencies should take precautions towards the possibility of increasing cases of abuse of dominant positions. Raising awareness within the MSME sector about how competition law and regulation affects them is also a crucial step. Small firms need to understand when laws do or do not apply to them, the benefits of competition policy for MSMEs, and how they can actively utilize these laws for their benefit. It may also be necessary for competition agencies to undertake some internal capacity building to educate their staff on this issue, as many regulators have only a limited understanding of the MSME sector.
- d. Advocacy has been holding an important role for the competition agencies in safeguarding a healthy competitive environment during the pandemic and economic recovery. In this process, competition agencies could educate stakeholders regarding the benefit of healthy competition and how competition law and policy work. Competition agencies can also contribute with their unique skill sets, by advocating and informing governments and regulators on the benefits of competition, particularly related to policy in pandemic and economic recovery. Competition agencies should participate in the process of assessing the costs to the competition of any state support measure, assist in the design of the government policies, and provide advice to minimize potential competition distortions. In their advocacy function, competition agencies can also propose pro-competitive structural reforms and also issue opinions and recommendations to the government on legislation and regulation.

It is proposed from the survey that competition agencies in ASEAN can make an independent or joint statement on the follow-up action by ASEAN Heads of Competition Agency Meeting.

The other meeting that will be led by ICC as 2021 Chair is the ASEAN Competition Enforcers' Network (ACEN) Meeting. ACEN is a meeting of competition law enforcement networks from all competition authorities in ASEAN which serves as a platform for law enforcers to exchange experiences and information related to cross-border cases and law enforcement mechanisms in a confidential environment. At the 4th ACEN Meeting, ICC initiated the discussion of several strategic issues related to law enforcement of cross-border competition, as following:

- (i) Market definition in digital platform, this topic includes methods and procedures in defining the market, proxy/indicator to determine market definition and its source also case examples
- (ii) Experiences and procedures in dealing with cases involving businesses/companies/undertakings abroad or outside their jurisdictions, *this topic will include definition of businesses/companies/undertakings in other AMSs procedural*

aspects to summon/investigate them, type of cooperation/coordination with other competition authorities, and case examples.

On this occasion, ICC presented the issue of "Experiences and procedures in dealing with cases involving businesses/companies/undertakings abroad or outside their jurisdictions". ICC also invited several international competition authorities such as Competition and Consumer Commission Singapore (CCCS), Malaysia Competition Commission (MyCC), Philippine Competition Commission (PCC), Australian Competition and Consumer Commission (ACCC), European Commission DG Competition, and Bundeskartellamt to convey presentation on their experiences and best practices on those issues.

Regulatory Reform for Legal Certainty

The Government of Indonesia issued Omnibus Law on Job Creation (Law Number 6 Year 2023) which included several revisions to the competition law, such as; (i) the appeal process of ICC decision will be carried out by the Commercial Court and no longer by the District Court, (ii) the minimum number

of administrative fines for competition cases is IDR 1 billion, and the maximum amount shall be decided on the basis of the following provisions:

- a. maximum amount of 50% (fifty percent) of the net profits earned by the Businesses in the Relevant Market for the duration of the occurrence of the violation of the Law; or
- b. maximum amount of 10% (ten percent) of the total sales in the Relevant Market for the duration of the occurrence of the violation of the Law.

The amount of the penalty shall also be determined on the basis of the following:

- a. the negative impacts posed as the result of the violation;
- b. the duration of the occurrence of the violation;
- c. the alleviating factors;
- d. The aggravating factors;
- e. The ability of businesses to pay.

In the period of 2020 – 2022, there were some Implementing Regulations, Commission Regulations, and Chairman Regulations issued:

1. Government Regulation number 44 Year 2021 regarding The Implementation of Monopolistic

Practices and Unfair Business Competition

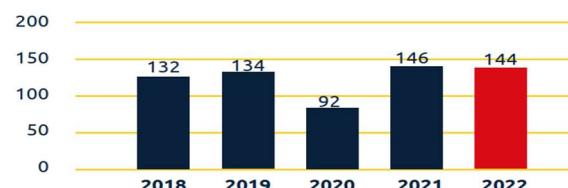
2. Commission Regulation Number 1 Year 2020 on Electronic Case Handling
3. Commission Regulation Number 3 Year 2020 regarding The Relaxation of Law Enforcement of Monopolistic Practices and Unfair Business Competition as Well as Supervision of the Implementation of Partnerships in The Context of Supporting the National Economic Recovery Program
4. Commission Regulation Number 2 Year 2021 Regarding Guidelines on The Imposition of Sanction in The Form of Penalty on The Violation of Monopolistic Practices and Unfair Business Competition
5. ICC also issued a guideline for the assessment of mergers, consolidations or acquisitions on 6 October 2020.
6. Commission Regulation Number 1 Year 2022 on Competition Compliance Program.
7. Commission Regulation Number 4 of 2022 on the Preparation and Implementation of Standard Operating Procedures within the Indonesia Competition Commission.
8. Commission Regulation Number 5 of 2022 concerning Documentation Network and

- Legal Information Network within the Indonesia Competition Commission.
9. Commission Regulation Number 8 of 2022 on Records Retention Schedule within the Indonesia Competition Commission.
 10. Chairman's Regulation Number 1 Year 2022 on Accounting Policies within the Indonesia Competition Commission.
 11. Chairman's Regulation Number 2 Year 2022 on Archive Classification within the Indonesia Competition Commission.
 12. Chairman's Regulation Number 3 Year 2022 on Security Classification System and Access to Dynamic Archives of the Indonesia Competition Commission.
 13. Chairman's Regulation Number 4 of 2022 on the Determination of Relevant Market.

Law Enforcement Performance

During the period 2020–2022, the ICC received a total of 382 (three hundred and eighty-two) complaints. In 2020–2021, there was an increase of 36.98%, while in 2021–2022, there was a decrease of 1.36%, with bid rigging still dominating the complaints submitted to the ICC. The highest number of complaints submitted to the ICC was in

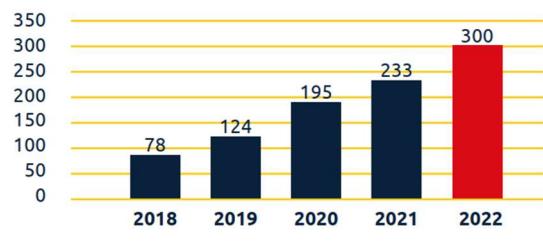
2021.



As for M&A transactions in 2020–2022, ICC conducted 728 (seven hundred twenty-eight) mergers and acquisitions assessment with the total transaction value of IDR 2.639.442.583.325.380 (two thousand six hundred thirty-nine trillion four hundred forty-two billion five hundred eighty-three million three hundred twenty-five thousand three hundred and eighty rupiah) in 2020, IDR 8.833.068.981.904.570 (eight quadrillion eight hundred thirty three trillion sixty eight billion nine hundred eighty one million nine hundred four thousand five hundred and seventy rupiah) in 2021, and IDR 7.248.068.673.070.600 (seven quadrillion two hundred forty eight trillion sixty eight billion six hundred seventy three million seventy thousand six hundred rupiah) in 2022. In 2021, the acquisition notification of PT. Tokopedia by PT. Aplikasi Karya Anak Bangsa (Gojek) became the highlight.

In 2022, the number of merger and acquisition notifications to ICC was the highest in the last 3 years. Compliance

of business actors in making merger and acquisition notifications has



increased over the past five years. This can be seen from the increasing number of notifications submitted to ICC in that period.

Throughout 2020-2022, total fines imposed amounted to IDR 138.895.000.000 (one hundred thirty-eight billion eight hundred ninety-five million rupiah). Most of these decisions were based on delays in notification of mergers and acquisitions, followed by bid rigging cases.

In the period of 2020–2022, ICC handled 34 (thirty-four) cases on the supervision of business partnerships between large enterprises and SMEs, most of them were alleged violations of partnership in the palm oil sector. The rest were from the logistics and poultry farm sectors.

Contribution to Government Policy Reform

In 2020, ICC issued 25 policy recommendations and 21 of them got positive responses from the government. In 2021, there were 26 policy recommendations and 21 of the got positive responses from the government, and in 2022, 27 policy recommendations were issued. The list of effective policy recommendations from 2020-2022 is as below:

No	Policy Suggestions and Recommendations
2020	
1.	Opinion on DKI Jakarta Provincial Government Control of PT Pembangunan Jaya
2.	Suggestions and Considerations on Government Procurement of Goods and Services
3.	Suggestions and Considerations regarding the Plan to Impose Safeguard Measures Import Duty Policy on Yarn, Fabric, and Drapes
4.	Suggestions and Considerations regarding the Procurement of Implementing Business Entities in the Plan to Implement a Cashless Contactless Transaction System or Multi Lane Free Flow on Toll Roads
5.	Suggestions and Considerations related to Patimban Port Operator Bidding Requirements for West Java Province
6.	Suggestions and Considerations regarding the Implementation of the Job Competency Development Program through the Pre-Employment Card Program
7.	Opinion regarding the Application of Article 8 paragraph (2) letter f of the National Public Procurement Agency (LKPP) Regulation Number 29 of 2018 in the Perspective of Law Number 5 of 1999
8.	Suggestions and Considerations regarding the Plan to Impose Safeguard Measures Import Duty Policy for Imports of Fructose Syrup
9.	Suggestions on the Participation of SOEs in the Tender Process
10.	Suggestions and Considerations related to the Draft Regulation of the Mayor of South Tangerang on Facilitating the Use of Regional Local Products
11.	Suggestions and Considerations regarding the Involvement of MSMEs in Special Rental Transportation Services Activities
12.	Suggestions and Considerations on Special Rental Transportation Policy
13.	Suggestions and Considerations related to the Draft Regulation of the North Tapanuli Regent on Standards and Guidelines for Procurement of Construction Services through the Media in the North Tapanuli Government Environment
14.	Suggestions and Considerations on Aviation Industry Policy

15.	Suggestions and Considerations related to Article 13 letter f of the National Public Procurement Agency (LKPP) Regulation Number 11 of 2018
16.	Suggestions and Considerations regarding the Plan to Extend the Imposition of Anti-Dumping Import Duty on Imports of Biaxially Oriented Polyethylene Terephthalate
17.	Suggestions and Considerations regarding the Regulation of Ship Agency Services in the Draft Government Regulation of Law Number 11 of 2020 concerning Job Creation in the Shipping Sector of the Transportation Sector
18.	Suggestions and Considerations related to the Plan to Impose Safeguard Measures Import Duty Policy for Imports of Carpet Products and Other Textile Floor Coverings
19.	Suggestions and Considerations related to National Public Procurement Agency (LKPP) Regulation Number 29 of 2018 concerning Procedures for Procurement of Business Entities Implementing Infrastructure Provision through Government Cooperation with Business Entities at the Initiative of the Minister / Head of Institution / Head of Region
20.	Suggestions and Considerations regarding the Participation of multiple Participants under the same Control
21.	Suggestions and Considerations related to the Plan for the Establishment of Tourism and Support SOE Holding

2021

1.	Suggestions and Considerations regarding Ship Agency
2.	Suggestions and Considerations regarding the Plan to Impose Anti-Dumping Import Duty on Imports of Biaxially Oriented Polypropylene
3.	Suggestions and Considerations related to the Draft Government Regulation on the Implementation of the Post, Telecommunications and Broadcasting Sector
4.	Suggestions and Considerations Regarding the Procurement of Distribution of Local Government Food Reserves in 2021
5.	Suggestions and Considerations related to the Plan for Cheap Market Operations for Subsidized Basic Needs

6.	Suggestions related to the plan for a letter of appeal to use the products of Regional-Owned Enterprises of the East Java Provincial Government
7.	Suggestions and Considerations regarding the Plan to Impose Safeguard Measures Import Duty on Imports of Clothing Products and Clothing Accessories
8.	Suggestions and Considerations on the Recommendation of the Indonesian Anti-Dumping Committee (KADI) on the Imposition of Anti-Dumping Duties on Imports of Aluminum Zinc Coated Steel from China and Vietnam
9.	Suggestions and Considerations related to the Public-Private Partnerships Availability Payment (PPP-AP) Project for the Duplication and/or Replacement of Callendar Hamilton Bridge in Java Island
10.	Suggestions and Considerations on Concurrent Positions in Ministry of SOE Policy
11.	Suggestions and Considerations on the Recommendation of the Indonesian Trade Safeguard Committee (KPPI) on the Imposition of Safeguard Duty on Imports of Cigarette Paper and Non-Porous Plugwrap Paper
12.	Suggestions and Considerations on the Recommendation of the Indonesian Trade Safeguard Committee (KPPI) on the Imposition of Import Duties for Safeguard Measures on Imports of Expansible Polystyrene (EPS) Products in the Form of Granules
13.	Suggestions and Considerations on the Recommendation of the Indonesian Anti-Dumping Committee (KADI) on the Imposition of Anti-Dumping Duties on Imports of Cold Rolled Stainless Steel (CRS) from China and Malaysia
14.	Suggestions and Considerations regarding the Provision of Internet Access Provider Services
15.	Suggestions for Submission of Ministry of Health Supervision Results
16.	Suggestions and Considerations on Interlocking Directorate
17.	Suggestions and Considerations on the Recommendation of the Indonesian Trade Safeguard Committee (KPPI) on the Extension of Import Duty Imposition of Safeguard Measures on Imports of Ceramic Tile Products
18.	Suggestions and Considerations on the Recommendation of the Indonesian Anti-Dumping Committee (KADI) on the Imposition of Anti-Dumping Import Duty on Hot Rolled Coil of Other Alloy Steel (HRC Alloy) Products from China

19.	Suggestions and Considerations regarding the Supervision Mechanism for the Preparation of Bidding Documents
20.	Suggestions and Considerations on Conflict of Interest (COI) Provisions in the World Bank Loan Package
21.	Suggestions and Considerations on the Recommendation of the Indonesian Anti-Dumping Committee (KADI) on the Imposition of Anti-Dumping Duties on Imports of Lysine Products from China

2022

1.	Suggestions and Considerations Related to Coordination of Prevention of Delay in Notification
2.	Suggestions and Considerations related to Recommendation of ICC Decision to the Governor of Jambi Province
3.	Suggestions and Considerations related to the Recommendation of Decision in Case Number 32/KPPU-I/2020
4.	Suggestions and Considerations related to the Implementation of Special Policies for the Development of Construction Service Providers in the West Java Province Region
5.	Suggestions and Considerations regarding the Procurement Policy for the Renewal of the Core Tax Administration System
6.	Suggestions and Considerations related to the Recommendation of ICC Decision to the Ministry of Transportation
7.	Suggestions and Considerations related to Recommendation of ICC Decision to the Governor of West Nusa Tenggara Province
8.	Suggestions and Considerations on the Policy of the Cooking Oil Industry
9.	Suggestions and Considerations on Data Tabulation of Public Accounting Firms Public Accountant Office (KAP) in State-Owned Enterprises
10.	Suggestions and Considerations related to Cooperation in the Utilization of State Property at Garongkong Sea Port
11.	Suggestions and Considerations on Competition Compliance Program

