

Competition Law and MSMEs in Retail businesses: Comparative Study in Malaysia Vietnam and Thailand

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Outline of the research

- 1. Approach and Function of Competition Law and MSMEs**
- 2. Research on Competition law and MSMEs**
- 3. Competition Law and MSMEs: Malaysia, Thailand and Vietnam**



Approach of competition law

- **The Harvard** school early analysis on competition policy can be seen from the work of Keynes and Turner who propose that competition policy must mainly focus on limiting and reducing of market power of business firm
- **Chicago school** proposes that the competition law application should be limited in its scope and competition law should be focus only on the attainment of economic efficiency not the other socio-political problems of income distribution and economic power from market concentration



Function of competition law

From the Harvard and Chicago approach

- *Competition law function on protecting market competition*
- *Protecting consumer welfare*
- *Protecting Business competitors*



Research on Competition law and MSMEs

- Many countries work on competition law and regulation for fair competition (retail sector)
- Competition law deals with abuse of dominance to protect MSMEs
- Competition law deals with MSMEs' anticompetitive agreement



Competition Law and MSMEs

- **Competition law – Large cooperate vs Large corporate**
- **Competition Law- Large corporates vs MSMEs supplier**
- **Competition Law- Large corporates vs MSMEs**
Competition Law – MSMEs anticompetitive agreements.



Competition Law in Malaysia

- The Malaysian Competition Act was passed on 2nd June 2010
- Section 4 prohibits horizontal and vertical agreements
- Section 10 forbids dominant business to individually or collectively conduct
 - *Case on Cameron Highlands Floriculturist Association*
 - *Case on MAS-AirAsia*
 - *Case on Sibu Confectionery and Bakery Association (the 'SCBA')*
 - *Case on Ice Manufacturers*
 - *Case on Megasteel*



Competition Law in Vietnam

- Vietnam Law on Competition No. 27-2004-QH11
- Article 8 of the Vietnam Law on Competition prohibits any business horizontal agreements which create a restraint on competition
- Article 13-14 of the Law on competition prohibits abuse of dominance
 - **Vinapco Case**
 - **Price Agreement by Insurance Companies**
 - **Synergy Limited Liability Company**



Competition Law in Thailand

- Thai Competition Act 1999
- Section 4 Exemption
- Section 25 deals with abuse of dominant market power
- Section 27 forbids the collusive and cartel agreements that have an effect on market competition
 - No valid cases – Only investigation but to legal action
 - Majority of opinions of MSMEs suppliers toward large modern trade are somewhat unfair business practices



Situation of Retail market and MSMEs

Malaysia

- Markets are under regulatory and policy controls in order to govern large corporates and to protect MSMEs

Thailand

- MSMEs in retail sectors are dying out off the market
- Modern large retail both in supermarket and convenience store are able to controls retail sectors.

Vietnam

- MSMEs still maintains in control of retail markets



Competition law contexts

Malaysia

- Initially enforce to MSMEs anticompetitive conducts.
- No case on large retail abuse to MSMEs
- Building awareness of competition law to MSMEs
- Possible investigation on MSMEs' complains

Thailand

- Ineffective competition law
- No case on competition law enforcement

Vietnam

- No case or complaints about competition law on abuse of market power
- Competition law has been enforced to deal with dominance firm
- Challenging issues over overseas corporates in retail sector



Closing Remark

- Need to create awareness of competition law with minimized compliance cost to MSMEs
- Competition law Regulation to control imbalance bargaining power in market competition- Large and MSMEs.



- The faster pace of ASEAN market integration, the more challenges on competition law and MSMEs.
- In a regional perspective, there is need to establish regional consensus to govern fair market competition between large corporates and MSMEs.



Competition Law and MSMEs: Myth or Reality?

Answer: Competition Law and MSMEs is a Reality



**Thank you very
much**

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