Pilot Competition Assessment in Viet Nam

Submitted by: Economica Vietnam
PROMOTING COMPETITION ASSESSMENT FOR IMPROVED MARKET EFFICIENCY IN VIETNAM

PILOT COMPETITION ASSESSMENT IN VIETNAM

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COMPETITION IN THE ECONOMY IS NOT ONLY REGULATED BY COMPETITION LAW

- Competition Authority
  - Competition law, Enforcement of Competition law

- Other authorities in charge of policy development and management
  - Laws, sectoral regulations, enforcement of sectoral regulations

Higher competition in the economy; strict implementation of market principles
Pilot assessment aims to introduce / demonstrate the feasibility of applying a systematic competition assessment to a developing economy like Vietnam.

Promoting the use of the APEC-OECD framework on competition assessment systematically in the reform of competition regulations and policy, which will contribute to improved competition policy and market efficiency in Viet Nam.

Sharing experiences on applying the APEC-OECD competition assessment framework in policy formulation and implementation in Vietnam.
PURPOSE OF PILOT STUDY

- APEC-OECD framework on Competition Assessment was endorsed by APEC Economic Committee
  - Provide principles and non-binding approaches to implementing competition assessment systematically and consistently in APEC member economies;
  - Identify the need and enhance the capacity of APEC member economies on the application of competition assessment;
  - Provide principles of competition assessment and APEC good practices in making legal documents; and
  - Promote cooperation between APEC member economies, and between APEC and OECD on competition assessment.
APPROACH & METHODOLOGY
APEC-OECD framework on Competition Assessment is used as the foundation and framework for the pilot assessment.

Methodology: expert interviews, literature review, consultations

Focused sectors: transportation, and food & beverages.
SOME KEY FINDINGS
A. LIMITS THE NUMBER OR RANGE OF SUPPLIERS
A1. GRANTS OF EXCLUSIVE RIGHTS

- BOT investors must sign a contract with one company selected by the Ministry of Transport, namely VETC, the company providing automatic toll fee collection services.

- Ministry of Transport implemented a pilot program, encouraging traffic participants to open BOT payment account at only one nominated bank so that VETC can quickly deduct fee payments, resulting in fierce criticisms from many other banks.
A. LIMITS THE NUMBER OR RANGE OF SUPPLIERS
A1. GRANTS OF EXCLUSIVE RIGHTS

- Vietnam Airlines Corporation (ACV) has been appointed to exclusively operate all 22 airports.

ACV thu hơn 2.000 tỷ nhờ độc quyền dịch vụ máy bay cá tị, hạ cánh
Business conditions for food processing and trading are regulated by the Ministry of Agriculture and Rural Development (MARD), Ministry of Health (MOH) and Ministry of Industry and Trade (MOIT). In addition, the Ministry of Science and Technology (MOST) is responsible for developing standards, testing laboratories and controlling goods quality.

A. LIMITS THE NUMBER OR RANGE OF SUPPLIERS
A2. ESTABLISHES A LICENSE, PERMIT OR AUTHORIZATION PROCESS AS A REQUIREMENT FOR OPERATION
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“... In the past 20 days, I have received about 7 delegations and inspections. Due to too many delegations, I had to set up a specialized reception team. That team consists of 3 people with a total salary of nearly VND 30 million...

- Nguyễn Khánh Trình, CEO
Business Start-up, Chain of clean food shops
Soi Bien
A. LIMITS THE NUMBER OR RANGE OF SUPPLIERS

A3. LIMITS THE ABILITY OF SOME TYPES OF SUPPLIERS TO PROVIDE A GOOD OR SERVICE

Draft Law on Prevention of Harm from Wine and Beer

Article 7 - Prohibition of beer promotion (while under other Laws, beer does not fall into the category of prohibition of advertising).

Article 8 - Prohibition of advertising for beer with 5 alcoholic degrees or less in cultural and sports events.

Article 9 - Prohibition of beer advertisement beer in sponsorship activities.

Article 14 - Applying beer sales time. Only be allowed to sell beer during certain hours of the day.
In October 2017, the Hanoi Department of Transport issued a draft regulation on public transport by car within the city boundary.

- Taxis are only allowed to pick up passengers in the registration area, and will not be able to park or pick up passengers from other places.
- Hanoi will be divided into two zones that are numbered one and two. Zone 1 will include the districts within city boundary and Zone 2 will include other districts in the extended areas of the city. Depending on their license plates, taxis will not be allowed to park and wait for passengers out of their registered zones. They could, of course, drop off passengers anywhere in the city from their territory.