12.	Suggestions and Considerations on the Recommendation of Indonesian Trade Safeguard Committee on the Imposition of Safeguard Duty (BMTP) on Imports of H and I Section Steel of Other Alloy Steels
13.	Report on the Results of Studies and Suggestions and Considerations related to Regulatory Policies for Granting Cultivation Rights (HGU) to Business Entities / Business Groups in the Palm Oil Plantation Sector
14.	Suggestions and Considerations of Indonesian Anti-Dumping Committee Recommendation on the Extension of the Imposition of Anti-Dumping Import Duty (BMAD) on Imports of Polyester Staple Fiber (PSF) Products originating from India, China, and Taiwan
15.	Suggestions and Considerations for Improving the Competition Index
16.	Suggestions and Considerations regarding Cooking Oil Prices
17.	Suggestions and Considerations for the Proposed Revision of Presidential Regulation No. 16/2018
18.	Suggestions and Considerations regarding the Utilization of surety bond products and the use of PT Jamkrida Jabar's online guarantee platform
19.	Suggestions and Considerations on the Recommendation of the Indonesian Trade Safeguard Committee on the Extension of Trade Safeguard Measures (BMTP) on Imports of Yarn, Fabric, and Drapes
20.	Suggestions and Considerations on the Recommendation of the Indonesian Anti-Dumping Committee on the Extension of the Imposition of Anti-Dumping Import Duty (BMAD) on Imports of Frit from China
21.	Suggestions and Considerations of the policy plan for the extension of trade security measures against imports of roll bond type and fin type Evaporator products which are part of refrigerators, freezers, and other refrigeration and freezing equipment included in tariff item EX. 8418.99.10
22.	Suggestions and Considerations for East Nusa Tenggara Governor Regulation Number 85 of 2022 concerning the Implementation of Conservation of Living Natural Resources and Ecosystems in Komodo National Park
23.	Suggestions and Considerations of the Regulation of the Governor of South Sumatra Number 4 of 2019 concerning Implementation Guidelines for the

	Implementation of Processing and Marketing of Standard Indonesian Rubber Trading Materials
24.	Suggestions and Considerations on the Draft Regulation of the National Public Procurement Agency on the Procedures for Procurement of Business Entities through Government Cooperation with Business Entities in the Capital City of the Archipelago
25.	Submission of Opinions on Aceh Governor Instruction Number 03/INSTR/2020
26.	Submission of Opinions on DKI Jakarta Governor Regulation Number 50 of 2019
27.	Suggestions and Considerations on the West Java Provincial Government's Policy Plan to Encourage Partners or Associates of the West Java Provincial Government's Regional Work Units to Use Bank BJB Accounts

In monitoring competition climate in the market, ICC developed the Business Competition Index (BCI) in 2015. This index provides the measurement of comprehensive competition level and provides an indication of whether a certain sector or region has a high or a low level of business competition. BCI was prepared by using the SCP (Structure, Conduct, and Performance) paradigm and also took the market dimensions (demand and supply conditions), regulatory dimensions, and institutional dimensions (respondents' understanding of business competition institutions and policies) into account.

The Business Competition Index in Indonesia for 2020 decreased from 4.72 in 2019 to 4.65 in 2020. This means that in that year, the average level of national competition for all indicators decreased. For this reason, improving regulations is

one of the ICC's focuses in 2020, especially in providing convenience and simplicity in the law enforcement process and obligations imposed on business actors, as well as in adapting to the pandemic and economic recovery.

The Business Competition Index in 2021 reached 4.81 points (scale 1-7). This shows that national business competition is in the category of high level of business competition. There was an increase compared to 2020 BCI, which is 4.65 points. This year's BCI value is also getting closer to the National Target (5.0 points) as stated in the National Medium-Term Development Plan for 2024.

In 2022, the index reached 4.87 points (on a scale of 1-7). This means that business competition in Indonesia is in

the category of business competition towards high. This value has increased compared to 2021, which was at 4.81. This positive increase also provides optimism for KPPU in pursuing the National Target of 5.0 points as stated in the National Medium-Term Development Plan (RPJMN) in 2024.



Highlights of Advocacy Activity



ICC has granted KPPU Awards annually since 2020 to several Ministers of the Developed Indonesia Cabinet and Regional Heads to appreciate commitments and initiatives of the Government and Regional Governments in implementing the principles of competition and policy recommendations issued by ICC, and (iii) other positive interactions.

partnership in the policies they make. The award was presented as part of the Dissemination and Awarding of the Business Competition Policy Adaptation and Ideal Partnership System in Government Policies.

For Provincial Governments, there are three main variables being assessed: first, the initiative of the Provincial Governments to boost business competition in their regions by establishing coordination and consultation with ICC, initiating and implementing cooperation, as well as organizing various activities such as discussions/seminars or other forums with regard to business competition and partnerships. Second, the contribution of the Provincial Governments, either directly or indirectly to facilitate various agendas of ICC in their regions. Whilst the third variable concerns the direct engagement of ICC as part of the team in the implementation of competition and partnership supervision. Whilst for Ministries/Institutions, the assessment emphasized three variables which include; (i) the efforts to engage ICC in policy formulation so as to be in line with Law Number 5 Year 1999 and Law Number 20 Year 2008, (ii) responses to

The following is the complete list of the 2020 and 2021 KPPU Award recipients:

No.	Category	Ranking	Recipients	
			2020	2021
1.	Regional Level - Business Competition	First	Lampung Provincial Government	West Java Provincial Government
			DKI Jakarta Provincial Government	
		Second	West Java Provincial Government	Lampung Provincial Government
			East Java Provincial Government	Central Java Provincial Government
		Third	Bali Provincial Government	
			North Sumatra Provincial Government	Yogyakarta Special Region Provincial Government

			West Java Provincial Government	Yogyakarta Special Region Provincial Government
		First	West Java Provincial Government	
		Second	Lampung Provincial Government	Central Java Provincial Government
	2. Regional Level - Partnership			East Java Provincial Government
			DI. Yogyakarta Provincial Government	Lampung Provincial Government
		Third		North Sumatra Provincial Government
			Jambi Provincial Government	East Kalimantan Provincial Government
3.		First	Ministry of Transportation	Ministry of Finance

				Coordinating Ministry for the Economy
		Second	Ministry of Agriculture	Ministry of Trade
	Central Business Competition	Level		Ministry of Public Works and Housing
		Third	Ministry of Cooperatives and Small and Medium Enterprises	Ministry of Communication and Informatics
4.	Central Partnership	Level	First	Ministry of Industry
				Ministry of Transportation
		Second	-	Ministry of Cooperatives and Small and Medium Enterprises
		Third	-	Ministry of Agriculture
				Ministry of State-Owned Enterprises

				Ministry of Tourism and Creative Economy
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International Cooperation

In the period of 2020 – 2022, ICC has its active contribution as **Speakers/Panelists** in many international conferences, workshops, and forums. Some notable events included:

2020

1. *2020 Manila Forum on Competition in Developing Countries, Philippines*
2. *OECD High Level Representatives Meeting*
3. *GCR Live Singapore: 9th Annual Asia-Pacific Law Leaders Conference*
4. *5th Meeting of High Level Representatives of Asia-Pacific Competition Authorities – Competition Policy and Recovery*

2021

1. *Philippine Competition Commission (PCC): Virtual Forum on Competition in Developing Countries*
2. *UNCTAD - ASEAN Regional Policy Dialogue on Competition Policy and MSME*
3. *Competition Law Asia-Pacific Conference 2021*
4. *Global Competition Review (GCR) Asia-Pacific Law Leaders Forum 2021*
5. *APEC Competition Law and Regulation in Digital Markets Online Event*
6. *16th East Asia Top Level Officials' Meeting on Competition Policy (EATOP) and 13th East Asia Conference on Competition Law and Policy (EAC)*
7. *OECD/KPC Workshop on Procurement and Competition*

8. *9th ASEAN Competition Conference*
9. *UNCTAD Global Policy Dialogue (GPD): Post COVID-19 Resurgence of MSMEs and Competition Policy*
10. *OECD Global Forum in Competition*

2022

1. *2022 Manila Forum on Competition in Developing Countries*
2. *The 16th Sadli Lecture "Competition Policy in the Age of Algorithms: Challenges for Indonesia"*
3. *3rd MyCC Competition Law Conference 2022: Digital Economy, Merger & Bid Rigging*
4. *World Trade Organization (WTO) Online Seminar on Competition Policy, Trade, and Development*
5. *ASEAN-UK Workshop on Competition in the Digital Markets*
6. *GCR Live Law Leaders Asia-Pacific 2022*
7. *Competition Law Asia-Pacific 2021 Digital Conference*
8. *17th East Asia Top Level Officials' Meeting and 14th East Asia Conference*
9. *ASEAN Interface Workshop: Competition and Consumer Protection*
10. *APEC Project CPLG 01 2021A - Virtual Workshop: Competition Policy: A Driver for Economic Recovery*
11. *Virtual Regional Antitrust Seminar on “Competition Enforcement in the Digital Economy” – TFTC*

JAIF Project

ICC and the Ministry of National Development Planning of the Republic of Indonesia (Bappenas) helped increase the role of Indonesia in South-South Cooperation. Through third-party funding, namely the Japan- ASEAN Integration Fund (JAIF), ICC has assisted ASEAN member countries in reducing capacity gap through various activities such as workshops, training courses, exchange of staffs, secondment of ICC's expert and development of ASEAN Competition Business Perception Index (ACPBI), Peer Review

Guidance, Pilot Peer Review on MyCC's Advocacy Activities, and Study on Recommended Procedures for Cooperation on Cross Border Cases.

In 2020 and 2021, ICC held some activities as below:

- **JAIF Staff Exchange**

This program provided exchange between ICC with Myanmar Competition Commission (MmCC) and Cambodia Competition Commission (CCC). Due to Covid-19 pandemic and social movement restriction, most of the activities were executed virtually.

- **JAIF Virtual Training Course on Unilateral Conduct and Abuse of Dominance**

The training course focus on enhancing knowledge and sharing of experiences on (i) Analytical Framework for Unilateral Conduct, (ii) Case Studies on Unilateral Conduct, (iii) Assessment of Dominance or Substantial Market Power, (iv) Case Studies on Assessment of Dominance or Substantial Market Power, (v) Designing and Implementing Remedies, (vi) Case Studies on Designing and Implementing Remedies. The training course was held virtually from 2-4 August 2021.



- **JAIF Virtual Workshop on New Economic Issues in Merger Enforcement**

The workshop will focus on enhancing knowledge and sharing of experiences from international competition authorities on (i) Merger Assessment in Time of Crisis, (ii) Merger in Digital Market: Anticipating the Trend, (iii) Beneficial Ownership in Merger Assessment, (iv) Design and Implementation of Remedies in Conglomerate/Vertical Mergers, (v) Economic Analysis in Merger Assessment for Digital Market, and (vi) Merger Analysis of Joint Control. The workshop was held virtually from 13-14 December 2021.

Meeting of the Lao Competition Commission (LCC) and Related Focal Points



The Department of Internal Trade (functioning as Secretariat of LCC) under the Ministry of Industry and Commerce (MOIC) organized the Meeting of Lao Competition Commission (LCC) and related Focal Points on 15th July 2022 at Lao Plaza Hotel, Vientiane Capital. The meeting supported by the GIZ-COMPETE Project under the German government was chaired by H.E. Bountheung DOUANGSAVANH, Vice-Minister of MOIC cum the Chairman of LCC. Invited participants were all members of LCC, related focal points, Mr. Frank Tibitanzl (Director of GIZ-COMPETE Project), officers of the Competition Division, and officers from related Divisions within the Department of Internal Trade.

The main objectives of the workshop were to meet all members of LCC and focal points to review, evaluate the implementation of business competition, as well as to discuss, exchange ideas and understand the rights and duties of the LCC and related working documents including (1) the report of the past implementation of business competition,

dissemination of the content of the Law on Competition; (2) Ministerial Decision on the Rights and Duties of the LCC; (3) Ministerial Decision on Competition Inspectors; (4) a market study in Lao market; (5) lessons in formulating international competition policy; (5) regional and international competition activities relating to relevant competition agency.

At the end of the meeting, the chairman also requested participants to pay attention to research, follow up, comment and understand the important contents and technical knowledge, which are necessary for the full use relating to competition work. The implementation of competition work grows and is more effective in the management of sectors in the nation and for all Lao people in promoting fair competition under laws and regulations.

Dissemination Workshop on Competition Law



The Department of Internal Trade (functioning as Secretariat of LCC) under the Ministry of Industry and Commerce (MOIC) organized the dissemination workshop on competition on 30th September 2022 at Landmark Mekong Riverside Hotel, Vientiane Capital. The workshop was supported by the GIZ-COMPETE Project under the German government. The workshop was co-chaired by H.E. Bountheung DOUANGSAVANH, Vice-Minister of MOIC cum the Chairman of LCC and representative of the German Embassy in Vientiane, Laos. Invited participants were associations belonging to Lao National Chamber of Commerce and Industry, Foreign Chamber of Commerce, representative companies and business agents in Laos, Mr. Frank Tibitzl (Director of GIZ-COMPETE Project), some officers of the GIZ project, officers from related Divisions within the Department of Internal Trade, officers of Competition Division with a total number of 101 participants.

The main objectives of the workshop were to disseminate competition work and Law on Competition aimed at making the business sector understand the competition work, as well as open a forum for discussion and exchange opinions to realize about the work and related works. Listening to the report on the implementation of the work lecture, report and exchange opinions including (1) The Competition Administration Authority and Law on Competition; (2) Unfair competition; (3) Agreement aimed at the restraint of competition; (4) Abuse of dominant market position and market monopoly; (5) Combination aimed at the restraint of competition; (6) Obligations of the business sector to competition.

At the end of the workshop, the chairman also requested participants to pay attention to research, follow up, comment and understand the important contents. The important thing is to be able to bring the contents obtained from the workshop to be used in their business operations in accordance with the law, so that the implementation of the work will grow and be more effective for the benefit of the nation and all Lao people.

Lecturing on various topics relating to competition work made participants understand important content and technical knowledge to improve the knowledge and experience of the participants to a higher level. The important thing is to bring the contents of the workshop to be used in competition tasks to promote fair competition under the law and regulations.

The Investigation Workshop on Competition



The Department of Internal Trade (functioning as LCC Secretariat) under the Ministry of Industry and Commerce (MOIC) organized the Investigation Workshop on Competition on 21st October 2022 at the Economic Research Institute for Industry and Trade, Ministry of Industry and Commerce. The workshop was supported by the GIZ-COMPETE Project under the German government. The workshop was chaired by Mr. Phouvieng PHONGSA, Director General of the Department of Internal Trade (Chairman of LCC Secretariat). Invited participants were the Office of Public Prosecutor in Vientiane Capital, the Department of Economic Police (Ministry of Public Security), the Department of Intellectual Property (Ministry of Industry and Commerce), some officers of the GIZ project, officers from related Divisions within the Department of Internal Trade, officers of Competition Division.

