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Indonesia	4
1. ICC targets to improve enforcement of payment of unpaid administrative fines through cooperation with AGO from 2021	4
2. Implementation of 100 working day programme to monitor competition in various sectors	4
3. Investigation into Shopee over alleged monopolistic practices	5
4. ICC hears bid-rigging case in Nusa Penida	5
5. ICC hears allegations of price fixing by providers of container depot services at Panjang Port of Lampung	5
Singapore	6
1. Issuance of Guidance Note for Environmental Sustainability Collaborations by CCCS	6
2. Commencement of Phase 2 Review of Proposed Acquisition by Grab Rentals of Trans-cab Holdings	7
3. Conditional Approval Granted for SIA, Air India and Vistara Airline Transactions	7
4. Consultation on proposed cooperation between SIA and Garuda Indonesia	8
5. CCCS issued Interim Measures Directions during the Possible Acquisition by Grab of Delivery Hero's business in Singapore	9
Malaysia	9
1. MyCC intends to table merger control law and other amendments to competition law in Parliament	9
2. MyCC to investigate cartel elements in national rice and padi industry to curb rising prices	10
3. MyCC to enhance enforcement efforts	10
4. MyCC to focus on sustainability and industrial, food and digital sectors	10
Philippines	11
1. Increase in merger notification thresholds	11
2. Clearance of Fresh River's acquisition of Casecan power plant	11
3. Collaboration between PCC and ERC to address competition concerns in power sector	12
4. PCC signs a Memorandum of Understanding with ACCC	12
Thailand	12
1. Alleged unfair practices by retail business operator imposing unfair lease conditions	13
2. Alleged unfair practices by franchisor of coffee shop businesses	13
3. TCCT remains active in merger control	13
Vietnam	14
1. VCC signs a Memorandum of Understanding with ACCC	14

Overview

Dear Friends,

2024 has barely begun and the first quarter is passed. We are pleased to present our first Regional Competition Bites for this first quarter in 2024. There have been various legislative and regulatory changes across Southeast Asia, with regulators enacting new laws and issuing guidelines concerning competition law.

Domestic cartels and other investigations continue to happen within each country, with multi-jurisdictional investigations seemingly still at bay, with the rare occurrence.

On the merger front, however, there have been noteworthy developments. The long-awaited law establishing merger control in Malaysia is reportedly targeted to be introduced later this year. According to the CEO of the Malaysia Competition Commission ("**MyCC**"), the proposed amendments to the Competition Act 2010 which will introduce the merger control regime are slated to be presented to Parliament by June 2024. Additionally, specific industries governed by their respective regulators, such as those within the telecommunications and multimedia, water, and aviation sectors, will be exempted from the merger control regulations. In the Philippines, the Philippine Competition Commission ("**PCC**") has recently increased the mandatory merger notification thresholds. With effect from 1 March 2024, mergers and acquisitions that exceed a size of party of PhP 7.8 billion (previously PhP 7 billion) and a size of transaction of PhP 3.2 billion (previously PhP 2.9 billion) must be notified to the PCC. We, however, do not see this increase in thresholds acting as a damper in the number of mergers to be notified. Singapore, the sole voluntary regime nevertheless has issued its decision in one of the most complex mergers in this part of the world involving the Aviation industry. Additionally, as a show of how Singapore takes merger filings seriously, CCCS imposed interim measures formally in a yet to be signed merger, based off concerns it had about the impact in the market.

Separately, the interest in sustainability and how sustainability considerations interplay with competition law and policy continues to remain. For instance, MyCC in Malaysia has expressed focus on sustainability and shaping competition policy in industrial, food, and emerging digital industries. Similarly, the Competition and Consumer Commission of Singapore ("**CCCS**") has issued guidance on environmental sustainability collaborations, aligning with national efforts to achieve environmental sustainability goals.

Furthermore, there has been increased collaboration to facilitate information exchange between competition authorities. The Vietnam Competition Commission ("**VCC**") signed a Memorandum of Understanding with the Australian Competition and Consumer Commission ("**ACCC**"), to allow greater cooperation and exchange of information, leading to better enforcement outcomes in Vietnam.

Another trend among competition regulators is increased efforts to enhance the efficacy of competition law. For instance, the Indonesia Competition Commission ("**ICC**") has entered a collaboration with the Attorney General's Office to bolster the enforcement of unpaid fines and implemented a 100 working day program to monitor competition across diverse sectors. In Malaysia, MyCC also intends to suggest revisions to its competition legislation to simplify the investigative and enforcement procedures. This highlights a commitment to improving efficiency and effectiveness in enforcing competition laws.

