

# Implementation of Competition Law in the Development of Market Economy and International Integration

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## 1. Birth of the Competition Law

Before 1986, Vietnam followed the centrally-planned and subsidized economy and was totally strange to competition and competing acts. After the market economy was developed, potentials of various classes are fully tapped and the local economy starts integrating into the world market, and as a result, the competition is considered as a dynamic of development and technological and scientific advances. A fair competition becomes a basis for an effective market economy.

Against such a background, in the 2000s, the Competition Bill was included in the NA agenda and passed by the NA of 9<sup>th</sup> term, in the session 6<sup>th</sup> on Dec. 3, 2004 and came into effect as from July 1, 2005. In many countries, the competition law is considered as the constitution of the market economy, an important step on the way to a mechanism for macroeconomic management, the building of a fair and discrimination-free competition, and a faster integration into the world economy.

Before the Competition Law, certain regulations against unfair competition or monopoly in some industries were included in some subordinate legislation, such as Price Ordinance, Telecommunications and post ordinance, Banking Institutions Law, Commerce Law, and Electricity Law, etc. Implementation of these regulations, however, were not effective as expected because of the lack of a perfect and consistent system of laws, a governmental body specializing in controlling unfair competition and monopoly, and strict punishment for violations. The birth of the Competition Law has provided a legal infrastructure for competition, create an environment for fair competition, remove discrimination, and prepare a level playing field for all sectors and classes.

## 2. Basic content of the Competition Law

The Competition Law is an important document that creates a legal infrastructure with a view to encouraging companies to compete and cooperate on an equal basis, dealing with negative effects of the competition by controlling efforts to dominate the

market or establish monopolies, and struggling against limits on a fair competition and unfair practices. This situation allows small companies to survive and develop beside the big ones. This is also an effort to institutionalize the Resolution of the VCP Congress IX: "The market economy requires a fair, legal and civilized environment for competition. The State creates a convenient and equal legal infrastructure for competition and cooperation between companies..."

With such objectives, the Competition Law (six chapters, 123 articles) is an instrument for regulating practices that limit the competition and unfair competition, setting procedures from handling disputes relating to the competition, and punishing violations of the law. The Competition Law forces companies to accept new regulations set forth by the Law and face sanction if violating it. It is given a higher priority in comparison with other laws in dealing with competition-related disputes and practices; and it applies to companies in all sectors, including government monopolies, trade associations and governmental bodies.

The Competition Law aims at the following targets:

- Controlling practices that limit the competition or the ones that lead to such limits (including practices by governmental bodies when they offer preferential treatment to a company [or a group], or practices that may create an unequal environment of competition), including agreements that limit the competition and abuses of monopolistic and dominant position, etc. especially when the market is open and integrates into the world market.
- Protecting legitimate right to do business by companies and fighting against unfair competition.
- Creating and maintaining an equal business environment without any discrimination against companies from any sectors.

## 3. Implementation of the Competition Law

The Competition Law has come into effect for three years. It is still a short period of time and this law is still new to many people, including



Photo by Huynh Tho

Law and regularly asked for advice from the Competition Agency when starting new operations. Many of them have applied the Law as an instrument for protecting their legitimate interest against unfair competition from rivals. Their efforts have helped the Competition Agency invest and handle unfair competition

businesspersons and civil servants. Up till now, not all governmental bodies realize the importance and roles of the Competition Law. Generally speaking, however, there are many encouraging and positive changes in the public recognition of the Law in the past three years.

- As for governmental bodies, the Competition Agency has cooperated and exchanged agreements with other governmental bodies, such as Electricity Distribution Agency, Drug Agency, Ministry of Post and Telecommunications, SBV, Intellectual Property Agency and Ministry of Health in promoting public awareness of the Law and its enforcement in related industries, handling competition-related disputes, and giving advice to policy makers. At present, many governmental bodies have proactively applied the Law to their practices. However, many regulations and decisions made by governmental bodies are still arbitrary and sometimes go against the Law, such as decisions to buy goods from certain suppliers or handle abuses of monopolistic or dominant position without consulting the Competition Agency.

As for companies, their awareness of the Law is not of the same level. Many of them have no idea of the Law and Competition Agency. Reach of the Law among companies is limited because the concept of "enforcement of Competition Law" is new to most of companies that have just started to get accustomed to the market economy and had no habit of competing fairly. Improving their awareness of this Law, however, will take a long time.

Some foreign-invested and local companies have studied and got full knowledge of the Competition

and practices that limit the competition.

These facts show that society and business circles expect a lot from the Law and Competition Agency on the way to a fair, equal and discrimination-free environment of competition.

#### 4. Urgent tasks in the coming years

To enforce the Competition Law in the coming years, the Competition Agency should carry out the following measures:

- Disseminating basic contents of the Competition Law in, at least, the business circles.
  - Beefing up quantitatively and qualitatively the army of officials of Competition Agency, Competition Council and its Secretary Office.
  - Beefing up supervision of the market, implementation of the law and regulations, and competition practices by companies.
  - Competition authorities should improve their advisory services for companies and trade associations; cooperate with related governmental bodies; and study foreign experience of investigating and handling competition-related disputes.
  - Reviewing, amending and perfecting the bulk of subordinate legislation on the competition and strengthening the machinery of law enforcement forces.
  - Regularly reminding companies of their tasks of observing the competition regulations and adjusting their business practices accordingly.
- We hope that efforts from both authorities and companies in the coming years will help the implementation of the Competition Law becomes more effective, and make the competition environment fairer and healthier. ■