The purpose of the workshop was to understand lessons and experience about the investigation process on competition and related works as well as open a platform to discuss and exchange opinions together. The topics presented include (1) the report on the

implementation of competition work; (2) procedures for inspection, investigation, and dispute settlement of the Department of Economic Police; (3) Procedures for inspection, investigation, and dispute settlement of the Office of Public Prosecutor in Vientiane Capital; (4) dispute settlement on intellectual property; (5) procedures for inspection, investigation and dispute settlement of competition work;

The chairman also requested participants to pay attention to research, follow up and understand the important contents and technical knowledge to improve the capacity building and experience of the participants to a higher level. In particular, the procedure for inspection and dispute settlement on competition and related works. The LCC Secretariat will bring the significant contents of this workshop to be used in actual work; especially the competition aims to prevent unfair competition and promotes fair competition under laws and regulations.

Malaysia

2020

In year 2020, the Malaysia Competition Commission (MyCC) had continued to carry out efforts to enforce and raise public awareness on competition policy and law in spite of the COVID-19 pandemic. The efforts include conducting investigations, issuing proposed and final decisions as well as policy advice, conducting a market review, organising international competition law workshops, international visits, courtesy calls, and advocacy programs.

Enforcement

On 9 January 2020, the MyCC had issued a Proposed Decision against seven warehouse operators in relation to the fixing of long length and heavy lift surcharges in the provision of cargo warehouse services in Port Klang pursuant to Section 36 of the Competition Act 2010 (Act 712) of Malaysia.

Subsequently, the MyCC issued another Proposed Decision against three Ro-Ro operators and two of the parent companies for an infringement of Section 4 of Act 712 concerning the fixing of fares for vehicle transportation via ro-ro vessels in Langkawi pursuant to section 36 of Act 712.

As for their finding of infringement, the MyCC issued their Final Decision against the General Insurance Association of Malaysia (PIAM) and its 22 members under Section 4 of Act 712 for participating in an agreement that had compromised the competition process by fixing the prices of automotive parts, trade discounts and labour charges for motor vehicle repairs under the PIAM Approved Repairers Scheme between 1 January 2012 and 17 February 2017.

Policy Advice

A total of six policy advice were issued by the MyCC to various government institutions on competition matters.

Market Review

The MyCC has successfully completed the Market Review on Service Sector (Wholesale and Retail for Selected Products) in 2020. On 19 August 2020, the study was officially launched by the Minister of Domestic Trade and Consumer Affairs, YB Dato Sri Alexander Nanta Linggi, at the Majestic Hotel Kuala Lumpur.

This study focuses on the Wholesale and Retail Trade (WRT) sector in Malaysia by focusing on four selected product categories namely processed food and beverages, personal care and toiletries, household cleaning products, and clothing.

Spanning approximately 14 months and with the restrictions imposed due to the COVID-19 pandemic, the Market Review on Service Sector was conducted from 1 July 2019 to August 2020 with the involvement of key stakeholders such as government agencies, industry and consumer associations, academicians and others.

International Programs

Malaysia, as with many other countries around the world, faced devastating effects of the pandemic in 2020. Restrictions in the movement of people had forced meetings to go virtual. Despite such difficult circumstances, the MyCC successfully held three international collaborations programs, attended a total of 14 programs and nine meetings at the international level which included forums, workshops and capacity building programs online. The MyCC also hosted a lecture series and made a working visit to the Philippines in the early 2020.

The MyCC also received in person working visits from the Japan Fair Trade Commission, Japan International Cooperation Agency on 5 March 2020, followed by the EU-Malaysia Chamber of Commerce and Industry on 13 July 2020. A virtual courtesy visit was also held with the Antimonopoly Committee of the Republic of Uzbekistan on 24 July 2020, during which both parties expressed intentions to explore cooperation in the areas of competition law between Malaysia and Uzbekistan.

Advocacy

In 2020, a total of 14 physical and remote advocacy programs were conducted involving the public and private sectors as well as the media. Among others, the MyCC had organised the Professor Richard Whish's Lecture Series on 14 January 2020, during which the renowned competition expert shared his knowledge, comments, and suggestions on Malaysia's implementation of competition policy and law. The MyCC also invited Mr. Harikumar Pillay, a Baker McKenzie consultant and an expert in competition law and economics, to deliver the lectures along with Professor Whish.

2021

In 2021, the MyCC concluded several Final Decisions and Undertakings, launched a Market Review and a five-year Strategic Plan, launched its rebranding and redesigned logo, issued policy and economic advice, participated in various international workshops and meetings, organised advocacy programs, and had a competition law expert placement from the Japan Fair Trade Commission at MyCC's office in Kuala Lumpur.

Enforcement

The MyCC issued two Final Decisions and received two Undertakings on competition law infringements. Firstly, on 26 February 2021, the MyCC imposed a

financial penalty against Dagang Net Technologies Sdn Bhd for the abuse of its dominant position by engaging in exclusive dealing through the imposition of exclusivity clauses on software provider of the National Single Window. The second Final Decision for 2021 was issued on 6 August 2021 against seven warehouse operators for engaging in a price-fixing cartel in relation to the handling services for long length and heavy lift of import and export cargoes in Port Klang.

For the two Undertakings mentioned earlier, the first Undertaking was done by the Federation of Automobile Workshop Owners Association of Malaysia for a collusion to fix prices, while the second Undertaking by the Metrology Corporation Malaysia Sdn Bhd for abuse of dominant position.

Court Proceedings

On 27 April 2021, the Court of Appeal had set aside the MyCC's decision against Malaysia Airlines and Air Asia for an anti-competitive agreement on market sharing in the air transport services sector. The case is currently at the Federal Court for its final appeal.

On 3 May 2021, the Court of Appeal upheld the MyCC's decision against MyEG Services Bhd for abusing their dominant position in relation to the sale of mandatory insurance for online application of temporary employment permits for foreign workers. The

Appellant has filed a leave to appeal this case to the Federal Court.

Policy Advice

As of December 2021, a total of 68 policy advice were issued by the MyCC to various government institutions on all matters relating to competition, with a total of 11 policy advice provided in 2021 alone.

Economic Advice

For 2021, a total of seven economic advice were issued by the MyCC to the Ministry of Domestic Trade and Consumer Affairs and the Ministry of Federal Territories on matters relating to competition that requires further analysis on the economic impacts on both consumers and businesses.

Institutional Relationship with the Sector Regulators

The MyCC held two Special Committee Meeting on Competition on 18 March 2021 and 29 November 2021 respectively with eight other sector regulators in Malaysia to discuss various issues affecting competition in markets involving different sectors: telecommunications, finance, electricity, water services, aviation and intellectual property.

MyCC Strategic Plan for 2021-2025

On 13 December 2021, the MyCC officially launched its Strategic Plan for 2021 – 2025, addressing key areas of its direction over the next five years. The Strategic Plan outlined fundamental action plans of the MyCC to achieve a robust, efficient, and sustainable economy for Malaysia and its people through the implementation and enforcement of competition policy and law. The Strategic Plan focuses on identified recovery measures aimed at supporting Malaysia to overcome the impact of Covid-19.

The MyCC's three strategic goals are to deliver effective outcomes for the Commission's core activities, to align the application of competition policy and law with current market environment, and to strengthen and expand the Commission's capacity, capabilities and resources to best serve all relevant stakeholders.

Market Review

The MyCC successfully completed their 7th Market Review, which focused on Selected Transportation Sectors in Malaysia (Port Logistics Ecosystem and Motor Vehicles Warranty) and was launched on 5 October 2021.

The Market Review demonstrated through an array of concrete evidence and data on possible anti-competitive practices within selected transportation

sectors; and put forth actionable recommendations aimed at fostering an efficient logistics system by reducing regulatory barriers for the facilitation of market entry and promotion of competition within the market.

The Market Review successfully uncovered a total of 15 issues within the port logistics ecosystem and four issues within the motor vehicles warranty sector. These issues present a significant challenge in a number of areas, and urgent actions are required to address them. The MyCC has come up with more than 30 recommendations on how to improve and rectify these issues and the market situations.

Handover Meeting for the OECD's Malaysia Reports, 30 July 2021

On a different front, following the Market Review launch, MyCC, in collaboration with the Organisation for Economic Co-operation and Development (OECD), has introduced two significant reports: "OECD Competition Assessment Reviews: Logistics Sector in Malaysia" and "OECD Competitive Neutrality Reviews: Small Package Delivery Services in Malaysia." These reports offer comprehensive evaluations of the regulatory framework within the logistics sector and offer valuable insights into the assessment of how state-owned enterprises affect competition in small-package delivery services. These insights play a pivotal role in bolstering the growth of the e-commerce industry.

International Programs

As travel restrictions were still an obstacle for international programs, the MyCC opted to participate in virtual events organised by international counterparts including ASEAN, the OECD, ICN and Concurrences. A total of 78 international capacity building online workshops and forums, and 22 international meetings were attended by MyCC officials throughout the year of 2021.

Apart from online trainings and meetings, the MyCC also welcomed a competition law expert advisor from the Japan Fair Trade Commission (JFTC), Mr. Shinichiro Obata, to serve at MyCC's Kuala Lumpur office for a period of one year under a technical assistance project by the Government of Japan.

Throughout the placement of the expert, the MyCC had outlined several activities that the expert can participate in. Among others, the MyCC had requested the expert to be involved in the discussion with the officers on the amendment of the Competition Act 2010 and Competition Commission Act 2010, to attend the monthly Competition Assessment Review Team (CART) Meeting, to conduct internal training sessions with the MyCC officials on various topics related to the enforcement of competition law, and to participate in supporting the MyCC's advocacy activities.

As the programme was reaching its conclusion, the JFTC Chairman had a virtual courtesy call with the MyCC Chairman on 17 December 2021 to explore future opportunities for cooperation.

The MyCC also had the opportunity to meet the British High Commissioner to Malaysia to discuss recently completed projects funded by the UK Government, i.e. the World Bank Group Global Knowledge and Research Hub in Malaysia, the OECD Competition Assessment Review on the Logistics Sector in Malaysia, and the OECD Competitive Neutrality Reviews for Small-Package Delivery Services in Malaysia.

Advocacy

The MyCC celebrated its 10th year anniversary on 1 April 2021 with a redesigned logo. The new logo is part of a rebranding exercise and embodies the culture and colours of MyCC as well as its strengths and work values. For the year of 2021, the MyCC had organised 16 in person and virtual advocacy programs involving various industries in the public and private sectors as well as the media.

2022

Throughout the year 2022, MyCC successfully wrapped up numerous Final Decisions and presented Proposed Decisions. Furthermore, the organization-initiated consultations

regarding proposed amendments to the Competition Act 2010. Additionally, they played a pivotal role in orchestrating the 3rd Malaysia Competition Law Conference and provided support for the recently introduced circular on Integrity in Public Procurement. MyCC also actively issued policy recommendations and economic advice. Their involvement extended to participating in various international workshops and meetings, and they meticulously executed advocacy programs.

Enforcement

The MyCC issued two Final Decisions and one Proposed Decision on competition law infringements. Firstly, on 4 January 2022, three major Langkawi Ro-Ro operators have been fined with RM2.2 Million by the MyCC for forming a price fixing cartel in relation to the increase in fares for vehicle transportation via Ro-Ro vessels between Langkawi and Kuala Perlis and vice versa. Besides the three operators, two other related enterprises were held responsible for the same conduct.

The second Final Decision for 2022 was issued on 5 July 2020 whereby the MyCC imposed a financial penalty amounting to RM1,548,192.35 against eight (8) enterprises for engaging in bid rigging conducts involving four (4) different IT related projects worth RM1,925,365.90 that were procured by the National Academy of Arts, Culture and Heritage of Malaysia (“ASWARA”).

On 5 August 2022, MyCC issued a proposed decision against five feed millers for infringing section 4 of the Competition Act 2010 (Act 712). Investigations revealed that the sensitive commercial information shared between the said enterprises is seen to potentially distort competition in the market. By adjusting prices at the same quantum, which results in similar increments amongst the enterprises, the choices of customers in choosing their preferred poultry feed supplier that offers the best value may be restricted. Therefore, the conduct of the said enterprises can potentially lead to an anti-competitive landscape in the supply chain of the poultry industry. Upon hearing and considering the representations together with the evidence gathered during the investigation, MyCC will only then issue its final decision on whether there is a finding of infringement or non-infringement of the Competition Act 2010.

Policy Advice

Up until December 2022, MyCC had issued a grand total of 79 policy advice to diverse government agencies, encompassing all aspects related to competition. Notably, in the year 2022 alone, MyCC delivered 11 policy advice.

Economic Advice

In the year 2022, MyCC issued a collective sum of eight economic advice to government bodies, including the Ministry of Domestic Trade and Consumer Affairs, Ministry of Health, and Ministry of Finance. This advice pertained to matters concerning competition that necessitated a more in-depth examination of their economic ramifications for both consumers and businesses.

Circular on Integrity in Public Procurement (PK 1.6): Combatting Bid Rigging

The recently issued circular on Integrity in Public Procurement (PK 1.6) by the Ministry of Finance signifies a significant achievement for MyCC, made possible through continuous engagement with relevant stakeholders and a decade-long advocacy effort related to the Competition Act 2010. Effective from June 1, 2022, these new circular mandates that companies seeking to participate in government tenders must adhere to the Competition Act 2010, among other legislations referenced in the circular. Furthermore, government agencies are now obligated to address the issue of bid rigging cartels in government procurement and report any indications of bid rigging agreements to MyCC. This development represents a pivotal moment in promoting competition and integrity within public procurement.

The 3rd Malaysia Competition Law Conference 2022: "Digital Economy, Merger and Bid Rigging"

On June 23, 2022, the 3rd Malaysia Competition Law Conference 2022, themed "Digital Economy, Merger, and Bid Rigging," was officially inaugurated at Sunway Resort. The event was graced by the presence of the Prime Minister of Malaysia, YAB Dato' Sri Ismail Sabri bin Yaakob, who was represented by the Minister of Domestic Trade and Consumer Affairs, YB Dato Sri Alexander Nanta Linggi. The conference drew the participation of over 300 individuals, including both local and international attendees from more than ten different jurisdictions. This diverse group comprised government officials, legal professionals, economists, members of professional organizations, representatives from financial institutions, educators, students, and various other stakeholders. Over the course of two full days, the conference aimed to facilitate the sharing, discussion, and in-depth examination of significant new developments that will have a profound impact on the future of competition law and the market landscape in Malaysia.

MyCC's Public Consultation on the Amendments to the Competition Act 2010

MyCC has initiated an online public consultation as part of its ongoing effort to amend the Competition Act 2010. This initiative invites input, feedback, and perspectives from the general public and relevant stakeholders regarding the proposed amendments. MyCC has undertaken this amendment exercise with the aim of enhancing Malaysia's competition law, aligning it more closely with international norms and standards. This effort is essential to enable MyCC to effectively fulfill its statutory mandate, which involves promoting and safeguarding competition within the market. The proposed amendments to the Competition Act 2010 encompass various aspects, including revisions to provisions governing investigative and enforcement powers. Additionally, there are plans to introduce a merger control regime that grants MyCC the authority to evaluate and investigate merger transactions that have the potential to result in market concentration.

International programs

With the removal of travel restrictions as a hindrance to international programs, MyCC chose to engage in physical events organized by international partners such as ASEAN, the OECD, ICN, and Concurrences. In the year 2022, MyCC officials actively participated in a total of 53 international capacity-

building online workshops and forums, as well as 17 international meetings.