The Rajah & Tann Asia team Competition & Antitrust Team remains committed to staying abreast of the dynamic landscape of competition law in the region and stands ready to assist. Please reach out to us if you wish to further discuss these developments.

The Rajah & Tann Competition & Antitrust and Trade Practice

Contact No: 65-6232 0111

Email: kala.anandarajah@rajahtann.com

Indonesia

The Indonesia Competition Commission ("**ICC**") continues to be active in its efforts to improve the effectiveness of competition law enforcement in Indonesia, as apparent from its cooperation with the Attorney General's Office ("**AGO**") to improve enforcement of payment of unpaid competition law fines, and its implementation of the 100 working day programme, which involves the monitoring of competition in various sectors. ICC also remains active in its enforcement against parties who engage in anti-competitive conduct, including monopolistic practices, bid rigging and price fixing.

1. ICC targets to improve enforcement of payment of unpaid administrative fines through cooperation with AGO from 2021

Cooperation – Enforcement of competition law fines

On 7 February 2024, the ICC Chairperson, M. Fanshrullah Asa, met with the Attorney General ST Burhanuddin to discuss how to enhance coordination between ICC and Attorney General's Office ("**AGO**") to improve the effectiveness of enforcing the payment of unpaid fines arising from competition law violations by businesses. It was highlighted that over the past 23 years, there remains approximately IDR 286 billion in unpaid fines involving 191 business actors from 115 decisions.

This follows from the cooperation between ICC and AGO, which was established through a Memorandum of Understanding signed on 4 June 2021. The cooperation involves, amongst other things, the provision of information, consultation, and coordination between ICC and AGO through a joint team that executes various ICC decisions. Since the establishment of the MoU, the joint team has succeeded in executing overdue administrative fines amounting to IDR 6.6 billion from 22 businesses.

Although the meeting did not result in any additional agreements being entered into between ICC and AGO, ICC nevertheless hopes that the current cooperation between the agencies will improve the effectiveness of competition law enforcement and ensure fair competition in Indonesia.

2. Implementation of 100 working day programme to monitor competition in various sectors

Focus Sectors – Oil & gas, digital markets, food

On 15 February 2024, the Chairman of ICC announced ICC's initiation of various measures in line with his 100 working day programme, which aims at monitoring competition in various sectors with the lowest or below average National Business Competition Index, such as the oil and gas sector. ICC will also continue to focus on the digital market, and market for the provision of food.

In the oil and gas sector, ICC aims to improve the supply and distribution of aviation fuel in order to enhance market performance. This is through measures such as implementing open access in the aviation fuel supply and distribution market, and a multi-provider aviation fuel system, with conditions ensuring infrastructure readiness and fair competition.

In the digital market, ICC has focused its supervision on the behaviour of various large technology companies in the market, with the aim of ensuring fair competition and market growth. For

example, ICC has completed an investigation into Google for its alleged use of dominant position to suppress the market by implementing Google Pay Billing.

In the market for the provision of food, ICC continues to actively monitor price fluctuations in essential food commodities, focusing particularly on trade systems, import policies, and distribution to customers.

3. Investigation into Shopee over alleged monopolistic practices

Investigation – Monopoly

In February 2024, ICC initiated an investigation into Shopee over allegations of monopolistic practices in relation to its in-house logistics service, Shopee Xpress. This entails Shopee's decision to automatically direct users to its affiliated shipping companies (such as Shopee Xpress) for deliveries, which restricts users from picking their desired courier services from other providers at their preferred prices. This had allegedly resulted in a significant increase in shipping volume for Shopee's affiliates, particularly Shopee Xpress, and thus raised concerns about fair competition in the e-commerce market.

If found guilty, Shopee could face a minimum fine of 1 billion rupiah, and a maximum of 50% of its net profits or 10% of total sales earned (calculated based on the relevant market defined by ICC) during the period of the violation.

4. ICC hears bid-rigging case in Nusa Penida

Trial – Bid-rigging

On 16 February 2024, ICC commenced hearings against six parties who were allegedly in a conspiracy with the aim of determining the awardees of a tender. The parties include 4 construction companies that had submitted bid documents for the tender, and 2 groups of officials from the Nusa Penida Port Organising Unit. The tender was for the procurement of construction work for the development of Nusa Penida Sea Port Facilities for the fiscal year 2022. Such conduct amounts to alleged violations of Article 22 of Law Number 5 of 1999.

Based on the ICC's investigation, the tender was ultimately won by one of the companies who was party to the conspiracy. The investigator also found that there was a discrepancy in the offering documents and digital data, which evinced bid-rigging conduct.