... This is impossible. The division between administrative areas will increase the unloaded travel by drivers when moving from one territory to another because they are not allowed to receive guests outside the permitted territory. This increases the cost in operation and monitoring, reducing competitiveness.

Do Quoc Binh, Chairman of Hanoi Taxi Association
A. LIMITS THE NUMBER OR RANGE OF SUPPLIERS
A4. SIGNIFICANTLY RAISES COST OF ENTRY OR EXIT BY A SUPPLIER

- Decree 86/2014 stipulates that taxi companies must have at least 10 vehicles, and in special-grade cities, the figure must be at least 50. Buses, freight transport, contract cars, passenger cars with a distance of 300 km or more ... must have at least 10 cars if they are headquartered in central cities and have from 5 vehicles if they are based in other localities.

- This regulation restricts opportunities to enter the market of new businesses, small businesses; restrict business rights of enterprises (the right to decide how many vehicles to ensure a highly competitive and profitable business plan).

- This condition does not contribute to the implementation of objectives such as ensuring traffic safety, reducing accidents, improving competitiveness of enterprises ...
Since 2011, Hanoi Department of Transport has stopped issuing licenses to establish new taxi firms. However, many firms tried to get over the regulations by registering their taxis in other provinces and then operating them in Hanoi. Since 2016, the department has banned over 3,000 taxis registered in other provinces but operating in the capital.
B. LIMITS ON THE ABILITY OF SUPPLIERS TO COMPETE

B1. CONTROLS THE PRICES AT WHICH GOODS OR SERVICES ARE SOLD

Decree 177/2013 / ND-CP of the Government dated November 14, 2013 guiding the price management mechanism of the state. Accordingly, the goods and services subject to price stabilization include:

1. Gasoline, finished oil;
2. Retailed Electricity;
3. Liquefied petroleum gas (LPG);
4. Urea fertilizer; NPK fertilizer;
5. Plant protection products;
6. cattle and poultry
7. Salt
8. Milk for under 06 year-old children;
9. Edible sugar, including white sugar and refined sugar;
10. Paddy, rice
11. Medicines for humans

Price management distorted economic rules. Enterprises have little incentive to supply, thus may cause scarcity in the market. On the other hand, it also distorts the allocation of economic resources in general.
B. LIMITS ON THE ABILITY OF SUPPLIERS TO COMPETE

B1. CONTROLS THE PRICES AT WHICH GOODS OR SERVICES ARE SOLD

Organizations and individuals that produce and / or trade in the following goods items must declare their prices to the State:

1) Goods and services on the list of goods and services subject to price stabilization during the time when the State does not apply price registration measures.
2) Cement, steel for construction;
3) Charcoal;
4) Feed for livestock, poultry and aquatic products; Antidote, antiseptic, disinfectant, treatment for cattle, poultry and aquatic products;
5) Printed, written paper (in rolls), domestically produced newsprint;
6) Service charges at seaports, air service rates at airport airports;
7) Freight for transporting passengers by rail with hard seat;
8) Textbook;
9) Air fares on domestic routes that are not on the list of State-prescribed price frames;
10) Medical examination and treatment for people at private medical facilities; medical examination and treatment upon request at the state medical facilities;
11) Passenger transport charges for fixed road routes; charges for passenger transport by taxi;
12) Functional foods for under 06 year-old children as prescribed by the Ministry of Health;
13) Other goods and services in accordance with specialized laws.
Eurocham recommends that the government remove price controls and allow the market to regulate prices because such controls violate the principle of a free market economy. “We are concerned that these measures not only affect the business performance of firms in the short and medium term but also affect the prospects of long-term investment and trade in general. Government intervention in business decisions of enterprises sends negative signals to investors that Vietnam’s investment environment is not really stable, open or coherent.”

