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REGIONAL COMPETITION BITES Q1 2023



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Overview

The Rajah & Tann Regional Competition Bites ("**Bites**") makes a comeback after a slight hiatus over the last year or so. We are especially thrilled by this given that competition law has picked up steam in the last year too.

This Bites provides an overview of the key competition updates in Singapore and South-east Asia during the period of January to March 2023. Our Competition Annual Report 2022 issued in January this year contains updates prior to January. If you missed receiving a copy, let us know, and we will be very happy to share it with you.

A key macro trend across the region is the introduction of new merger regimes or enhancing existing regimes so as to seemingly capture a wider range of mergers. Cambodia has now introduced merger filing thresholds and mergers will have to be filed with the regulator come September 2023. Vietnam and Thailand have been reviewing an increasing number of mergers, with Vietnam seeking to review even foreign-to-foreign mergers. Indonesia has bucked the trend a little, providing a breather to businesses by shifting from a single nexus to a double nexus requirement, while Philippines has raised its notification thresholds. What these developments spell for businesses is that Southeast Asia is a region that can no longer be ignored from a merger control review perspective. Even in Singapore, which has a voluntary regime, the regulator takes the position that if thresholds are crossed, a notification is necessary.

Separately, fighting inflation and cost of living issues continue to be a focus area. Regulators in Indonesia, Thailand and Philippines have opened cartel investigations products involving daily essentials such as onions and chicken eggs, while the Malaysian regulator is working closely to support the Ministry of Domestic Trade and Cost of Living in tackling these issues.

Another key area where focus continues is in all things data, digital, and e-commerce. Several of the regulators have reiterated that this is an area of priority, and with some opening investigations in the area. Tech is also important for the regulators as they look to enhance their internal capabilities to handle more complex mergers and investigations.

On regulators, the Vietnam Competition Commission ("**VCC**") has finally now been properly constituted and empowered to take enforcement action. The issuance of Decree 03/2023/ND-CP, which came into effect on 1 April 2023, officially merged the Vietnam Competition Council and Vietnam Competition Authority, which previously had separate roles and functions. VCC is now responsible for all competition matters, ranging from investigations to enforcement and merger control. We expect stronger competition law enforcement and quicker review of merger cases moving forward.

Developments in the region remain dynamic and the Rajah & Tann Asia Team is very much in the thick of many of the developments and on-going matters. Please reach out to us if you wish to further discuss these developments.

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Cambodia

The Government of Cambodia has continued to issue new Sub-Decrees and Prakas relating to competition law, particularly in relation to merger notification and the applicable notification thresholds. Critically, merger control will come into effect in Cambodia in September 2023, and businesses that wish to undertake a merger will have to notify the Competition Commission of Cambodia ("**CCC**") moving forward.

1. Issuance of merger control thresholds

On 6 March 2023, the Government of Cambodia issued the Sub-Decree on Requirements and Procedures for Business Combinations ("**Merger Sub-Decree**"). The Merger Sub-Decree provides for a pre- and post-merger notification process, not entirely different to Thailand.

*Legislation –
merger
notification*

As regards the pre-merger notification process, parties proposing to undertake a merger are obligated to notify CCC prior to the completion of the proposed merger if the merger satisfies the notification thresholds. Specifically, merging parties are required to notify their merger where any party to the proposed business combination or its group crosses one of the following thresholds:

- (a) having total assets in Cambodia of at least at least KHR 340,000,000,000 (approx. USD 85,000,000) in the financial year immediately preceding the year of the notification;
- (b) having total sales in Cambodia of at least KHR 270,000,000,000 (approx. USD 67,500,000) or input purchase turnover of a party to the transaction or its group of at least KHR 120,000,000,000 (approx. USD 30,000,000) in the financial year immediately preceding the year of the notification; or
- (c) The transaction value of the proposed business combination is at least KHR 41,000,000,000 (approx. USD 10,250,000).

Higher thresholds apply to banking and financial institutions, or parties involved in the insurance or securities business. CCC may adjust these thresholds at a later stage.

CCC has between 7 to 37 working days to conduct a primary review of the proposed merger, depending on whether the merger notification provides all the necessary information and documents required by CCC. CCC may conduct a secondary review of the proposed merger if required, which can take between 60 to 120 working days. However, a secondary review may be avoided under certain circumstances, such as if the proposed merger involves a failing firm. As we work through these timelines, competition practitioners know that it can take longer as the relevant document lodged has to be accepted.