The second and third hearing were conducted on 14 March 2024. ICC is in the process of deciding whether the case will proceed to the further examination stage, which will last up to 60 working days, extendable for another 30 working days. During this stage, KPPU will further examine the evidence and may conduct site visits. KPPU will then deliberate and issue a ruling on the case within 30 working days of the further examination stage.

5. ICC hears allegations of price fixing by providers of container depot services at Panjang Port of Lampung

Trial – Price fixing

On 22 February 2024, ICC commenced hearings against four parties who allegedly engaged in price fixing when providing container depot services at Panjang Port, Lampung. Price fixing is prohibited under Article 5 of Law Number 5 of 1999, which states that business actors are prohibited from entering into agreements with their competitors to fix the price of certain goods/services paid by consumers in the relevant market.

The alleged price fixing was done by the parties setting an upper and lower limit tariffs for container depot services carried out by businesses who are members of the Lampung Chapter of the Indonesian Container Depot Association (ASDEKI). Based on investigations, it was revealed that the Parties had agreed on the tariff limits for various container types during an ASDEKI meeting on 22 January 2022, and the limits were to be effective from 1 May 2022. The trial is currently in progress.

Singapore

With the issuance of the Guidance Note for Environmental Sustainability Collaborations by CCCS, seemingly more certainty and clarity has been provided to businesses who wish to pursue environmental sustainability objectives. This supports Singapore's whole-of-nation efforts to realise its environmental sustainability goals. New developments aside, despite being a voluntary regime, merger notifications still take up a considerable amount of CCCS' time. Some recent decisions include conditional approval being recently granted for a series of transactions entered into by Air India, Singapore Airlines, and Vistara, subject to adherence with commitments, and the initiation of a Phase 2 Review of Proposed Acquisition by Grab Rentals of Trans-cab Holdings. CCCS also issued interim measures directions during the possible acquisition by Grab of Delivery Hero's business in Singapore.

1. Issuance of Guidance Note for Environmental Sustainability Collaborations by CCCS

Guidelines – Sustainability

On 1 March 2024, CCCS issued a Guidance Note on Business Collaborations Pursuing Environmental Sustainability Objectives ("**ESCGN**"). The ESCGN clarifies how CCCS will assess business collaborations pursuing environmental sustainability objectives under the Competition Act 2004, with such objectives including climate change mitigation measures, improvement of air and water quality, efficient use of natural resources, and biodiversity preservation. This aligns with Singapore's commitment to achieve net zero emissions by 2050 under the Singapore Green Plan 2030.

The ESCGN provides guidance on CCCS's approach when assessing whether business collaborations pursuing environmental sustainability objectives infringe 34 of the Competition Act 2004. It includes examples of the following:

- (a) Collaborations pursuing environmental sustainability objectives that are unlikely to raise competition concerns, i.e., collaborations that do not affect how businesses compete each other, in relation to the price, quantity, quality, choice or innovation relating to the goods/services supplied, or where businesses are unable to carry out the activities independently.
- (b) Conditions under which competition concerns are less likely to arise in common types of business collaborations, such as there being no exchange of commercially sensitive information.

- (c) Collaborations with a higher risk of competition concerns arising, such as collaborations that restrict competition by object, and collaborations that would be subject to an economic assessment of their effects of competition. CCCS will also consider factors such as whether the parties face strong competitive constraints from other credible competitors in the relevant market, any barriers to entry or expansion, and whether customers can switch suppliers or have countervailing buyer power.

The ESCGN also explains how collaborations that raise competition concerns may qualify for the Net Economic Benefit ("**NEB**") exclusion under the Third Schedule to the Competition Act 2004. The NEB exclusion provides that if the efficiency gains from an agreement outweighs the harm done to competition, such agreement will not contravene section 34 of the Competition Act 2004, even if it appreciably restricts competition.

Businesses are encouraged to use the ESCGN to self-assess their collaborations. Businesses that wish to seek more legal certainty may choose to notify their collaborations to CCCS for guidance or decision. In this regard, CCCS has introduced a two-phase, streamlined notification process to provide a quicker assessment, with simple collaborations being reviewed in Phase 1 within 1 working days, while complicated collaborations may progress to an additional Phase 2 review of 120 working days.

2. Commencement of Phase 2 Review of Proposed Acquisition by Grab Rentals of Trans-cab Holdings

*Merger – Phase
2 Review*

On 25 January 2024, CCCS commenced an in-depth Phase 2 review of the proposed acquisition by ride-hailing company, Grab Holdings Limited ("**Grab**") through its wholly-owned subsidiary, Grab Rentals Pte. Ltd. ("**GrabRentals**") of 100% of the shares of Trans-cab Holdings Ltd. ("**Trans-cab**"), Singapore's third-largest taxi operator. During the Phase 2 review, which spans up to 120 days, CCCS will seek to determine whether the proposed acquisition would infringe section 54 of the Competition Act 2004, which prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition within the market.

