

MERGER AHEAD

Anti-Competitive Mergers and Acquisitions (M&A)

“ The purpose of competition law merger analysis is to identify and prevent or remedy only those mergers that are likely to harm competition significantly. ”

International Competition Network (ICN), *Recommended Practices for Merger Analysis*

The prohibition of anti-competitive mergers and acquisitions (M&A) is one of the three core areas of a competition law.

Mergers are not *per se* illegal and can increase competitiveness through more cost-efficient development and distribution of products and services.

It is, however, important to carefully examine whether a merger will have anti-competitive effects, e.g. if the new entity becomes a dominant player and significantly lessens competition in the market.

Therefore, the mandate of many competition agencies extends to merger control with **mandatory pre-merger notification** deemed as most effective.

EXAMPLES OF MERGERS

- **Horizontal mergers** at the same level of production or distribution.
- **Vertical mergers** at different, but complimentary levels of the supply chain.
- **Conglomerate mergers** in different product markets.

ANTI-COMPETITIVE EFFECTS OF MERGERS

Unilateral effects:

- Merged entity likely to unilaterally exercise market power.

Coordinated effects:

- Merger parties and their competitors likely to act in a coordinated and anti-competitive manner.

CASE : Economic concentration in newsprint manufacturing in Viet Nam

In 2008, the consolidation of Tan Mai Paper and Dong Nai Paper in a new enterprise, Tan Mai, was notified to the Viet Nam Competition Authority (VCA).

The VCA approved the merger as only one of the merging parties was previously active in the market for newsprint manufacturing and the combined market share of the combined entity would not exceed 44%. Moreover, Bai Bang Paper would have entered the market in 2009 as a competitor.

Source: ASEAN Handbook on CPL for Business (2013)



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