Advocacy

In 2022, a total of 13 physical and remote advocacy programs were conducted involving the public and private sectors as well as the media.

Myanmar

Myanmar Competition Commission: Regular Meetings and Special Meetings

Myanmar Competition Commission regular meetings were convened once every three months in accordance with the competition rules. The meetings discussed issues on complaints from the business; the complaints resolutions decision; review on competition law and rules; work plans for the effective implementation of the Competition Law; regional and international cooperation rather than domestic implementations.

The Commission occasionally held special meetings and discussed issues on the complaints.



Myanmar Competition Commission Regular Meeting (3/2022) (12-12-2022)

Advocacy

Raising awareness events on Competition Policy and Law were held in major cities of the country. The objectives of conducting awareness events are as follows:

- To advocate the benefits and challenges of the implication of the competition policy, nature of competition law and creating healthy competition culture to all stakeholders
- To ensure the businessmen and the civil society to understand the current condition of the Competition Policy and Law implementation
- To promote the advocacy and compliance with Competition Policy and Law

Strategic Plan (2020-2022)

The first Strategic Plan of Myanmar Competition Commission was set in 2020, and it covers the period 2020 to 2022. The Plan was comprised with 4 parts:

- Part 1 sets out the Background which traces the various domestic policy statements and regional policies supporting the introduction of a Competition Law for Myanmar,

- as well as the mandate and establishment of the MMCC.
- Part 2 covers the Competition Ecosystem and describes the external and internal challenges faced by the MMCC. This sets the background for the Strategic Plan and the activities contained therein.
 - Part 3 is the Plan itself and contains the Vision, Mission, Core Values, Strategic Objectives and the Financial Plan. Each of the Strategic Objectives are explained by reference to the approach that will be taken, as well as the proposed activities that have been identified by the MMCC for the period of the plan.
 - Part 4 is the Implementation Plan and comprises a Gantt Chart which sets out the priority actions under the Plan and planned timelines.
 - Workshop on the development of a strategic plan for the implementation of the competition law was held in Yangon on 17th January 2020, and the members of Myanmar Competition Commission, officers from Commission Office, external competition experts and the partner organizations attended and discussed.

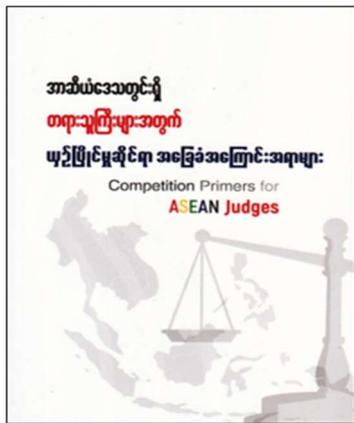


Enforcement

During the period 2020–2022, the MMCC received a total of 7 complaints and 1 appeal case. Among these complaints, 2 are referred to the Department of Consumer Affairs as they are concerned with Consumer Protection.

Myanmar Competition Commission issued the order (2/2020) on 25th March 2020 which include the restraints on sale promotion that the business operators shall be aware of and comply in order to create free and fair competition among businesses (including services), promote fair competition in the market, ensure equality, and prevent damage and making harmful to the public interests.

In cooperation with Myanmar Competition Commission and Friedrich Naumann Foundation (FNF), the competition primers for ASEAN judges published by ASEAN were translated into Myanmar language and published. These primers were distributed to the relevant courts for their preference manual in township courts under the Union Supreme Court and township law offices under the Ministry of Legal Affairs.



Primers for Judges

The Philippines

During the pandemic, the Philippine Competition Commission (PCC) remained proactive in monitoring and investigating various sectors and pushed for policy responses to the pandemic geared towards a smooth and sustainable post-recovery development.

Since 2020, the PCC has focused its enforcement initiatives on the following priority sectors: food and agriculture, e-commerce, health and pharmaceuticals, energy and electricity, insurance, water, real estate, logistics, and shipping. A total of 21 full administrative investigations commenced from 2020 to 2022, with 16 of them initiated *motu proprio* by the Commission.

The PCC continued monitoring the compliance of two high-profile monopolies: a ride-hailing service and a float glass manufacturer. The PCC tracks these parties' adherence to their commitments, which are outlined in Undertakings signed by the Commission, through the receipt, evaluation, and analysis of regular data submissions and requests for information.

The PCC charged several insurance companies for executing an exclusive provision of mortgage redemption insurance to its account holders. The insurance pool has enjoyed the lack of any competitive constraints for almost four decades, with proceedings before the Commission ongoing.

As part of the government's economic recovery measures under the Bayanihan to Recover as One Act (Bayanihan 2), the merger notification threshold was raised to PHP 50 billion (≈USD 1 billion) in 2020, effectively limiting the PCC's power to review mergers and acquisitions (M&A). This measure exempted from compulsory notification all M&As with transaction values below PHP 50 billion if entered within two years from the effectiveness of the law in 2020. The Bayanihan 2 also suspended the PCC's power to review non-notifiable transactions *motu proprio* for one year. Despite the challenges, the PCC continued to exercise due diligence in M&A reviews. From 2020 to 2021, the PCC received 30 M&A transactions valued at PHP1.38 trillion (≈USD 27.86 billion). In September 2021, the PCC regained its power to conduct *motu proprio* review of non-notifiable transactions and ramped up its review efforts. The PCC also continued to encourage firms to voluntarily notify the PCC of their M&A transactions to avoid their possible unwinding if later found anti-competitive.

A milestone for competition law in the Philippines was the adoption and implementation of the National Competition Policy (NCP). The NCP laid down a whole-of-government approach to mitigating anti-competitive behavior that threatens economic growth and recovery from losses incurred during the pandemic. With this, government entities

are mandated to incorporate competition principles in the formulation and execution of policies and regulations.

Ramping up enforcement efforts, the PCC announced its endeavors towards establishing one of the country's first digital forensic laboratories in order to better investigate anticompetitive behavior and abuses of dominance. The use of digital forensics allows investigators to uncover trails of electronic transactions or documents that point to cartels or collisions. With the establishment of its digital lab, the PCC endeavors to maximize the use of electronic evidence in investigations and possible prosecutions.

Also on the enforcement front, the PCC developed a bid-rigging screening tool which facilitates the detection of potentially anti-competitive activities in public procurement. The Bid Rigging Screening Tool (BiRST) is designed to detect red flags which may reveal collusion during bidding, thus enhancing transparency in public procurement. The PCC's screening tool captures data from government agencies' procurement activities. In developing BiRST, the PCC studied the experiences of the UK Competition and Markets Authority (i.e., screening for cartels tool) and Korea Fair Trade Commission (i.e., bid-rigging indicator analysis system or BRIAS), which have their own screening tools.

The PCC continued mainstreaming competition through strategic partnerships and its advocacy and capacity-building program, maximizing

virtual platforms to reach, inform, and engage more stakeholders. From 2020 to 2022, the PCC held 106 advocacy and capacity-building activities for various stakeholders, majority of which were in virtual format, including the flagship Manila Forum on Competition in Developing Countries.



The PCC also started to widen the reach of its advocacy and enforcement activities by opening its first investigation and collaboration station (i-Station) in Baguio City in 2021 and in Legazpi City in 2022, making PCC's services more accessible and closer to stakeholders outside the capital. The i-Stations will primarily serve as PCC's temporary workstation in these locations to facilitate the conduct of investigation work, field missions, surveillance, interviews, and market monitoring, among others, until the launch of permanent regional offices in the future.

On the international front, the PCC inked cooperation agreements with the Hong Kong Competition Commission in 2020 and the Competition and Consumer Commission of Singapore in 2021 to strengthen bilateral ties with these

competition authorities. The PCC also continued its collaboration with the Malaysian Competition Commission (MyCC) and the Cambodian Consumer Protection and Fraud Directorate-General (CCF) through workshops and dialogues. It likewise co-hosted the 17th



East Asia Top Officials' Meeting on Competition Law and Policy (EATOP) and the 14th East Asia Conference on Competition Law and Policy (EAC) with the Asian Development Bank Institute and the Japan Fair Trade Commission in September 2022.



The PCC was also selected to co-chair the Advocacy Working Group (AWG) at the International Competition Network (ICN), the premier organization of national and multinational competition authorities dedicated to promoting the highest standards of competition law enforcement. The ICN-AWG is dedicated to developing practical tools and resources to guide ICN members in effectively raising public awareness of competition principles and fostering competition culture across different jurisdictions.



Singapore

2020

In 2020, CCCS issued an infringement decision against three businesses which engaged in bid-rigging conduct in relation to tenders for the provision of maintenance services for swimming pools, spas, fountains and other water features, imposing a total of S\$419,014 in financial penalties on the parties. Developments that were affected included condominiums and hotels in Singapore. Following the issuance of the infringement decision, CCCS also reached out and disseminated educational materials to relevant businesses to educate them on the dos and don'ts in relating to bid rigging conduct (e.g. determine bids independently, refrain from bid discussion or exchange of commercial sensitive information, etc.), and to the estate managing agents/ building management committees to watch out for suspicious bid-rigging conduct and report such conduct to CCCS.

CCCS also issued an infringement decision against three other businesses for participating in anti-competitive agreements involving bid rigging for the provision of building, construction and maintenance services, imposing a total of S\$32,098 in financial penalties on the parties.

In April, CCCS concluded an investigation into alleged anti-competitive conduct by the Singapore

Institute of Surveyors and Valuers (“SISV”), following steps taken by the SISV to promote greater competition, innovation and use of technology in the property valuation industry. These steps, including a revision of its byelaws and a reiteration of its support for the use of technological tools in the performance of property valuation, addressed the competition concerns raised by CCCS.

In August, CCCS concluded an investigation into the online food delivery and virtual kitchen sectors in Singapore. The investigation looked into the alleged refusal by online food delivery providers to supply online food delivery services to food and beverage (F&B) operators using virtual kitchens, which are commercial kitchen spaces provided to F&B operators. Following CCCS's investigation, online food delivery providers in Singapore started to supply their services to F&B operators using virtual kitchens. CCCS ceased its investigations after noting that competition in the sector is healthy, but it continues to monitor developments in the sector and will take action in the event that any anti-competitive behaviour is observed.

Over the year, CCCS reviewed six merger notifications across different industries, including waste collection, real estate, renal dialysis, metro rolling stock, ship building as well as a merger between index licensing service providers. CCCS raised competition

concerns on the proposed merger between index licensing service providers (London Stock Exchange Group plc and Refinitiv Holdings Limited) and commenced an in-depth review in September 2020. The parties proposed commitments to address the competition concerns raised by CCCS and CCCS accepted the commitments.

In view of the COVID-19 pandemic, CCCS adapted its outreach and advocacy efforts by reaching out to stakeholders through virtual means. CCCS continued its regular engagement of businesses, trade associations and chambers to help them understand how to benefit from competition law, as well as to encourage compliance as part of good corporate governance. In 2020, CCCS conducted more than 20 outreach activities on a virtual basis. CCCS also organised an essay competition to generate greater interest in competition policy and law and received numerous submissions for the competition.

Over the year, CCCS issued 19 competition advisories to various government agencies. CCCS also engaged government agencies through the Community of Practice for Competition and Economic Regulations (COPCOMER). While it was not possible to hold physical sessions due to the COVID-19 pandemic, a virtual COPCOMER workshop was held to discuss how competition issues could arise from government interventions, and how CCCS could assist government agencies, among other issues.

Regionally, CCCS worked with other competition authorities in ASEAN to develop and publish a Joint Statement on COVID-19 and participated in a session to share key developments and best practices for competition authorities in the context of COVID-19. CCCS also contributed to the Mid-term Review of the ASEAN Competition Action Plan ("ACAP") 2025.

Internationally, CCCS was appointed as co-chair of the International Competition Network ("ICN") Agency Effectiveness Working Group ("AEWG") with effect from May 2020 to 2023. As the AEWG co-chair, CCCS will lead projects and initiatives to identify key elements of a well-functioning competition agency and develop best practices for agency strategy, planning, operations, and procedures together with the other co-chairs of the working group.

CCCS also organised an ICN teleseminar in March 2020 where ICN member agencies held an insightful discussion on the competition advocacy challenges they faced in the digital economy, how they met these challenges, and how agencies can better equip themselves for competition advocacy in the digital economy.

In 2020, CCCS participated and spoke at a number of international forums such as the OECD Global Forum on Competition, GCR Live Asia Pacific Law Leaders Forum, ICN Annual Conference, HKCC's webinar on "Competition in Aviation after Covid-19" and the 2020 Digital

Enforcement Summit organised by the Canadian Competition Bureau.

2021

In 2021, CCCS developed and issued a Business Collaboration Guidance Note (“Guidance Note”) to clarify CCCS’s position on seven common types of business collaborations, and to provide supplementary guidance on how CCCS generally assesses such collaborations. The Guidance Note sets out factors and conditions, such as the nature and extent of the collaborations, and indicative



market shares, under which competition concerns are less likely to arise from the collaborations. To raise awareness of the Guidance Note among relevant stakeholders, CCCS published a brochure which was disseminated to various business entities, and held engagement sessions with trade associations and business chambers to publicise the Guidance Note to a diverse group of businesses.

In addition, CCCS reviewed its Guidelines on the Competition Act 2004 and revised them to provide greater

clarity and guidance on the analytical and procedural frameworks used by CCCS in enforcing the Competition Act. The Guidelines outline the conceptual, analytical and procedural framework applied by CCCS in administering and enforcing the Competition Act in Singapore.

Over the year, CCCS reviewed and approved eight merger notifications across different industries, including pharmaceuticals, oilfield products and services, semiconductors, integrated circuits, and financial services. One of the transactions involved an acquisition by London Stock Exchange Group plc (“LSEG”) of certain subsidiaries and assets of Refinitiv Holdings Limited. CCCS raised competition concerns over the transaction but approved the transaction after LSEG proposed a set of commitments to address the competition concerns.

In line with efforts by government agencies to encourage businesses, especially SMEs, to collaborate in developing common infrastructure and solutions to reap the benefits of digitalisation, and industry transformation, 2021 saw a number of advisories concerning industry development efforts, such as the development of common industry-specific platforms for businesses to share capacity or to transact and collaborate / initiatives by businesses linked to promoting sustainability. Besides providing advice to the relevant government agency on the competition

impact of such initiatives, CCCS also proposed possible safeguards or alternatives that would reduce or mitigate the competition concerns. In a survey conducted by CCCS on the usefulness of the advisories, 94% amongst those who have responded found them to be useful, while 83% amongst those who have responded, planned to adopt or implement our advice.

Separately, CCCS also provided a recommendation to the Minister for Trade and Industry to extend the block exemption for liner shipping agreements for three years in respect of vessel sharing agreements for liner shipping services, and price discussion agreements for feeder services, as these agreements generate net economic benefits for Singapore. Unlike previous extensions of the block exemption, the extension in 2021 did not extend to price discussion agreements for main line services as such agreements do not generate net economic benefit for Singapore, and the shorter duration of extension allows CCCS to conduct more regular reviews to ensure that the block exemption remains relevant and current to industry conditions.