This follows CCCS concluding at the end of the Phase 1 review, which began on 7 August 2023, that it was unable to conclude that the proposed acquisition would not raise any competition concerns, despite the Parties' commitments proposal. Notably, CCCS did not accept the Parties' commitments proposal as amongst reasons, it found that the proposed duration of two years was insufficient to address competition concerns arising from a permanent change in market structure. After completing its Phase 2 review, CCCS will then decide whether to issue a favourable or unfavourable decision on the proposed acquisition.

A critical important point that emerges from this case is the reminder that for any commitment proposal, a fair duration needs to be provided. From numerous cases that we have been involved in as well others, CCCS has simply not accepted durations shorter than three years, and that too is typically after a hard push.

3. Conditional Approval Granted for SIA, Air India and Vistara Airline Transactions

*Merger –
Clearances*

On 5 March 2024, CCCS granted conditional approval for three transactions (the "**Transactions**") after accepting commitments from Air India Limited ("**Air India**"), Singapore Airlines Ltd ("**SIA**"),

and Tata SIA Airlines Ltd (which operates under the brand name "**Vistara**") (collectively, the "**Parties**"). These transactions include:

- (a) Talace Private Limited's ("**Talace's**") acquisition of all shares and voting rights of Air India (the "**First Transaction**"). This First Transaction was notified by Talace to CCCS on 14 December 2021, and CCCS completed its Phase 1 review and raised competition concerns with Talace.
- (b) The subsequent agreement entered into between Air India, Talace, Tata Sons Private Limited ("**TSPL**"), Vistara and SIA on 29 November 2022 (the "**Implementation Agreement**"), which CCCS had received a joint application for decision from SIA and Vistara on 30 November 2020. The Implementation Agreement would result in: (i) the merger of Talace and Vistara into Air India, with Air India as the surviving entity (the "**Integrated Entity**"); and (ii) SIA acquiring 25.1% of the enlarged equity capital of Air India (the "**Second Transaction**").
- (c) The proposed commercial cooperation between the Integrated Entity and SIA contemplated by the agreement dated 29 November 2022 between TSPL, SIA and Air India, to be given effect to through a new framework agreement, which envisions SIA and the Integrated Entity and SIA cooperating in the provision of scheduled air passenger transport services between Singapore and India ("**Revised Commercial Cooperation**").

After assessing the Parties' submissions and third-party feedback, CCCS identified competition concerns arising from the Parties' substantial market shares on four routes of concern between Singapore and India, as well as potential concerns with price and capacity coordination between the Parties.

To address these concerns, the Parties proposed commitments related to maintaining capacity levels on specific routes as well as schedules. After conducting a market testing exercise, CCCS concluded that the Proposed Commitments adequately address competition concerns, and granted approval to the Transactions on 5 March 2024, subject to adherence to the Proposed Commitments.

4. Consultation on proposed cooperation between SIA and Garuda Indonesia

Merger – Public consultation

On 13 March 2024, CCCS announced that they would be seeking public feedback from 14 to 27 March 2024 on the proposed Singapore-Indonesia Commercial Cooperation Framework Agreement ("**Proposed Cooperation**") between SIA and PT Garuda Indonesia (Persero) Tbk ("**GA**"), on whether the Proposed Cooperation infringes section 34 of the Competition Act 2004, which prohibits agreements or concerted practices by undertakings which prevent, restrict or distort competition within any market in Singapore.

The Proposed Cooperation between SIA and GA contemplates that the Parties will cooperate on, amongst other things, scheduling, pricing, sales, marketing, and other commercial areas (such as expanded code sharing and special prorated arrangements) to result in a metal-neutral alliance in respect of their services between Singapore and Indonesia.

5. CCCS issued Interim Measures Directions during the Possible Acquisition by Grab of Delivery Hero's business in Singapore

*Possible
merger
Interim
measures* –

On 2 February 2024, CCCS issued a set of Interim Measures Directions ("IMDs") to Delivery Hero and Grab in relation to the possible acquisition by Grab of the whole or part of the business of Delivery Hero in Southeast Asia, including Singapore.

The IMDs issued by CCCS aimed to ensure that the market remained open and contestable until the completion of CCCS's investigation. The IMDs ceased to be in effect from 23 February 2024 after CCCS was informed that the possible acquisition had been abandoned.

The actions by CCCS here, whether justified or otherwise, is a reflection of action steps that they are willing to take if they suspect that there could be a substantial lessening of competition, despite this being a voluntary regime. Although CCCS has the powers to do so, such steps are intrusive.