(Source: "Remove the ceiling price for dairy products, VietnamNews.vn, 03/03/2017)
Draft Law on Prevention of Harm from Wine and Beer

Article 7 - Prohibition of beer promotion (while under other Laws, beer does not fall into the categories for which promotion/sale is prohibited).
Article 8 - Prohibition of advertising for beer with 5 alcoholic degrees or lower in cultural and sports events.
Article 9 - Prohibition of beer advertisement in sponsorship activities.
Article 14 - Applying beer sales time. Only be allowed to sell beer in certain hours of the day.
B. LIMITS ON THE ABILITY OF SUPPLIERS TO COMPETE

B2. RESTRICTS ADVERTISING AND MARKETING

“Limiting the promotion of alcohol is more reasonable than banning”
Mr Jon Aspin (Australian):

“Emphasize the message of drinking responsibly”
Mr Alok Bhute (Indian)

“Banning sponsorship is excessive”
Mr Daniel Gordon Jones (British)
B. LIMITS ON THE ABILITY OF SUPPLIERS TO COMPETE

B3. SETS STANDARDS FOR PRODUCT QUALITY

- Draft National Standard for Fish Sauce Production Practices (Ministry of Agriculture and Rural Development)

- The regulations are very impractical: the standard requires that fish sauce container must be in light colors, while in fact, fish sauce is made in cement tanks, jars, wooden barrels. Or regulation that the histamine content in fish sauce must be below 400 ppm.

- Traditional fish sauce producers are most concerned that state authorities adopts a definition that eliminates the difference between traditional fish sauce and industrially prepared fish sauce.

- There are about 2,800 traditional fish sauce production facilities, while industrial fish sauce has only a few "giants".

Bố ra 1 tiêu chuẩn, vạn dân lo sợ: Lại ấn ý gì với nước mắm truyền thống?

Chuyên gia cho rằng Tiêu chuẩn quốc gia về quy phạm thực hành sản xuất nước mắm không phù hợp thực tế. Điều nguy hiểm là có
B. LIMITS ON THE ABILITY OF SUPPLIERS TO COMPETE
B4. RAISES THE COSTS OF SOME SUPPLIERS RELATIVE TO OTHERS

- Representatives of taxi associations and taxi firms complained about the strict business conditions for traditional companies related to parking area, registration license, logo, price list, unity and price registration...

Instead of looking for ways to reduce the cost of traditional taxis, the MOT chose a "traditional" management approach
Vietnam Food Association (VFA) has several mandates by the government to control the rice industry. Specifically, it is responsible for setting floor prices for farmers and businesses, to support producers to sell rice at a time of surplus and to allocate export quotas among nearly 100 large commercial enterprises, including many SOEs. The VFA also controls rice export contracts and the number of companies eligible for export.
The draft decree replacing the Government's Decree No. 86/CP/2014 on the conditions of automobile transportation business has been submitted by the Ministry of Transport (MOT) to the Government, which abolishes the minimum number of vehicles required for transport business enterprises.

However, many transport companies and Vietnam Automobile Transport Association have disagreement.

With this move, there is a basis to believe that the association is protecting large incumbent enterprises, instead of supporting the expansion of the market and creating a levelled playing field for automotive transport market.

“This rule should not be removed. This will lead to a situation where it is difficult to manage small-scale transport enterprises, with more chaos in the transport market…”

Vietnam Automobile Transport Association
Tens of thousands of people will incur the cost, time and effort to transfer their accounts to Techcombank
D. LIMITS THE CHOICES AND INFORMATION AVAILABLE TO CONSUMERS

D2. REDUCES THE MOBILITY OF CUSTOMERS BY INCREASING THE COSTS OF CHANGING SUPPLIERS

- The pilot by the Ministry of Transport in encouraging traffic participants to open BOT payment account only through one nominated bank so that VETC can implement quick deduction will increase the cost of millions of consumers because they must switch from their existing bank to the bank selected by MOT, or open a new account and maintain the required bank balance.
D. LIMITS THE CHOICES AND INFORMATION AVAILABLE TO CONSUMERS
D3. FUNDAMENTALLY CHANGES INFORMATION REQUIRED BY BUYERS TO SHOP EFFECTIVELY

Nhập nhèm nước mắm truyền thống và công nghiệp: Tiêu chuẩn mới càng không rõ ràng

Đề gợi chung là “nước mắm” nhưng có loại chỉ làm từ hai nguyên liệu chính là cá và muối. Những loại còn lại lại được cho thêm đường hóa học, chất tạo vị, chất tảo sành, chất bảo quản, phẩm màu dễ sản xuất hàng loạt.
D. LIMITS THE CHOICES AND INFORMATION AVAILABLE TO CONSUMERS

D3. FUNDAMENTALLY CHANGES INFORMATION REQUIRED BY BUYERS TO SHOP EFFECTIVELY
THANK YOU VERY MUCH!

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