Apart from its enforcement work, CCCS has continued to advocate and promote awareness of competition among various stakeholders in Singapore. CCCS published a corporate video “Making Markets Work Well” which highlights the roles and responsibilities of CCCS and provides an overview of the Competition Act and Consumer Protection (Fair

Trading) Act. The video was showcased at various events including the 23rd Annual SME Conference & 24th Infocomm Commerce Conference & SME Expo 2021. An online marketing campaign for the video was also carried out, targeting businesses and consumers, and which generated over 75,000 views on YouTube and 55,000 views on Facebook.

In addition, CCCS organised another online marketing campaign to raise awareness of anti-competitive agreements and unfair practices in the beauty industry. Three animation videos were produced, which collectively generated over 130,000 views on Facebook, and over 170,000 views on YouTube. A series of electronic direct mailers was designed to raise awareness on unfair trade practices in the beauty sector, and disseminated to over 300 beauty businesses, with talks also held to engage selected beauty companies in Singapore.

CCCS partnered the Singapore Academy of Law to organise the fifth edition of its flagship conference to highlight key developments and emerging trends in competition policy and law in Singapore. Due to the Covid-19 pandemic, the conference was held virtually for the first time and was presented as a series of five webinars in March 2021. The theme of the conference was “Transcending Boundaries – Competition Law in a Digital Era”. Various international and local competition practitioners and

experts were invited to speak at the conference.

CCCS continued its active involvement in the regional and international community. CCCS assumed the role as a co-chair of the ICN Agency Effectiveness Working Group (AEWG) in Oct 2020 and led the ICN AEWG Project on “Case Prioritisation and Initiation”, which examined how early case prioritisation and management can contribute to effective and efficient enforcement. In 2021, CCCS conducted a survey to look into ICN member agencies’ methods and principles to prioritise cases, and also delved into competition agencies’ practices in handling complaints / tip-offs / referrals, and the effectiveness and/or challenges of doing so. Following the survey, CCCS collated the inputs from member agencies into a report which was completed in January 2022.

In April 2021, CCCS partnered with the EW Barker Centre for Law & Business to organise a workshop. The workshop gathered feedback from competition authorities in ASEAN on a research study which analysed the views of stakeholders on the national competition law regimes of the various ASEAN Member States and provided recommendations on facilitating greater convergence in the region. CCCS and the OECD also co-organised the launch of two reports on the competition assessment of the logistics sector in Singapore, which reviewed various regulatory and competition issues relating to logistic

services, freight transportation and forwarding, small-package delivery, and the role of state-owned enterprises in Singapore.

To promote capacity building and facilitate effective enforcement of competition law in ASEAN, CCCS contributed to the updating of the ASEAN Regional Capacity Roadmap and the Regional Guidelines on Competition Policy, which were endorsed by the ASEAN Experts Group on Competition (AEGC) in 2021. With the aim of strengthening cooperation with ASEAN’s partners, CCCS also led negotiations for the upgrade of the Competition Chapter for the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA).

In addition, CCCS hosted the 16th East Asia Top Level Officials’ Meeting on Competition Policy (“EATOP”) and the 13th East Asia Conference on Competition Policy and Law (“EAC”) on 28 and 29 September 2021 respectively.



Cognizant of the importance of international cooperation, CCCS also established a Memorandum of Understanding (“MOU”) with two of its long-standing partners. The first MOU

with the Philippine Competition Commission was signed on 29 November 2021, and the second MOU with China's State Administration for Market Regulation was signed on 29 December 2021. CCCS has now entered into a total of five MOUs with foreign competition authorities to facilitate its enforcement of competition law.



2022

In 2022, CCCS issued an infringement decision against four warehouse operators for fixing the price of warehousing services. CCCS's investigations revealed that the four warehouse operators had coordinated their pricing strategies instead of determining them independently, which restricted price competition in the market for warehousing services. A total financial penalty of S\$2.80 million was

imposed on the four warehouse operators.

Over the year, CCCS reviewed and approved nine merger notifications across different industries such as logistics, cargo and container handling, manufacturing, printing solutions, and airlines. One particular merger that CCCS reviewed, involved the Phase 1 review of the acquisition by Talace Private Limited of Air India Limited, and CCCS raised competition concerns with Talace on the Transaction.

In 2022, CCCS also completed two notifications for decision whereby undertakings notify CCCS of their agreements or conduct, so as to seek greater certainty on whether they are infringing the Competition Act. First, in May 2022, CCCS granted conditional clearance of a proposed commercial cooperation between Singapore Airlines Limited and Malaysia Airlines Berhad, after accepting a set of proposed commitments from the Parties. The proposed cooperation involves a metal-neutral alliance in respect of services between Singapore and Malaysia, and cooperation in other areas, including various arrangements to grow traffic between Malaysia and Singapore and between Malaysia or Singapore and certain agreed markets such as Europe. Separately, in December 2022, CCCS assessed that a specific rule of the Singapore Clearing House Association and its corresponding Guidelines, fall within the scope of the exclusion of the

Competition Act and accordingly will not infringe the Competition Act.

CCCS also concluded 32 competition advisories for 16 government agencies. Initiatives that involve industry collaboration or consolidation make up a significant proportion of the advisories. These included proposals for digital platforms by groups of industry players, fee guidelines for a group of industry players, a cost-sharing arrangement among industry players based on market shares, collective bargaining by a group of industry players, industry self-regulation with respect to a compliance framework for a policy initiative, the development of industry standards that relate to contractual terms with customers, and a centralised procurement and distribution among industry players. CCCS also continued to work closely with other government agencies to address overlapping issues such as data, privacy and intellectual property rights. CCCS's joint submission with the Personal Data Protection Commission titled "Collaborations between Competition and Personal Data Protection Agencies" was selected a winner in the 2022 ICN-WBG Competition Advocacy Contest.

To raise greater awareness on the role of competition and consumer protection laws and policies in the context of environmental sustainability, CCCS co-organised an essay competition with the Economic Society of Singapore (ESS). Participants were invited to examine the role of competition and consumer

protection laws and policies in supporting environmental sustainability in Singapore and discussed, among others, how businesses can collaborate yet compete fairly in achieving sustainability goals and how "externalities" to the society accruing from sustainability should be accounted for. A total of 118 submissions were received and winners were presented with their awards by Emeritus Senior Minister Goh Chok Tong.

Thailand

2020

As of the latest reporting, law enforcement activities have resulted in a total of 34 complaint cases, with 15 resolved and 19 still under active investigation. Regarding business merger notifications, 18 cases are currently under review, with eight in the Agriculture and Food Industry, two in Consumer Products, six in Financials, and two in the Technology sector. Additionally, three business merger applications have been submitted, two of which are in the Industrials sector and one in Services.

The Trade Competition Commission (TCC) has conducted several public hearings on draft secondary legislation issued under the Competition Act, B.E. 2560 (2017). From May 8, 2020, to June 6, 2020, the TCC made available a draft notification on the Guidelines for the Assessment of Unfair Trade Practices and Actions that involve monopolization, competition reduction, or restriction in the Fruit Bulk-Buying Business. This was accessible through the TCC's website and via electronic mail. Another draft notification, available between May 29, 2020, and June 27, 2020, addressed Guidelines for the Assessment of Unfair Trade Practices in Franchising (No. 2) and criteria for identifying market-dominant operators. This was similarly published on the TCC's website and distributed by email. Lastly, from August

17, 2020, to September 15, 2020, the TCC released a draft of guidelines for evaluating unfair trade practices between food delivery digital platforms and restaurants. On September 11, 2020, a consultation meeting was held at The Sukosol Hotel in Bangkok with 76 stakeholders, including representatives from food delivery services, restaurants, academics, legal advisors, and other related parties.

The public relations project aimed at disseminating competition law included the publication of a newsletter titled *Competition Focus*, which comprised five editions. The topics covered in the newsletter were: behavior in the food delivery service business that may violate competition law, the outcome of a decision by the Trade Competition Commission regarding prohibiting the sale of competitors' products in the energy drink market, whether large companies operating from upstream to downstream fall under monopolization and violate competition law, types of "bid-rigging" that violate competition law, and the behavior of fruit purchasing agents with respect to unfair practices under competition law.

Additionally, eight articles were published in the Trade Competition Act, B.E. 2560 (2017), addressing various important topics. These included competition authorities and the scope of law enforcement, analysis of market definition and market share, abuse of

dominance and competitive conditions, unfair use of market dominance, mergers and acquisitions, joint actions by businesses that monopolize, reduce, or restrict competition, unfair trade practices, and a case study outcome titled “Pumpkin Case.”

A seminar titled *Trade Competition Law and Guidelines for Considering Unfair Trade Practices in Wholesale and Retail Business and Franchise Business* was also organized to raise awareness among wholesalers, retailers, franchise businesses, and related parties. The seminar, aimed at highlighting practices that may violate the Trade Competition Act, was held in three provinces: Chiang Mai on February 21, 2020, Phitsanulok on March 4, 2020, and Udon Thani on March 11, 2020.



(OECD-ASEAN Competition Assessment Project)

The International Cooperation Projects on Competition Policy and Law involved a range of initiatives. The OECD-ASEAN Competition Assessment Project, supported by the UK government, focused on enhancing competition in the logistics sector of Thailand. A seminar on

competition assessment in logistics was held on September 16, 2020, in Bangkok, and a governmental session discussing preliminary findings took place on October 3, 2019.

Additionally, technical training and advisory services on trade competition regulation were implemented under the Malaysia and Thailand Reform Partnerships, with training in six key areas: Merger Control, Competition and Public Policy, Investigations, Market Dominance, Market Studies, and Review Sessions. A technical cooperation project also developed a Provincial Trade Competition Index, drafting a concept paper for further development by the Asia Foundation.

The UNCTAD-TCCT Technical Assistance Project established a subcommittee to oversee cooperation with the United Nations Conference on Trade and Development (UNCTAD) and gathered opinions from the Thai hotel sector for future project implementation. Cooperation between the Japan Fair Trade Commission (JFTC) and the Trade Competition Commission of Thailand (TCCT) included an online workshop on October 1, 2020, to exchange knowledge on trade competition regulation, followed by a proposal for further technical cooperation, including staff exchanges and expert placement programs.

The Competition Law Implementation Program (CLIP), facilitated by the Australian Competition and Consumer Commission (ACCC), included a

workshop in November 2019 in Bangkok, focusing on market studies, data collection, and best practices shared among ASEAN competition authorities, including those from Malaysia, Indonesia, and Brunei. The ASEAN Regional Integration Support from the EU Plus Project (ARISE Plus-Thailand) coordinated with the Department of International Trade Negotiations to develop work plans for activities to begin in late 2020.

A study on cross-border competition cases, developed with the Indonesian Competition Authority, outlined the scope of information exchange and joint operations, with final results expected in September 2020.

In terms of Free Trade Agreements (FTAs) under competition law, the TCCT provided input on the Regional Comprehensive Economic Partnership (RCEP) and summarized the key competition provisions. For the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), the TCCT coordinated with the Office of the Consumer Protection Board to expand competition provisions and include consumer protection issues. These were discussed in ASEAN Expert Group meetings, with further work plans drafted under the AANZFTA joint committee.

Regarding the EU-Thailand and EU-ASEAN Free Trade Agreements, the TCCT provided comments on scope documents and participated in preparatory meetings, with a focus on

competition law enforcement on state enterprises and government subsidies. For the ASEAN-Canada Free Trade Agreement, the TCCT submitted comments on the draft Reference Paper to the Department of International Trade Negotiations. Finally, in its involvement with the World Trade Organization (WTO), the TCCT reviewed and provided input on Thailand's trade policy report, including e-commerce regulations.

2021

In 2021, a total of 71 complaints were received by the Trade Competition Commission, with the e-commerce (platform) sector accounting for the highest number at 40 complaints. This was followed by the manufacturing and wholesale/retail sectors with 16 complaints, and the franchise and other service businesses with 15 complaints. When classified by business behavior, the complaints revealed that abuse of market dominance was the most reported issue with 40 complaints, followed by 28 complaints related to unfair trade practices, and 3 complaints regarding cartels.

Business merger decisions were categorized into two types: 27 cases of merger notifications and 4 cases of merger approval requests. In addition, the Trade Competition Commission issued three key notifications in 2021. These included: guidelines for assessing fair trade practices concerning credit terms offered by small and medium enterprises (SMEs) as sellers of goods or

services; guidelines for the assessment of unfair trade practices in franchising (No. 3); and guidelines for the assessment of unfair trade practices resulting in damage to other businesses.

Public consultations were held for draft subordinate legislation. These included a draft notification on guidelines for the assessment of fair-trade practices concerning credit terms offered by SMEs, which was available for public feedback from February 8 to March 12, 2021. Another draft notification concerning unfair trade practices in franchising (No. 3) was open for consultation from April 8 to May 14, 2021, with an online focus group held on April 30, 2021. Finally, the draft notification on guidelines for the assessment of unfair trade practices causing damage to other undertakings was available for public comment from June 24 to July 29, 2021.

In terms of market structure research and business behavior monitoring, the Trade Competition Commission conducted in-depth studies on businesses and services likely to monopolize or engage in anti-competitive behavior across 12 areas. These areas included online travel agencies, e-commerce, food delivery platforms, fruit wholesale businesses, LED lighting, animal feed corn, adult diapers, sanitary ware, bottled ready-to-drink tea, pet food, vitamin water (functional drinks), and UHT milk cartons. This research focused on market structure, market definition, market share, and the behavior of businesses at

risk of violating the Trade Competition Act B.E. 2560 (2017).



(Workshop on Public Law Essential for Trade Competition Commission Operations)

In the 2021 fiscal year, the Trade Competition Commission of Thailand (TCCT) organized two key training courses to enhance the capacity of its officials and staff. The first was a workshop titled "*Public Law Essential for Trade Competition Commission Operations*", held on October 5, 12, 19, and 26, 2020, at the Centra by Centara Hotel, Government Complex and Convention Center, Chaeng Watthana, Bangkok. This workshop featured lectures from several distinguished experts, including Prof. Dr. Chanchai Swangsak, Deputy Chief Justice of the Supreme Administrative Court at the

time; Ms. Supranee Jongthamwattana, a Procurement System Development Specialist from the Comptroller General's Department at the Ministry of Finance; Dr. Prasert Pongsuwan, Judge and Chief of the Supreme Administrative Court; and Prof. Dr. Orapin Phonsuwan Sabairoop, a State Audit Commissioner.



(The workshop aims to enhance the knowledge and skills of TCCT staff in enforcing trade competition laws)

The second training course focused on *"Developing Knowledge and Skills for Trade Competition Law Enforcement."* This workshop aimed to improve officials' understanding of competition law and related regulations, while also enhancing their skills in investigations, evidence gathering, and case preparation, utilizing

case studies to deepen practical knowledge.

Both training programs underscored the importance of equipping TCCT officials with the correct knowledge and skills to ensure effective law enforcement, thereby raising operational standards to meet national and international benchmarks.