Malaysia

The long-awaited law establishing merger control in Malaysia is reportedly targeted to be introduced later this year, along with legislative amendments to streamline the investigative and enforcement processes. The Malaysia Competition Commission ("**MyCC**") remains an active regulator pursuing various domestic cartels, including investigating cartels in Malaysia's rice industry. MyCC has also expressed its focus on sustainability as well as industrial, food and emerging digital industries in shaping competition policy.

1. MyCC intends to table merger control law and other amendments to competition law in Parliament

*Draft
Legislation –
Merger Control*

On 4 January 2024, *The Star* reported that the long-awaited law establishing merger control in Malaysia is set to be introduced later this year.

According to an interview with En. Iskandar bin Ismail, the Chief Executive Officer of the MyCC, the proposed amendments are "about 80% complete" and are targeted to be tabled in Parliament in June 2024. The inclusion of this merger control regime would be achieved by amending the Competition Act 2010.

Whilst En. Iskandar did not specify what the proposed merger control thresholds would be, he indicated that the types of decisions that MyCC could make upon receipt of a merger notification are as follows:

- an approval without conditions because such mergers would not affect the market;
- an approval with conditions; or
- a rejection of the proposed merger because such mergers would cause a substantial lessening of competition in the relevant market.

En. Iskandar further confirmed that certain industries which have their own regulators, such as businesses in the telecommunications and multimedia sector, water sector, and the aviation sectors, will not be subjected to the merger control regime, under the Competition Act 2010.

In addition, Deputy Domestic Trade and Cost of Living Minister, Fuziah Salleh, announced that MyCC is set to propose amendments to both the Competition Act 2010 and the Competition Commission Act 2010 in Parliament this year. These amendments aim to streamline the investigative and enforcement processes under both acts, along with introducing the new merger control framework.

2. MyCC to investigate cartel elements in national rice and padi industry to curb rising prices

Cartels – Rice and Padi Industry

Minister Datuk Armizan Mohd Ali from the Ministry of Domestic Trade and Consumer Affairs ("KPDN") stated that KPDN and MyCC are focused on investigating potential cartel activities in Malaysia's rice industry. While the Ministry of Agriculture and Food Security ("KPKM") is the regulator of the padi and rice industry under Control of Padi and Rice Act 1994, KPDN and MyCC will collaborate with KPKM to take enforcement action against rice cartels. These increased investigation efforts aim to curb the country's rice industry from being controlled by cartels and are also a likely response to recent increase in rice prices resulting from production shortages.

3. MyCC to enhance enforcement efforts

Enforcement – Increased capabilities

Minister Datuk Armizan Mohd Ali from KPDN has mentioned plans to bolster enforcement efforts by increasing the number of MyCC investigators and KPDN enforcement officers. He acknowledged the fiscal constraints on new appointments but expressed the intention to fill existing positions to enhance enforcement capabilities. This initiative aligns with the allocation of an additional RM 10 million under Budget 2024 for MyCC. The implication of increased enforcement is that there will be a higher risk of non-compliance being detected and investigations will be carried out more robustly. This means companies need to take greater care to ensure compliance with competition law in Malaysia.

4. MyCC to focus on sustainability and industrial, food and digital sectors

Focus Areas – Sustainability and Key Sectors

The Deputy Domestic Trade and Cost of Living Minister, Fuziah Salleh, noted MyCC's focus on the food and agriculture sectors over the last year, pledging decisive action against any entities involved in cartels or market dominance abuse in these sectors. This statement was made in response to inquiries during a parliamentary session regarding MyCC's effectiveness in tackling cartel issues within local distribution chains and food product imports. Note that the focus on the food and agriculture sectors is not new or unique within Malaysia. These are sectors that go to the core of protecting consumer interest.

Separately, MyCC is reviewing how its competition policy can complement economic, industrial, food and emerging digital policies, alongside advancing a sustainable economy in Malaysia. Considerable time was spent discussing this at the Competition Economic Symposium hosted by MyCC on 18 January 2024.

Philippines

The Philippine Competition Commission ("**PCC**") has recently increased the mandatory merger notification thresholds, and cleared the acquisition of a Casecnan power plant by Fresh River Lakes Corporation. PCC has also been actively collaborating with other agencies, including the Energy Regulatory Commission to investigate competition concerns in the power sector, and the Australia Competition and Consumer Commission ("**ACCC**") to strengthen their cooperation on advocacy and enforcement.

