

On Inequality of Business Opportunity Between State-Owned and Private Enterprises

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Freedom of business is a product of the market economy and a dynamic of growth. Politically, it is one of rights of citizens. Legislatively, it is the legal right for individuals and organizations. Article 57 of the 1992 Constitution of Vietnam reads, "Citizens have rights to do business as regulated by laws." If the law fails to ensure this right, the economy can't develop as expected to fulfil targets set by the State. The 1992 Constitution also accepts the mixed economy in which the public sector plays a leading role. For this reason, there are two laws regulating operations of companies: State-Owned Companies Law and Companies Law. From this classification, different policies are applied to sectors and naturally, the public sector enjoys more preferential treatment that reflect itself in many aspects:

(1) Land use right: According to the Land Law, state-owned companies could lease land from the State. Due to old mechanism in which there was no private sector and the public sector controlled the whole economic life, most state-owned companies occupied large areas (sometimes larger than their needs), convenient sites or locations without paying costs of land clearance and compensations. Values of the land use right isn't included in the production cost with the result that they become more competitive and make profit easily. This means that their business per-

formance will be poorer than what is publicized today if the land lease is included in the production cost. Non-state companies never enjoy such advantage. They have to lease land from state-owned ones. If they submit plans and apply for the land use right, they have to pay compensations for local residents during land clearance only to find there are land tenants.

(2) Access to formal loans: State-owned companies could get fiduciary loans of great sizes from state-owned banks and financial support from the Government when they make losses. Although the Government issued Decree 178/1999/NĐ-CP on Dec. 29, 1999 on the supply of loans that allows certain cases of fiduciary loans for private companies, few private companies could secure such loans.

(3) Opportunity to cooperate with, and receive investment from foreign partners: Only a few representatives from private companies are invited to accompany political leaders to go abroad to look for business opportunities.

(4) Competition: The public sector monopolizes all profitable industries (power and water supply, telecommunications.) This situation affects badly the economic growth and damages interests of the State, companies and consumers as well. Thinking through, the monopoly isn't of benefit to these state-owned companies themselves because their competitiveness becomes poorer and poorer. And as a result, they would fail to compete against foreign rivals

when Vietnam is forced to integrate into the world economy. In addition, the lack of anti-trust law prevents private companies from struggling against these monopolies. Until recently, the anti-trust law has been submitted to the National Assembly for discussion. Theoretically and practically, the struggle against the monopoly still faces a lot of difficulties. Dealing with this problem requires careful studies and much time.

This inequality of business opportunity leads to many disastrous consequences:

- Too much preferential treatment given to the public sector lead to the waste of many resources (the land for example.)

- Limits on the private sector hinder the liberation of internal resources and productive forces needed for the economic growth. Idle money held by the public isn't channeled to development projects.

- Unfair competition damages the competitiveness of all sectors and distorts economic activities, and makes it difficult to estimate the performance of companies.

Companies and economic growth need a level playing field. Because both state-owned and private companies consider profits as their ultimate target, they should be given equal opportunity, equal right to resources, equal treatment from the government and equal obligations to the national development. For the time being, the NA had better make a Companies Law applied to all companies of all sectors. ■