(MOU on competition law cooperation with 13 educational institutions)

The Trade Competition Commission of Thailand (TCCT) aims to promote awareness and understanding of competition law among business operators and stakeholders, as well as to collaborate with other organizations in providing training and developing knowledge in this area. On December 8, 2020, the TCCT signed a memorandum of understanding (MOU) on competition law cooperation with 13 educational institutions, including Chulalongkorn University, Thammasat University, Srinakharinwirot University, Sukhothai Thammathirat Open University, Suan Dusit University, Assumption University, Dhurakij Pundit University, Chiang Mai University, Mae Fah Luang University,

Naresuan University, Burapha University, Khon Kaen University, and Prince of Songkla University.

The key areas of this cooperation include the development of academic knowledge on competition law by promoting and supporting studies, research, analysis, and relevant investigations. Furthermore, the MOU aims to raise awareness and foster a culture of fair competition by disseminating knowledge on competition law and fair-trade practices through various activities and channels. Additionally, both parties agreed to support personnel development in competition law oversight by providing guest lecturers and encouraging participation in promoting and overseeing competition law.

The cooperation also seeks to enhance personnel expertise in competition law by updating educational curricula, offering internship opportunities at the TCCT, and supporting training programs to build the capacity of personnel from both sides. Moreover, the MOU emphasizes the provision of information and data to facilitate tasks related to competition law. Other forms of support may be provided as mutually agreed upon by both parties.

In the 2021 fiscal year, the Trade Competition Commission of Thailand (TCCT) engaged in several collaborative projects, knowledge exchange activities, and negotiations with international organizations to enhance understanding of competition law, including legislative drafting, regulation, and enforcement.

These initiatives also aimed to build global networks for policy development and law enforcement.

In terms of organizational capacity for competition regulation, several achievements were made. First, the TCCT worked with the Australian Competition and Consumer Commission (ACCC) to strengthen knowledge on competition policy, market studies, and investigative techniques. Additionally, TCCT developed a prototype for the Provincial Trade Competition Index to monitor anti-competitive behavior and support effective regulation. A study on cross-border online travel agency services in Thailand was conducted, and a report on competition and MSME market access during the COVID-19 pandemic was prepared with support from the United Nations Conference on Trade and Development (UNCTAD). Furthermore, knowledge exchange with Japan, through technical cooperation from the Japan International Cooperation Agency (JICA) and the Japan Fair Trade Commission (JFTC), focused on investigation development, digital evidence gathering, and cross-border litigation. TCCT also assessed its organizational structure to efficiently allocate resources with consultation from experts in the EU ARISE Plus project and developed a roadmap for establishing a Trade Competition Academy in collaboration with the same project. Lastly, the TCCT supported the nomination of Mr. Krisda Piampongsant, Vice Chair of the TCCT, as Chair of the APEC-CPLG, where he played a key role

in advancing significant competition development issues in APEC meetings.

In the area of competition advocacy, the TCCT developed a conceptual framework to improve cooperation and coordination in competition regulation with relevant government agencies. This framework, based on international best practices, included a Competition Advocacy Plan aimed at raising awareness of competition issues among government agencies, the private sector, and business operators. The plan was recommended by international competition experts as part of the EU ARISE Plus project.

TCCT also focused on strengthening cartel regulation by exchanging knowledge and experiences on prosecuting cartel agreements that lead to monopolistic practices, market restrictions, or reduced competition. This initiative included discussions on leniency programs, key tools in prosecuting cartel cases, and strategies for setting fines to deter repeat violations, with support from international experts invited by the Organization for Economic Co-operation and Development (OECD).

In merger control regulation, the TCCT strengthened its capacity through training on international concepts and best practices in overseeing mergers. This training was facilitated by competition experts from the ACCC and OECD. Additionally, TCCT formulated recommendations to improve key regulations and practices in merger

oversight, focusing on enhancing the efficiency of the merger control process and notification procedures to align with international standards and promote fair competition.

2022

In 2022, the Trade Competition Commission of Thailand (TCCT) received a total of 72 complaints related to competition law violations. Regarding business mergers, decisions were made in 44 cases, which included 3 applications for business mergers and 41 notifications of business merger results.

TCCT conducted extensive studies, research, and analysis on the market structure and business practices of operators who are likely to violate the Trade Competition Act. The focus was on monitoring commercial competition behaviors, market situations, and emerging trends across 12 key sectors, including ready-to-drink bottled tea, livestock food (pork and chicken), vitamin water, UHT milk cartons, LED light bulbs, the seed business, animal feed (corn), adult diaper products, the sanitary ware business, parcel delivery services, hotel and online travel booking agents (OTAs), airport operations in Thailand (specifically the renting of space at airports), and fruit wholesale businesses.

Additionally, TCCT organized a public hearing on the draft notification concerning fair trade practices in relation to the credit terms offered by Small and Medium Enterprises (SMEs) as sellers of

goods or services (No. 2). This public hearing included open consultations with stakeholders and the general public. Opinions were gathered through various channels, including online platforms such as the TCCT's official website and email, with the announcement made on July 6, 2022, inviting input from all interested parties.

In the fiscal year 2022, the Trade Competition Commission of Thailand (TCCT) undertook various international cooperation initiatives, knowledge-sharing activities, and engagement in trade and economic negotiations to enhance its understanding and enforcement of competition law. These efforts included collaboration with foreign agencies to improve legislative drafting, regulations, and criteria for trade competition supervision, as well as to build networks with international regulators at both multilateral and regional levels.

Increasing Agency Effectiveness:



(The workshop was supported by the ACCC)

1.1 The TCCT enhanced its knowledge on data and intelligence, digital markets, remedies, leniency programs, market studies, and merger review exercises with technical advice and support from the Australian Competition & Consumer Commission (ACCC) and industry experts.



(The TCCT and The Asia Foundation presented findings on two key topics: "Competition Policy for Digital Platforms in Thailand" and "A Study on Divestiture under Thailand's Competition Laws.)

1.2 A study on divestiture under Thailand's competition laws and competition policy for digital platforms was conducted through cooperation with trade competition experts from the Asia Foundation.

1.3 The TCCT launched a Distribution Agreement Research Project specific to Thailand, benefiting from knowledge transfer from ACCC specialists and the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA).



(Representatives from JICA and JFTC attended a courtesy call with the TCCT Chair and Commissioner to discuss potential points of cooperation for the future)



(The workshop was supported by the JICA and JFTC)

1.4 Knowledge exchange with Japan, through cooperation with JICA and JFTC, focused on enhancing TCCT personnel's expertise in trade competition laws and policies, with topics such as fact-finding, merger review processes, investigation techniques, and digital forensics. This initiative also involved cross-border case management and public awareness programs.

1.5 The TCCT prepared a comprehensive report, "A Detailed Review of The OTCC Structure," with

guidance from international competition experts under the EU ARISE Plus cooperation.

1.6 The development of a roadmap for a Trade Competition Academy was supported by international experts from EU ARISE Plus, following a detailed needs assessment and framework design.



(TCCT hosted the 2022 Competition Policy and Law Group (CPLG) meeting under the APEC framework)

1.7 TCCT hosted the 2022 Competition Policy and Law Group (CPLG) meeting under the APEC framework, advancing discussions on digital business competition, sustainable development, and circular and green economies. Mr. Krisda Piampongsant chaired the expert group and directed key competition development agendas at APEC.

1.8 TCCT presented findings from its market study on Cross-Border Online Travel Agency (OTA) services in Thailand's hospitality sector and reported on MSMEs' market access during COVID-19, under technical cooperation with UNCTAD and UNESCAP.

1.9 Recommendations on regulating multisided platforms in Thailand's hospitality and tourism sectors were developed as part of a collaboration with UNCTAD.

1.10 A Training for Trainers program, involving ASEAN member countries, was conducted as part of TCCT's technical cooperation with UNCTAD, aimed at enhancing competition regulatory capabilities.

Increasing the Potential for Competition Advocacy:

TCCT prepared an inception report for developing a conceptual framework to improve coordination and cooperation in competition regulation, based on international best practices. The framework, designed in collaboration with EU ARISE Plus, also included a competition advocacy plan aimed at government agencies, the private sector, and business operators.

Strengthening Cartel Regulation:

3.1 TCCT exchanged knowledge on cartel regulation and leniency programs with international experts from the OECD. These exchanges focused on prosecuting monopolistic practices and market restrictions, as well as strategies to deter repeat violations through effective fining mechanisms.

3.2 A competition investigation training course was conducted with international experts under the EU ARISE Plus

cooperation to strengthen TCCT's investigative capabilities.

Increasing the Potential for Business Merger Control:

4.1 The TCCT enhanced its capacity to oversee business mergers through comprehensive training provided by experts from ACCC and the OECD, focusing on international merger control frameworks and best practices.

4.2 Recommendations were formulated to improve the supervision process for mergers and acquisitions, including refining notification procedures and enhancing the efficiency of business merger control.

4.3 A specialized merger control training course was conducted by international competition experts under EU ARISE Plus cooperation.

Enhancing Regulatory and Supervisory Capability on Unilateral Conduct:

5.1 TCCT strengthened its ability to oversee abuse of dominance through technical advice and training provided by experts from the ACCC and OECD.

5.2 A market study training course, supported by foreign competition experts under the EU ARISE Plus cooperation, further bolstered TCCT's capacity for effective market oversight.

Negotiation of Free Trade Agreements (FTAs) under the Trade Competition Chapter:

TCCT played an active role in providing advice and information on competition chapters during the negotiation of the following free trade agreements:

6.1 Regional Comprehensive Economic Partnership (RCEP)

6.2 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

6.3 ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA)

6.4 EU-Thailand Free Trade Agreement

6.5 EU-ASEAN Free Trade Agreement

6.6 ASEAN-Canada Free Trade Agreement

6.7 Thailand-European Free Trade Association (EFTA) Free Trade Agreement

6.8 TCCT also provided information and opinions on the operations of the World Trade Organization (WTO).

Through these initiatives, the TCCT significantly enhanced its role in global competition law enforcement and policy development, positioning itself as a leader in regional and international trade competition regulation.

In 2022, the Trade Competition Commission of Thailand (TCCT) continued its efforts to promote knowledge, understanding, and compliance with the Trade Competition Act B.E. 2560 (2017) by collaborating

with various organizations to provide education, training, and knowledge development in trade competition law.

TCCT held two educational lectures on the Trade Competition Act in collaboration with the Thomas Aquinas School of Law at Assumption University. Additionally, as part of its Memorandum of Understanding on Trade Competition Cooperation with 13 educational institutions, the TCCT accepted nine interns from five universities, including Assumption University, Prince of Songkla University, Chulalongkorn University, Srinakharinwirot University, and Thammasat University, to gain practical experience in the field of competition law.

To further disseminate and promote understanding of trade competition laws, the TCCT organized a seminar to raise awareness on guidelines for fair trade practices, particularly when granting credit terms to small and medium-sized enterprises, community enterprises (OTOP), government agencies, educational institutions, and interested parties across four regions and 25 provinces. Additionally, the TCCT launched an online educational series, "Free and Fair Trade ... the Way to Survive," a 12-part podcast and live streaming program aimed at helping business operators and related parties better understand the trade competition laws and avoid activities that could potentially violate them. Lastly, TCCT continued its publication of the "Competition Focus" newsletter, issuing

four editions to keep stakeholders informed of relevant developments in trade competition law.

In the fiscal year 2022, the Trade Competition Commission of Thailand (TCCT) actively participated in coordination and activities aimed at enhancing cooperation among government organizations and supporting the country's development. TCCT took part as a member of the Meeting of Executives of Government Organizations under Specific Acts (ATP), which serves as a central executive-level platform for state organizations established under specific legislation. This participation fostered knowledge exchange and the sharing of operational insights, leading to greater integration and collaboration among state organizations. Four meetings were held, resulting in the formation of working groups and networks in areas such as communication, public relations, finance, supplies, and personnel. These groups were designed to enhance personnel development through the exchange of expertise.

TCCT also coordinated the collection and delivery of comprehensive statistics related to trade competition law, including data on complaints categorized by trade behavior and statistics on business combinations. This data was submitted to the National Statistical Office for official use.

Additionally, the TCCT participated in the public hearing on the drafting of the third

edition of the Thailand Statistical System Master Plan (2023-2027), ensuring that the data on complaints and business combination supervision under the Trade Competition Act B.E. 2560 (2017) was accurately reflected.

TCCT also contributed to the SME Development Study Project Meeting, offering suggestions on how business operators could benefit from free and fair trade under the Trade Competition Act. Similarly, during a public hearing on Thailand's laws, regulations, and policies related to start-up competition, the TCCT provided recommendations to encourage business operators to realize the advantages of competing under fair trade conditions as outlined in the Act.

Through these activities, the TCCT reinforced its role in promoting free and fair competition while supporting broader national development objectives.

Viet Nam

Legislation development

Following the promulgation of the amended Competition Law 2018. On March 24, 2020, the Vietnamese Government issued Decree No. 35/2020/ND-CP detailing a number of articles of the Competition Law. This Decree came into effect on May 15, 2020, consisting of 7 Chapters and 30 Articles. It serves as an important legal framework providing detailed guidance for the implementation of the Competition Law 2018. This covers the identification of relevant markets, the assessment of significant anti-competitive effects, economic concentration, competition proceedings, and other violations against competition laws.

Competition enforcement

In the period of 2020-2022, even though VCCA is unable to conduct investigations according to the competition legal procedures under the Competition Law 2018 (due to the Viet Nam Competition Commission not having been established yet), VCCA still receives complaints from relevant parties regarding signs of competition law violations. This is done to clarify the situation and provide necessary recommendations to prevent anti-competition/unfair competition practices in the market. VCCA also maintains records that will be processed once the Viet Nam Competition Commission is established.

In 2020, the VCCA handled several cases:

- Regarding the increase in pork prices: The collected and provided information concerning the complex developments in the pork industry during the late 2019 and early 2020 period indicates potential manipulation of live pig and pork prices. VCCA collaborated with both internal and external units of the Ministry of Industry and Trade to conduct inspections on enterprises, organizations, and individuals involved at various stages in the breeding, manufacturing, trading, distribution, and supply of pig breeds, live pigs (porkers), and pork products. These actions were taken in compliance with the directives of the Government, the Prime Minister, and the leadership of the Ministry of Industry and Trade.
- Warning issued concerning signs of abuse of monopoly position in the supply of low-pressure gas products: VCCA received a report from Compressed Natural Gas (CNG) production and trading enterprises about potential abuse of monopoly position in the supply of low-pressure gas products of Petro Vietnam Low-Pressure Gas Distribution Joint Stock Company. Based on the information

provided, VCCA has verified the complaint and provided guidance to the complainant on the complaint process. Simultaneously, VCCA issued a warning to Vietnam Low Pressure Gas Distribution Joint Stock Company, which has been alleged to engage in the abuse of its monopoly position.

- In addition, the VCCA also conducted an examination and supervision of the exemption decision related to competition-restrictive agreements in the airline sector. The agreement involves Jetstar Pacific Aviation Joint Stock Company (Jetstar Pacific) and Jetstar Asia Airways PTE. LTD (Jetstar Asia) in the agreement of a "Joint venture contract" for air passenger service on the Da Nang – Singapore route (and vice versa) This exemption decision had been granted in 2018.