1. Increase in merger notification thresholds

Merger – Increase in thresholds

With effect from 1 March 2024, PCC increased the thresholds for transactions that must undergo mandatory merger review, namely that mergers and acquisitions ("**M&As**") that exceed a size of party ("**SOP**") of PhP 7.8 billion and a size of transaction ("**SOT**") of PhP 3.2 billion must be notified to the PCC before the Parties proceed with a transaction. This marks an increase from the previous notification thresholds of PhP 7 billion (for SOP) and PhP 2.9 billion (for SOT), that were in effect from 1 March 2023 to 29 February 2024. The updated thresholds do not affect notifications filed before 1 March 2024, mergers and acquisitions currently under review, or those already reviewed and decided upon by the PCC.

For a merger or acquisition to be subject to compulsory notification, both the SOP and SOT thresholds must be met, along with any other thresholds applicable to a particular transaction (e.g., 35% or 50% resulting ownership in case of an acquisition of voting shares, or joint control in case of a joint venture).

This annual adjustment of notification thresholds by PCC is an annual exercise that is based on the Philippines' nominal gross domestic product growth (e.g., 10.3% in 2023). This is done to ensure relevance to the changing economic landscape.

Note that even if a transaction does not breach the thresholds, PCC may nevertheless review the merger if it has reasonable grounds to suspect that the transaction is likely to result in a substantial lessening of competition, or in case of a voluntary merger notification by the parties. This is a reflection of the wide-ranging power that PCC has.

2. Clearance of Fresh River's acquisition of Casecnan power plant

Merger – Clearance

On 25 January 2024, PCC cleared Fresh River Lakes Corporation's ("**Fresh River's**") proposed acquisition of the 165-megawatt Casecnan Hydroelectric Power Plant from state-owned Power Sector Assets and Liabilities Management Corporation ("**PSALM**") and National Irrigation Administration ("**NIA**") ("**Proposed Transaction**"), which is valued at US\$526 million.

In its Phase 1 review, PCC found that overall, the Proposed Transaction would not result in a substantial lessening of competition in the relevant markets, as (i) competing energy generation companies would exert competitive pressure on the parties; (ii) the volume generated by the Casecnan Plant is unlikely to significantly impact the relevant markets; and (iii) the safeguards

under the Electric Power Industry Reform Act of 2001 ("**EPIRA**") are sufficient to ensure competitiveness in the market.

The Proposed Transaction aligns with PSALM's mandate under the EPIRA to privatise all assets of state-owned National Power Corporation.

3. Collaboration between PCC and ERC to address competition concerns in power sector

*Collaboration –
Power Sector*

On 22 February 2024, PCC and the Energy Regulatory Commission ("**ERC**") formed a joint task force to monitor and investigate anti-competitive practices in the power sector. This follows from a 2019 Memorandum of Agreement ("**MOA**") between the regulators to foster competition in the energy industry and uncover any anti-competitive conduct that harms consumer welfare, arising from concerns over power outages and rising electricity prices.

Through the joint task force, PCC can utilise the key industry data and insights shared by ERC, while ERC can leverage PCC's expertise in reviewing any agreements or behaviour to ensure compliance with competition law. This will ensure that PCC can effectively and efficiently look into any potential violations of competition law, and rectify them for the benefit of consumers. This approach of cross-regulator cooperation within a country is not unusual and indeed employed across many of the Southeast Asian country competition regulators.

4. PCC signs a Memorandum of Understanding with ACCC

*Collaboration –
MOU with
ACCC*

On 28 February 2024, PCC and ACCC strengthened their cooperation on advocacy and enforcement by signing a Memorandum of Understanding ("**MOU**").

The MOU facilitates the exchange of information, experiences, and best practice dissemination regarding competition law and policy, and promotes technical assistance and capacity-building activities between PCC and ACCC. The MOU also provides for coordination and cooperation on cases of mutual interest, subject to confidentiality and legal requirements.

The MOU will further strengthen the strong bilateral ties between the Philippines and Australia, and enable PCC to continue enforcing competition laws effectively.

Thailand

In Thailand, the Trade Competition Commission of Thailand ("**TCCT**") has been investigating unfair practices by a retail business operator imposing unfair lease conditions and by a franchisor of coffee shop businesses, although these allegations were ultimately dismissed. The TCCT remains an active regulator for merger control, having issued a high volume of merger decisions to date. Thailand is clearly a crucial jurisdiction where mergers must be carefully assessed for notification.

1. Alleged unfair practices by retail business operator imposing unfair lease conditions

*Unfair
Conditions –
Leases*

On 13 February 2024, TCCT published a decision relating to alleged unfair practices by a retail business operator.

A retail businesses operator entered into a land lease agreement with the lessor. The terms of the land lease stated that the lessor cannot lease the land to persons conducting similar or related business activities as the retail business operator (i.e., operating mini-marts, convenience stores, or supermarkets). However, the lessor later wanted to rent out land for the operation of convenience stores and mini-marts and alleged that these were unfair lease conditions.

