Contents

• Regulations on Competition Restrictive Agreements
• Recent Cases on Competition Restrictive Agreements
• Contemporary Issues & Future Prospects
Competition restrictive agreement?
Guidelines Related to Competition
Restrictive Agreements

Enforcement Agencies

• *Decree No. 05/2006/ND-CP*
  dated 09/01/2006
• *Decree No. 06/2006/ND-CP*
  dated 09/01/2006
• *Decision No. 848/QD-BCT*
  dated 05/02/2013

Substantive & Procedural Issues

• *Decree No. 116/2005/ND-CP*
  dated 15/09/2005
• *Decree No. 120/2005/ND-CP*
  dated 30/9/2005
Competition Restrictive Agreements

- Agreements prohibited when combined market share of participating enterprises makes up 30 percent or more (may be exempted under Art 10 of the Law)
  - Price Fixing
  - Market allocation
  - Restricting or controlling quantities or volumes
  - Restricting development/investments
  - Imposing unfavorable conditions on others

- Agreements prohibited in all cases (per se)
  - Preventing, restraining, or disallowing entrance or business development of competitors
  - Exclusion agreement
  - Bid rigging
Price Fixing
Market Allocation

Let’s share!
Output Reduction
Bid Rigging
Sanctions against Competition
Restrictive Agreements

- **Monetary fine**
  - Up to 10% of the total revenue of the violating enterprises in the fiscal year proceeding the year of violation

- **Additional sanctions & remedies**
  - Confiscation of exhibits and means used for committing violations, including confiscation of profit gained from illegal acts
  - Removal of illegal provisions from contracts, etc.
Law Enforcing Agencies

• Vietnam competition Authority (VCA)
  - Established by Decree No. 06/2006/ND-CP
  - 100 staff, increases every year

• Vietnam Competition Council (VCC)
  - Established by Decree No. 05/2006/ND-CP
  - 11 commissioners
## Law Enforcing mechanism

<table>
<thead>
<tr>
<th>Case Handling Procedures</th>
<th>Agency in Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiation of case</td>
<td>VCA</td>
</tr>
<tr>
<td>Preliminary investigation</td>
<td>VCA</td>
</tr>
<tr>
<td>Official investigation</td>
<td>VCA</td>
</tr>
<tr>
<td>Investigation report</td>
<td>VCA</td>
</tr>
<tr>
<td>Organizes hearings</td>
<td>VCC</td>
</tr>
<tr>
<td>Decision on case</td>
<td>VCC</td>
</tr>
<tr>
<td>Appeal to Court</td>
<td>People’s Court</td>
</tr>
</tbody>
</table>
Case statistics

[Line graph showing trends in Pre-initiation, Investigation, and Decision from 2006 to 2012]
Investigated Cartels

• A number of suspected cartels investigated
• 4 turned into formal investigation
  - Price fixing cartel in car insurance (2008)
  - Fixing insurance premium for student/pupil (2011)
  - Price fixing on fibro-cement roof (2011)
  - Price fixing on hydrofoil/ferry ticket (2012)
Investigated Cases: Car Insurance

19 insurance firms agreed to increase car insurance premium from 1.3% to 1.56%
Investigated Cases: Student/Pupil Insurance

12 branches/subsidiaries of insurance firms agreed to fix insurance premium for student/pupil
Some other cartel enquiries
• Contemporary Issues
  - Law enforcement approach: Detailed, narrow & rigid; assessment of competition impact based on legal presumptions (e.g. market share thresholds); high standard of evidence, etc.
  - Design of competition authorities

• Future prospect
  - Support from publics/business community/relevant government agencies
  - Law enforcement capacity of competition authorities
  - Law amendment
THANK YOU

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