In 2021, VCCA monitored and collected information from several key markets, including pork, aviation, fertilizers, pesticides, petroleum, CNG liquefied gas, and building materials. In more detail, VCCA established an inter-sectoral inspection team to inspect some enterprises in the urea fertilizer sector. Additionally, VCCA provided recommendations regarding a dispute related to the conduct of restricting the distribution of products on the beer market between Saigon Beer-Alcohol-Beverage Co., Ltd and Saigon Beer-

Beverage Co., Ltd. Heineken Vietnam. VCCC gave warnings and guidance to businesses in the beer production and trading sector, requiring them to strictly comply with the law on competition, and the need to review and eliminate policies that show signs of violating competition regulations. Furthermore, VCCA proactively reviewed the advertising information for several medical products on the market, which exhibited signs of providing false or misleading information to customers, particularly in relation to products designed the Coronavirus.

In 2022, VCCA was involved in various activities related to competition law enforcement and oversight. The collection and verification of information related to potential violations of competition law in several markets and industries. This included verifying and clarifying information reflected by the press concerning the imposition of the "hot weather" surcharge by Grab; Addressing concerns related to the sale of fireworks on the occasion of the Lunar New Year 2022, the increase of SMS Banking fees, the sale of auto accessories; unjustified increases in rental fees for telecommunications technical infrastructure; Identifying signs of hindering competition in licensing explosive precursors storage in Lao Cai province.

VCCA addressed a total of 8 complaints pertaining to indications of unfair competition. Furthermore, VCCA proactively conducted reviews and clarifications in 6 cases associated with

unfair competition practices. These cases of unfair competition spanned various sectors, including advertising in the cosmetic and refrigeration electronic equipment industries, the trading of folding hammocks and construction materials, as well as services in seaports, tourism transportation, and notably, cross-border cases and disputes arising on the internet. VCCA requested relevant stakeholders to provide information and documents and engaged in collaborative efforts with these stakeholders. Additionally, written recommendations were issued to parties involved in some cases, encouraging compliance with competition laws.

In addition, VCCA conducted inspections to ensure compliance with competition laws. These included inspections of Toyota Motor Vietnam and the National Payment Corporation of Vietnam. These inspections were carried out as part of the annual inspection plan of the Ministry of Industry and Trade, with the aim of verifying the observance and compliance with competition laws.

Regarding M&A

In 2020, VCCA received and processed 62 economic concentration notifications. Among these, 90% were acquisitions, while the remaining 10% were mergers and consolidation cases. Economic concentration dossiers are mainly related to areas such as real estate, alcohol and

beverage, retail, feed additive, insurance, steel, aviation, automobile manufacturing and distribution, cement, logistics, milk and dairy products, oil and gas, etc.

In 2021, VCCA received and processed 127 economic concentration notification dossiers, with 3 of these dossiers undergoing the official assessment phase, while the remaining 124 dossiers were carried out at the preliminary assessment stage.

In support of our enforcement efforts, the VCCA conducts market studies to analyze and gain a better understanding of problematic sectors. In 2020, the VCCA completed three market studies in the pharmaceutical product sector, e-commerce sector, and passenger transport services by air. In 2021, the VCCA conducted three market studies in the sectors of pork meat production and distribution, real estate, and the automobile industry.

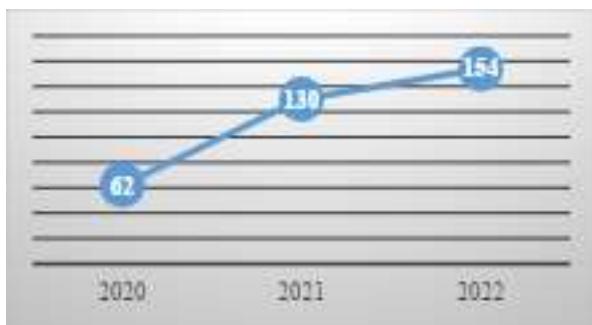
In 2022, 154 economic concentration (“EC”) applications were submitted to the VCCA¹, representing an increase of 18.46% compared to those in 2021 and a significant 148% increase compared to 2020. The majority of economic concentration transactions notified to the VCCA are transactions that surpass the threshold for total revenues and total assets of the enterprises evolved in the

¹ Before the establishment of the National Competition Commission, the Ministry of Industry and Trade assigned the Vietnam Competition and

Consumer Authority to receive and process the economic concentration notifications.

economic concentration, accounting for over 90% of the total applications.

Number of EC notifications in 2020, 2021, 2022
(unit: EC Notification dossier)



Among the 133 EC applications in 2022, 82 transactions were conducted within the territory of Vietnam, accounting for 61.65% of the total transactions. This percentage is similar to that of 2020 and 2021. The majority of these transactions involve a Vietnamese enterprise (100% domestic-owned or foreign-invested enterprise) and another Vietnamese or foreign enterprise.

Regarding EC transactions conducted outside of Vietnam's territory, all parties involved in the transactions are foreign enterprises with a commercial presence in Vietnam as foreign-invested entities. The notified EC transactions conducted outside of Vietnam's territory were mainly conducted in Asia including Korea, Japan, China, and ASEAN countries,

accounting for 76% of the total notified EC transactions conducted offshore.

In terms of the number of transactions, approximately 61% of the EC notifications are related to transactions in four major industries and sectors, namely real estate²; services³; energy⁴; and industries⁵. In comparison to the previous period, these four sub-categories continue to comprise the majority of EC applications.

Table 2: Comparison of EC notifications by sectors in 2020, 2021, and 2022

No	Sectors, fields of EC	2020	2021	2022
1	Real estate	22	30	14
2	Services	9	22	33
3	Energy	2	15	18
4	Automotive industry	6	11	13
5	Construction	4	9	3
6	Industry	3	9	15
7	Food and drinks	2	5	7
8	Electronic products	4	5	8
9	Agriculture, forestry, animal husbandry, fisheries	3	4	11
10	Other fields	8	17	11

² Such as residential real estate and industrial and commercial real estate etc.

³ Such as insurance, aviation, medical examination and treatment, retail, logistics, e-commerce, accommodation, shopping malls etc.

⁴ including traditional energy and renewable energy.

⁵ Manufacture of industrial products, chemicals, garments, plastics etc.

In 2022, 131 EC applications were completed at the preliminary appraisal and two transactions were subject to official appraisal. In 2021, 127 EC applications were completed at the preliminary appraisal and three transactions were subject to official appraisal. The EC notifications that are completed at preliminary appraisal are EC transactions that have no impact or are unlikely to have competitive restriction effects on the relevant market and do not raise any potential concerns about market competition in general. The enterprises participating in these EC transactions all had a market share or a combined market share below 20% which falls below the safe threshold specified in Article 14 Decree No. 35/2020/ND-CP dated 24 March 2020 of the Government detailing a few articles of the Competition Law.

Advocacy

In order to increase awareness within the business and consumer community about the newly amended and supplemented contents of Competition Law 2018, the VCCA engages enterprises, associations, relevant state management agencies, representative offices, law firms, and universities/colleagues that have competition law courses in the advocacy activities.

In 2020, VCCA conducted 10 advocacy seminars. In 2021, due to the COVID-19 outbreak, instead of conducting in-person advocacy activities, VCCA conducted some online

seminars/conferences and produced advocacy publications in electronic formats, such as video clips, reportages, and handbooks on competition issues. These publications were published on the VCCA website and some related mass media channels.

In 2021, VCCA also published some guidelines to assist businesses and the community in understanding and complying with Competition Law. These guidelines included a Guideline on the procedure of merger notification, a Guideline on the procedure of economic concentration review, a Guideline for the implementation of the leniency policy, and a Guideline on market definition. These materials will aid VCCA in advocating and enforcing competition law legislation more effectively and transparently.

In 2022, VCCA initiated a program to organize training courses for developing and implementing competition compliance programs in various sectors, including alcoholic beverages, soft drinks, financial services, banking, automotive, and online ride-hailing platforms. This effort aligns with the Vietnamese government's commitment to fostering a fair and competitive business environment by ensuring that companies operating in key industries adhere to competition laws. The competition authority's approach involves educating businesses on the intricacies of competition law, providing practical guidance for compliance, and

promoting a culture of lawful competition within these sectors.

To date, in addition to ongoing training for businesses to comply with competition law, VCCA has also concentrated on promoting and disseminating information to state management agencies to enhance their awareness and understanding of competition law. Simultaneously, this effort aims to prevent the implementation of prohibited anti-competitive behaviors as stipulated in Article 8 of the Competition Law.

Furthermore, VCCA also strengthens the promotion and dissemination of competition commitments within the free trade agreements that Vietnam has participated in. This is aimed at enhancing the awareness of Vietnamese businesses regarding compliance with competition laws when engaging in international business, trade, and investment.

International Cooperation

In 2020, the Vietnam Competition and Consumer Authority (VCC) was entrusted to be the Chair of the ASEAN Experts Group on Competition (AEGC). In this role, VCCA has coordinated with ASEC and AMSs to implement the cooperated activities of AEGC, among which are:

1. Issuing a Joint Statement of the ASEAN Experts Group on Competition in response to the Covid-19 epidemic. The Joint Statement outlines the perspectives and guidance of the

ASEAN's competition authorities regarding the enforcement of competition law during the epidemic. The full text of the Joint Statement has been posted on the website of ASEAN Competition Authorities in both national language and English;

2. Develop a Mid-term Review Report on the implementation of the ASEAN Competition Action Plan 2016-2020 (ACAP 2025) to evaluate the effectiveness of regional competition activities during the 2016-2020 period; review and adjust the ACAP for the period 2020-2025 to align with the competition needs of regional countries and in accordance with the regional and global competitive context;
3. In 2021, following the completion of the Chairmanship of AEGC in 2020, VCCA handed the Chairmanship over to Indonesia and continued to actively support AEGC's activities. One such activity was the organization of the 9th ASEAN Competition Conference (ACC) which took place in hybrid from December 1-2, 2021, under the theme Safeguarding Competition - a Post Pandemic Response. The Conference served as a regional platform for competition experts, academicians, and private sectors, both from within and beyond ASEAN, to discuss

developments and emerging issues on competition policy.



The 9th ACC comprised of four panel discussions covering the following array of topics:

1. Implications of the COVID-19 Pandemic to ASEAN Markets – A Review;
2. Maintaining Business Compliance;
3. Increasing Importance of Competition Policy for MSMEs in the Post-Pandemic Era;
4. The Rapid Shift Towards the Digital Economy and the Risk to Competition Enforcement;
5. Strengthening Cooperation in anticipation of future Crisis

In 2022, in addition to cooperation in AEGC, VCCA attended several international competition events, namely:

1. Attending the ICN Conference in Germany from May 3 to 6, 2022;
2. Attending and contributing a presentation at GCR

Live: Law Leaders Asia Pacific 2022;

Attending and contributing a presentation at the 17th East Asia Summit on Competition (EATOP 17) and the 14th East Asia Competition Law and Policy Conference (EAC 14).

On the framework of regional cooperation, VCCA continues to collaborate with several relevant international agencies and organizations by implementing several cooperation projects and technical assistance programs on competition and consumer protection. Specifically:

1. VCCA coordinated with the Japan Fair Trade Commission (JFTC) and the Japan International Cooperation Agency (JICA) to implement a “Project for improving competition policy and enhancing the effective enforcement of Competition Law”.
2. VCCA coordinated with the German International Cooperation and Development (GIZ) to implement 02 technical cooperation projects on competition and consumer protection, namely: (i) the COMPETE project and (ii) the ASEAN consumer protection project.
3. VCCA coordinated with the Australian Embassy in

Vietnam to implement the project "Strengthening the institution of competition and protecting consumers in Vietnam" within the framework of the Aus4reform Program.



IV. CASE STUDIES

Indonesia

GRAB CASE

The special app-based ride-hailing services case related to the provision of the Grab App software application operated in the Greater Jakarta areas (Jakarta, Bogor, Depok, Tangerang, and Bekasi), Makassar, Medan, and Surabaya. The parties involved in this case under registration number 13/KPPU-I/2019 were PT Solusi Transportasi Indonesia (GRAB) as Reported Party I and PT Teknologi Penggawai Indonesia (TPI) as Reported Party II.

The said case stemmed from ICC's initiative-based research and was followed up to the pre-investigation stage with regard to an alleged violation of vertical integration (Article 14), tying-in (Article 15 paragraph 2), and discriminatory practices (Article 19 sub-article d). As we all know, GRAB, in this case as the application provider, had entered into a cooperation agreement with TPI, a company engaged in special transportation rental services. In the hearing proceedings, the Commission Panel judged that the purpose of the cooperation agreement between GRAB and TPI was to control the market of the special app-based ride hailing provision services in Indonesia. This agreement opened an exclusive channel that could make GRAB partners registered with TPI

more easily get customers as compared to non-TPI driver partners. This could reduce the number of orders for non-TPI driver partners, which could indirectly incur losses to non-TPI driver partners as well as closing down their businesses.

The Commission Panel judged that there was no tie-in effort being made by GRAB towards the services provided by TPI. However, the Panel judged that there had been discriminatory practices being committed by GRAB and TPI against independent driver partners as compared to TPI partners, such as the granting of priority orders, suspends period, and other facilities. Such practices had resulted in monopolistic practices and unfair business competition against non-TPI driver partners or independent driver partners as previously elucidated. If GRAB and TPI were in control of the upstream part to downstream part, then it would have an impact in the form of incurring losses to other parties, namely partners outside the TPI. Whilst in this context, GRAB is an alternative employment opportunity for the general public.

Given various facts and findings in the hearings, the Commission Panel decided that GRAB and TPI were legally and convincingly proved to have violated Article 14 and Article 19 sub-article "d" on July 2, 2020, but were not proved to have violated Article 15 paragraph (2) of Law Number 5/1999. For such violation, the Commission Panel imposed a sanction in the form of fine on GRAB amounting to

IDR7.5 billion for the violation of Article 14 and IDR22.5 billion for the violation of Article 19 sub-article "d". Meanwhile, TPI was subject to a sanction in the form of a fine amounting to IDR4 billion for the violation of Article 14 and IDR15 billion for the violation of Article 19 sub-article "d". The Commission Panel also ordered that the Reported Parties pay for the fines by no later than 30 days after the Decision has had a permanent legal force.

The Commission Panel also specifically recommended that ICC give policy recommendations to the Ministry of Transportation to conduct an evaluation with regard to the implementation of the quota policy of such special ride-hailing services with due observance of the principles of fair business competition; as well as to the Ministry of MSMEs and Cooperatives to give advocacy service to MSME drivers with regard to the implementation of the agreements between drivers and app providing companies, and the agreements between drivers and special app-based ride-hailing companies.

PT. CONCH SOUTH KALIMANTAN CEMENT CASE

In January 2021, Indonesia Competition Commission (ICC) decided that PT. Conch South Kalimantan Cement (CONCH) as the Reported Party in Case No. 03/KPPU-L/2020 was proven to have

violated Article 20 of Law Number 5 Year 1999. CONCH was fined with the amount of IDR 22,352,000,000 (twenty-two billion three hundred and fifty-two million rupiah) for such breach.

The case was based on a public report on the alleged violation of Article 20 of Law No. 5/1999, especially with regard to the efforts to sell at a loss and/or set a very low price made by PT Conch South Kalimantan Cement in the sales of PCC-type cement in South Kalimantan.