The TCCT found that the lessor had ample opportunity to fully understand these terms before entering the contract and the terms were agreed based on negotiations. In addition, it was customary for retail businesses to maintain such leasing conditions in order to compete in the retail market. Hence, TCCT deemed that there were reasonable business justifications and concluded there was no unfair practice under section 57 of the Trade Competition Act 2017.

2. Alleged unfair practices by franchisor of coffee shop businesses

*Unfair
practices –
franchising
industry*

On 6 March 2024, TCCT published a decision relating to alleged unfair practices by a franchisor of a coffee shop businesses.

The franchisee of a coffee shop business complained that the franchisor had unfairly increased the price of raw materials used in the franchise operation. However, TCCT found that this price increment was justified due to the increased cost of raw materials. In addition, the franchisor had provided the franchisee with advance notice of the increment. Hence, TCCT found that the adjustment of raw material prices was a reasonable business decision and did not constitute an unfair trade practice.

In addition, TCCT held that the franchisee changing delivery conditions according to the contract and implementing a more efficient cash recording system, were also reasonable actions and not unfair practices under section 57 of the Trade Competition Act 2017.

3. TCCT remains active in merger control

*Clearances –
Mergers*

The TCCT continues to be an active regulator, having published over 230 decisions as of the first quarter of 2024. Merger decisions account for 122 of these decisions. We emphasise that these may not be complete numbers as there is a lag in publishing decisions. Nevertheless, the high volume of merger decisions shows that the merger control regime of Thailand is a serious one and underscores the importance of assessing whether Thailand is a relevant jurisdiction that requires notification when submitting merger notifications.

Vietnam

The Vietnam Competition Commission ("**VCC**"), the competition regulator in Vietnam entered into a Memorandum of Understanding ("**MOU**") with the Australian Competition and Consumer Commission ("**ACCC**"). This is to facilitate greater cooperation and exchange of information between the commissions, and potentially to lead to better regulatory and enforcement outcomes in Vietnam.

1. VCC signs a Memorandum of Understanding with ACCC

*Collaboration –
MOU with
ACCC*

On 8 March 2024, VCC and ACCC strengthened their collaboration in ensuring strong regulatory and economic outcomes by signing an MOU. The MOU facilitates cooperation and information exchange between the two authorities, as well as promotes the delivery of technical assistance activities.

The MOU also outlines the shared objectives and approaches between VCC and ACCC, and includes arrangements to collaborate on bilateral activities, such as sharing best practices through the exchange of officials, non-confidential information, and experiences on matters of mutual interest, and conducting periodic study visits, workshops, or training courses for VCC and ACCC staff and other officials.

Overall, the MOU aims to ensure a fair, competitive environment for economic sectors, in order to promote economic growth, trade transactions, cooperation and foreign investment between Vietnam and Australia.

Our Achievements: Practice Accolades

Rajah & Tann Asia has been named as a leading Competition Practice across several different jurisdictions across South East Asia by all of the major legal ranking journals, including but not limited to:

<p>Global Competition Review 100 (GCR100) 2024</p>  <p>Elite Law Firms:</p> <p>Christopher & Lee Ong C&G Law Rajah & Tann Singapore R&T (Asia) Thailand</p>	<p>Chambers Asia Pacific 2024</p>  <p>Assegaf Hamzah & Partners: Band 1</p> <p>Rajah & Tann Singapore: Band 1</p> <p>Christopher & Lee Ong: Spotlight</p>	<p>The Legal 500 Asia Pacific 2024</p>  <p>Assegaf Hamzah & Partners: Tier 1</p> <p>Christopher & Lee Ong: Tier 1</p> <p>Rajah & Tann Singapore: Tier 1</p> <p>C&G Law: Tier 1</p>
<p>asialaw 2023-24</p>  <p>Assegaf Hamzah & Partners: Outstanding</p> <p>Rajah & Tann Singapore: Outstanding</p> <p>Christopher & Lee Ong: Highly Recommended</p> <p>C&G Law: Highly Recommended</p>	<p>ALB Indonesia Law Awards 2023</p>  <p>Assegaf Hamzah & Partners: Winner (Antitrust and Competition Law Firm of the Year)</p>	<p>In-house Community Firm of the Year 2022</p>  <p>Christopher & Lee Ong: Winner</p> <p>Rajah & Tann Singapore: Winner</p> <p>C&G Law: Winner</p>

Our Achievements: Individual Accolades

The members of our Rajah & Tann Asia Competition & Antitrust and Trade team have also been individually recognised in various legal ranking journals, including but not limited to:

<p>Chambers Asia Pacific 2023 – Competition / Antitrust</p>  <p><i>Indonesia:</i> Rikrik Rizkiyana (Band 1) Farid Nasution (Band 1) Asep Ridwan (Band 1) Albert Boy Situmorang (Band 1)</p> <p><i>Singapore:</i> Kala Anandarajah (Band 1)</p> <p><i>Malaysia:</i> Yon See Ting (Band 2) Jane Guan (Band 3)</p> <p><i>Philippines:</i> Norma Margarita B Patacsil (Band 2 for Corporate/M&A including Competition)</p>	<p>The Legal 500 Asia Pacific 2024 – Antitrust and Competition</p>  <p><i>Indonesia:</i> Rikrik Rizkiyana (Leading Lawyer) Farid Nasution (Leading Lawyer) Asep Ridwan (Leading Lawyer) Vovo Iswanto (Key Lawyer)</p> <p><i>Malaysia:</i> Yon See Ting (Leading Lawyer) Jane Guan (Next Generation Lawyer)</p> <p><i>Philippines:</i> Andrea Katipunan (Key Lawyer)</p> <p><i>Singapore:</i> Kala Anandarajah (Leading Lawyer) Alvin Tan (Key Lawyer) Joshua Seet (Key Lawyer) Tanya Tang (Key Lawyer)</p>	<p>Who’s Who Legal – Global Leaders: 2023</p>  <p>Competition <i>Indonesia:</i> Rikrik Rizkiyana <i>Malaysia:</i> Yon See Ting <i>Philippines:</i> Norma Margarita B Patacsil <i>Singapore:</i> Kala Anandarajah <i>Thailand:</i> Melisa Uremovic</p> <p>Experts – Economics – Competition Economists <i>Sinapore:</i> Tanya Tang</p>
<p>Best Lawyers in Singapore 2024 Awards - Competition/ Antitrust</p>  <p><i>Singapore:</i> Kala Anandarajah</p>	<p>The Legal 500 Asia Pacific 2022 - Antitrust and Competition</p>  <p><i>Indonesia:</i> Farid Nasution <i>Malaysia:</i> Yon See Ting <i>Singapore:</i> Kala Anandarajah</p>	<p>asialaw Profiles 2023-24 - Competition / Antitrust</p>  <p><i>Singapore:</i> Kala Anandarajah (Elite Practitioner) Joshua Seet (Notable Practitioner) <i>Indonesia:</i> Rikrik Rizkiyana (Notable Practitioner) <i>Malaysia:</i> Yon See Ting (Distinguished Practitioner)</p>

Our Regional Contacts

RAJAH & TANN | *Singapore*

Kala Anandarajah

D +65 6232 0111

E kala.anandarajah@rajahtann.com
Tanya Tang

D +65 6232 0298

E tanya.tang@rajahtann.com
Alvin Tan

D +65 6232 0904

E alvin.tan@rajahtann.com
Joshua Seet

D +65 6232 0104

E joshua.seet@rajahtann.com

RAJAH & TANN SOK & HENG | *Cambodia*

Heng Chhay

D +855 23 963 112 / 113

E heng.chhay@rajahtann.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*
Linda Qiao

D +86 21 6120 8801

E linda.qiao@rajahtann.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

HMBC Rikrik Rizkiyana

D +62 21 2555 7800

E rikrik.rizkiyana@ahp.id
Vovo Iswanto

D +62 21 2555 9938

E vovo.iswanto@ahp.co.id
Farid Nasution

D +62 21 2555 7812

E farid.nasution@ahp.co.id

RAJAH & TANN | *Lao PDR*

Khanti Syackhaphom

D +856 21 454 239

E khanti.syackhaphom@rajahtann.com

CHRISTOPHER & LEE ONG | *Malaysia*

Yon See Ting

D +60 3 2273 1919

E see.ting.yon@christopherleeong.com
Jane Guan

D +60 3 2267 2694

E jane.guan@christopherleeong.com

RAJAH & TANN | *Myanmar*

Min Thein

D +959 7304 0763

E min.thein@rajahtann.com
GATMAYTAN YAP PATACSIL
GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*
Norma Margarita B. Patacsil
D +632 8894 0377 to 79/ +632 8894 4931 to 32 /
+632 552 1977E nmbpatacsil@cagatlaw.com
Andrea E. Katipunan
D +632 8894 0377 to 79/ +632 8894 4931 to 32 /
+632 552 1977E andrea.katipunan@cagatlaw.com

RAJAH & TANN | *Thailand*

Melisa Uremovic

D +66 2 656 1991

E melisa.u@rajahtann.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Que Vu

D +84 28 3821 2382

E que.vu@rajahtannlct.com
Duy Cao

D +84 24 3267 6127

E duy.cao@rajahtannlct.com

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