Based on the proceedings of the hearing which began on June 23, 2020, and the instruments of proof obtained, the Commission Panel concluded that CONCH had conducted selling at a loss in 2015 and had set a very low price in 2015 – 2019. The Commission Panel also found that CONCH in terms of ownership was controlled by Anhui Conch Cement Company Limited as the major holding company of multinational companies that have strong financial capabilities and have a great opportunity to dominate the cement industry globally.

On March 2021, Commercial Court at the Central Jakarta District Court confirmed the decision of the Indonesia Competition Commission (ICC) with regard to the objection lodged to Case No. 03/KPPU-L/2020 regarding the Violation of Article 20 of Law Number 5 Year 1999 in the sales of Portland Composite Cement (PCC) type in the region of South Kalimantan by PT. Conch South Kalimantan Cement (CONCH). In its decision on Objection Case No. 01/Pdt.Sus.KPPU/2021/PN.Niaga.Jkt.Ps

t, the Commercial Court upheld the decision of ICC and entirely took over the legal considerations in the Decision of ICC as the considerations of the Decision of the Panel of Judges of the Commercial Court. Decision on the objection constitutes the first decision of the Commercial Court on the objection lodged by a Reported Party to a decision of ICC, since the putting into effect of Law No. 11 Year 2020 regarding Job Creation and Government Regulation No. 44 Year 2021 regarding the Implementation of Prohibition of Monopolistic Practices and Unfair Business Competition.

The Supreme Court of the Republic of Indonesia by virtue of its Cassation Decision Number 951 K/Pdt.Sus-KPPU/2021 issued on August 12, 2021, has upheld Decision of the Indonesia Competition Commission (ICC) regarding the case of the violation of the practice of selling at a loss or very low price fixing by PT Conch South Kalimantan Cement in selling cement in South Kalimantan. Based on the said Supreme Court's decision, PT Conch South Kalimantan Cement is obligated to implement such ICC's decision, namely to pay for a penalty of IDR 22,352,000,000 (twenty-two billion three hundred and fifty-two million rupiah) which must be remitted to the State Treasury as violation penalty revenues in the field of business competition and must be paid by no later than 30 (thirty) days after the decision has had a permanent legal force, as set forth in the Commands of ICC's Decision. Based on Article 22 paragraphs (2) and (3) of

Government Regulation Number 58 of 2020 regarding the Management of Non-Tax State Revenues (PNBP), delayed payments of the penalty will be subject to a fine of 2% (two percent) per month of the value of the penalty.

The Philippines

PCC FILES FIRST CARTEL CASE

The Philippine Competition Commission (PCC) filed an antitrust case against a pool of insurance companies for its alleged anti-competitive exclusive arrangement, marking the agency's first cartel case.

In a Statement of Objection issued in December 2019, the Competition Enforcement Office, PCC's investigative and prosecutorial arm, alleged that the companies entered into agreements that allowed the insurance pool to provide mortgage redemption insurance (MRI) exclusively and indefinitely to borrowers whose loans had been assumed by the state-run National Home Mortgage Finance Corporation (NHMFC).

As secondary mortgagor, the NHMFC manages different mortgage loan portfolios originated by banks, housing developers, and other primary lending institutions that offer loans for socialized and low-cost housing. Mortgagor-borrowers of lending institutions, whose housing loans had been assumed by the NHMFC, need to obtain an MRI as a form of security.

This exclusive arrangement effectively deprived the NHMFC and the housing loan borrowers of choosing MRI coverage by other providers which may offer better terms and conditions at lower premium rates. With the agreements in place, facilitated by the pool's executive

committee, the insurance pool enjoyed the lack of any competitive constraints for almost four decades. This resulted in poor service, unfavorable premium rates, and lack of options—to the detriment of thousands of account holders, including low-cost and socialized housing borrowers.

The PCC initiated the investigation when the NHMFC approached the Commission in 2016 to review its agreements with the insurance pool during the two-year transitory period provided by the Philippine Competition Act (PCA). Before the PCA enactment, the NHMFC had already attempted to terminate the agreements; however, the insurance pool presented legal obstacles to such terminations.

As this case is under adjudication, the PCC commits to ensure proper and careful examination, given its implication on financial services.

For more details, the executive summary of the case can be accessed at <https://www.phcc.gov.ph/press-releases/soo-exec-summary-enforcement-insurance-pool/>.

PHILIPPINES ADOPTS NATIONAL COMPETITION POLICY

Philippine government entities in the Executive branch are mandated to incorporate competition principles in the formulation and execution of policies and regulations. This came about after the

Office of the President of the Philippines issued an administrative order in October 2020, instructing agencies to implement the National Competition Policy (NCP).

The NCP complements the Philippine Competition Act (PCA) and the Philippine Development Plan 2017-2022 in guiding the design of government interventions, especially those relating to the economic recovery of vulnerable sectors like micro, small, and medium enterprises. It recognizes the need for competition policy to guide decisions and strategies in helping restore market efficiency, as the country deals with economic challenges brought on by the COVID-19 pandemic.

advantages over or be subjected to disadvantages vis-à-vis private sector businesses simply because they are publicly owned, unless it can be clearly demonstrated that the greater public interest will be served and there is lack of commercial viability.

Enforcement of competition-related laws and issuances. All government agencies shall uphold the original and primary jurisdiction of the PCC over the enforcement and implementation of the PCA provisions.

Key principles of the NCP

Pro-competitive policies and government interventions. All policies, rules and regulations, issuances, and other interventions shall promote market efficiency and enhancement of consumer welfare, and shall not distort competition by creating barriers to entry, promoting collusive market outcomes (e.g., cartels), or restricting trade, except when the restrictions are proven consistent with the promotion of consumer welfare, or when the benefits to the community outweigh the costs, or when the objectives of the policies and government interventions can only be achieved by restricting competition.

Competitive neutrality. Government-owned or -controlled corporations (GOCCs) shall not enjoy net competitive

Singapore

CCCS PENALISES CONTRACTORS FOR BID RIGGING OF QUOTATIONS FOR WILDLIFE RESERVES SINGAPORE

On 4 June 2020, CCCS issued an Infringement Decision against three companies who were found to have rigged the bids for the provision of building, construction and maintenance services in procurement processes called by Wildlife Reserves Singapore (“WRS”). Financial penalties amounting to a total of S\$32,098 were imposed on Shin Yong Construction Pte. Ltd., Geoscapes Pte. Ltd. and Hong Power Engineering Pte. Ltd.

A complaint from WRS in April 2016 led to the commencement of an investigation into allegations of bid rigging of civil and electrical works for WRS’s attractions. CCCS found that representatives of the companies had exchanged bid information and coordinated their bids. This behaviour resulted in a distortion of the competitive bidding process and prevented WRS from obtaining the best prices for their tenders.

In addition to barring the companies from bidding for any future projects, WRS has taken other steps to protect itself from similar anti-competitive activities. These include centralising the handling of tenders and defaulting on the calling of

open tenders so that new and existing vendors can participate.

CCCS PENALISES CONTRACTORS FOR BID RIGGING IN TENDERS FOR MAINTENANCE SERVICES OF SWIMMING POOLS AND OTHER WATER FEATURES

On 14 December 2020, CCCS issued an Infringement Decision against three companies for rigging their bids in tenders for the provision of maintenance services for swimming pools, spas, fountains and other water features to privately-owned developments in Singapore.

Financial penalties amounting to a total of S\$419,014 were imposed on CU Water Services Pte. Ltd. (“CU Water”), Crystalene Product (S) Pte. Ltd. (“Crystalene”) and Crystal-Clear Contractor Pte. Ltd. (“Crystal Clear”). CCCS’s investigations, which commenced in September 2017, revealed instances of bid rigging conduct that took place from 2008 to 2017 between CU Water and Crystalene, and separately, CU Water and Crystal Clear.

The companies had engaged in a systematic pattern where one company would request a supporting quotation from the other. Often, the price of a supporting quotation was specified to the requested company and intended to be

higher than the requesting company's own bid. In some instances, the bids were rigged through an understanding between the companies that one would not quote lower than the incumbent contractor. The non-incumbent would approach the incumbent to ask for a price to quote and provide a supporting quotation that it believed was higher than the quote of the incumbent.

Such conduct meant that there was no competitive pressure on the companies to submit their best offers to potential customers. As a result, potential customers were not able to obtain competitive offers that could best meet their requirements.

In levying financial penalties, CCCS had applied discounts to reduce the financial penalties of Crystalene and Crystal Clear on account of their leniency applications, their admissions to the infringing conduct and their cooperation under the Fast Track Procedure.

Viet Nam

AN ECONOMIC CONCENTRATION BETWEEN ADVANCED MICRO DEVICES, INC. AND XILINX INC.

VCCA received a comprehensive and legitimate economic concentration notice dossier between Advanced Micro Devices, Inc. (Advanced Micro Devices) and Xilinx, Inc. in June 2021. (Xilinx).

The transaction between the parties took place outside of Vietnam's borders. Advanced Micro Devices planned to buy 100 percent of Xilinx's stock and take control of the acquired companies. As a result, the transaction is considered to constitute an economic concentration in the form of an acquisition, as defined under Clause 4, Article 29 of the Vietnamese Competition Law 2018.

Enterprises involved in economic concentration conduct business in Vietnam in the sector of semiconductor components, with advanced Micro Devices providing central processing units (CPUs) and Xilinx Company providing field programmable gate devices (FPGA - Field Programmable Gate Array).

The Ministry of Industry and Trade of Vietnam announced on July 16, 2021, that the economic concentration between Advanced Micro Devices, Inc. and Xilinx,

Inc. is not forbidden under Article 30 of the Viet Nam Competition Law 2018.

AN ECONOMIC CONCENTRATION BETWEEN TIKI GLOBAL PTE LTD. AND TIKI JOINT STOCK COMPANY

Tiki global Pte Ltd. and Tiki Joint Stock Company submitted a comprehensive and valid economic concentration notification dossier to the Vietnam Competition and Consumer Authority (VCCA) in June 2021.

According to the economic concentration notification dossier, TIKI Global Pte. Ltd planned to acquire 90.5 percent of the shares of TIKI Joint Stock Company after the latter issued additional shares via private placement. Following the completion of the economic concentration transaction, TIKI Global Pte Ltd will gain control of TIKI Joint Stock Company under the terms of Clause 1, Article 2 of the Government's Decree 35/2020/ND-CP dated March 24, 2020, which details a number of articles of the Competition Law. As a result, the transaction between the parties is classified as an acquisition under Clause 4, Article 29 of the Competition Law.

TIKI Joint Stock Company primarily engages in online selling of items and provides an e-commerce platform for other traders in Vietnam to sell directly to consumers.

TIKI Global Pte. Ltd is a Singapore-based company that does not operate in the Vietnamese market. It was founded in May 2021 under Singapore law.

The Ministry of Industry and Trade of Vietnam announced on July 5, 2021, that the economic concentration between TIKI Global Pte Ltd and TIKI Joint Stock Company is not prohibited under Article 30 of the Competition Law and is allowed to proceed as prescribed in Clause 1, Article 41 of the Competition Law 2018.

NOTIFIED ECONOMIC CONCENTRATION TRANSACTIONS OF SUNSEAP GROUP IN 2022

In 2022, Sunseap Group, through its subsidiaries including Sunseap Commercial & Industrial Assets (Vietnam) Co., Ltd; Trung Son Energy Development Limited Liability Company and CMX RE Sunseap Power Joint Stock Company, performed a series of acquisitions of enterprises operating in the rooftop solar power sector, thereby increasing its solar power generation capacity from 145.56 MW in 2021 to 407.6 MW (growth rate of 275%), accounting for 0.52% market share in the nationwide competitive power generation market and 4.569% in the nationwide grid-connected solar power market.

Five EC transactions of Sunseap Group are as follows:

First transaction: Company EDP Renovaveis S.A. acquired 91.4% shares of Sunseap Group. EC application was submitted in January 2022.

Prior to the acquisition (in 2021), Sunseap Group produced grid-connected solar power with a total installed capacity of 145.56 MW. EDP Renovaveis S.A. Company (the acquirer) is a company established in Spain and operates mainly in the renewable energy sector.

Second transaction: The group of affiliated businesses of Sunseap Group acquired 100% of the capital contribution in DKT Energy Investment Company Limited. The EC application was submitted in July 2022.

Energy Investment Company Limited, through its 12 subsidiaries, invested in the construction and development of grid-connected solar power projects in Long A province, with a total generating capacity of 10.8 MW.

Third transaction: The group of affiliated businesses of Sunseap Group acquired 100% of the capital contribution in Long Dai Phat Investment Company Limited. The EC application was submitted in July 2022.

Long Dai Phat Investment Company Limited, through its seven subsidiaries, invested in the construction and development of solar power projects in Long An and Binh Duong provinces, with a total generating capacity of 9 MW.

Fourth transaction: Group of affiliated businesses of Sunseap Group acquired 100% of shares of Xuan Thien Ninh Thuan Joint Stock Company, Xuan Thien Thuan Bac Joint Stock Company. The EC application was submitted in August 2022.

Xuan Thien Ninh Thuan Joint Stock Company, Xuan Thien Thuan Bac Joint Stock Company invested and operated Xuan Thien Thuan Bac Solar Power Plant in Ninh Thuan province, with a total generating capacity of 200 MW.

Fifth transaction: Group of affiliated businesses of Sunseap Group acquired 100% of the shares of Millennium Company from individual shareholders.

Millennium Company, through four subsidiaries, which were HTD Vietnam Development Investment Joint Stock Company, HTD Binh Duong Investment Development Joint Stock Company, Dai Linh Phat Co., Ltd., and Lam Gia Luat Co., Ltd., invested in the construction and development of solar power projects in Binh Duong province with a total capacity of 7,1056 MW.

TRANSACTIONS SUBJECT TO EC APPLICATION OF MAERSK LOGISTICS & SERVICES INTERNATIONAL COMPANY A/S

In 2022, the Danish shipping line Maersk made three acquisitions in the logistics sector to complete its supply chain. These transactions were performed in Vietnam and offshore but had an impact on the market of Vietnam because all parties in the EC had business operations in Vietnam. Particularly:

The first transaction involved Maersk Company's acquisition of Senator Company - a freight forwarding company (primarily airfreight). The transaction was part of Maersk's plan to consolidate and expand its air freight forwarding business.

This transaction was approved with conditions by the Ministry of Industry and Trade on 1 June 2022 after official appraisal because Maersk had a relatively large market share (over 20%) on some oceanic container shipping routes.

The second transaction involved Maersk's acquisition of Li & Fung Limited - a company that operated mainly with 3PL Logistics and had a relatively small market share. However, because Maersk had a large market share on ocean freight routes, which is supplementary for 3PL logistics services, the transaction was subject to official appraisal. This transaction was approved with conditions by the Ministry of Industry and Trade on 28 July 2022 after official appraisal.

The third transaction involved Maersk's acquisition of Martin Bencher - a company operating in the field of project logistics. This transaction was approved

by the Ministry of Industry and Trade on 29 November 2022 after preliminary appraisal.

After implementing the three acquisitions above, Maersk's market share in its

primary business of container shipping by sea remains unchanged, while the market share in the air freight forwarding market and the project logistics market is low.