As a separate process, parties may also request for an Advance Ruling Certificate ("**ARC**") from CCC. CCC will grant an ARC where there are no grounds to challenge the proposed merger. If an ARC is granted, the transaction will be granted immunity from being challenged by CCC for 1 year. The requirements and procedures for an ARC have yet to be determined by CCC.

The merger control provisions will come into force in September 2023.

Indonesia

Merger notification thresholds in Indonesia have been relaxed with the recent promulgation of new regulations, including a shift to having a double nexus requirement and a narrowing in the way that asset values are calculated. Fewer foreign-to-foreign transactions are expected to trigger merger notification going forward. On investigations, the Indonesia Competition Commission ("**ICC**") has been focused on horizontal anti-competitive agreements, including bid-rigging and market allocation. New case handling procedure regulations have also been issued that allows investigated parties to propose a change of behaviour early in the investigation stage without an admission of guilt. This is a significant change that allows parties to end an investigation early.

1. Bid-rigging over Taman Ismail Marzuki renovation tender

On 16 January 2023, ICC held a council session and alleged that state-owned developers **Pembangunan Perumahan ("PP")** and Jakarta-government owned **Jakarta Propertindo ("Jakpro")**, as well as infrastructure construction firm **Jaya Konstruksi Manggala Pratama ("JAKON")**, had colluded on a tender for the renovation of **Taman Ismail Marzuki ("TIM")**.

Anti-competitive agreements – Bid-rigging

The tender's evaluation, which took place on 21 April 2021, was scored using a two-type document assessment, with one document pertaining to administration and the other pertaining to technicalities, such as price. The results of the tender were submitted to Jakpro's Director of Human Resources and General Affairs. However, on 21 June 2021, the Director did not approve of the tender results and requested for a re-tender without providing a clear reason. The re-tender results were then submitted by the Director to Jakpro. Thereafter, **Kerjasama Operasi PP-JAKON ("KSO PP-JAKON")**, the jointly operated company between PP and JAKON, was determined as the winner of the second tender on 16 August 2021. As a result, ICC alleged that Jakpro had attempted to rig the tender by cancelling the result of the first tender on 21 June 2021 without any sound basis.

2. Construction Tender for the Double Track Electric Signalling System for the Bogor-Cicurug Cross Railroad

On 17 January 2023, ICC held a preliminary examination council session to investigate allegations of a tender conspiracy between **PT LEN Railway System ("LRS")** and **PT LEN Industri ("Persero")**. LRS had conducted a Joint Operation with Persero, in which Persero was assigned to procure the interlocking system and main signalling equipment, while LRS was assigned the engineering and construction work required in the Development of the Bogor-Cicurug Cross Rail Double Track Electrical Signalling System.

Anti-competitive agreements – bid rigging

3. 2023 Priorities

During the annual meeting with the media in Jakarta in December 2022, ICC Chairman, M. Afif Hasbullah, highlighted ICC's four priorities in 2023:

- (a) Strengthening the supervision of partnerships between businesses and micro, small, and medium enterprises ("**MSME**");

ICC – Priority sectors, updates

- (b) Focusing on improving competition law compliance;
- (c) Developing a digital system to support and enhance the enforcement arm of ICC; and
- (d) Expediting services provided to the public, by simplifying regulations related to case-handling procedures and any other issues that could affect the public.

4. New merger regulations – shift to double nexus requirement and introduction of merger notification filing fees

ICC issued Regulation No. 3 of 2023 on the Assessment of Merger, Consolidation, or Acquisition of Shares and/or Asset that could Result in Monopolistic and/or Unfair Business Competition Practices ("**New Merger Regulation**"), which took effect from 31 March 2023. The government also introduced a filing fee for merger notifications through Government Regulation Number 20 of 2023 on Types and Tariffs of Non-Tax State Revenue Applicable to the Commission for the Supervision of Business Competition ("**GR No. 20/2023**"), which will take effect from 5 May 2023.

*Regulations
– merger
control*

Under the New Merger Regulation, ICC will now use the combined Indonesian asset values of the relevant parties, instead of the global asset values under the previous regulation. There has also been a change from a single to double nexus approach in determining whether a transaction is notifiable: a foreign-to-foreign transaction is now notifiable only if both parties to the transaction have assets and/or generate sales or turnover in Indonesia, as opposed to only one party under the previous regulation.

Under GR No. 20/2023, businesses are required to pay a filing fee that represents 0.004% of the value of assets or sales turnover that crosses the threshold, whichever is lower, and is capped at IDR150 million (USD 10,000). The fee can be reduced or waived if the transaction fulfils certain conditions, such as supporting the development of MSME, the occurrence of a force majeure event or where the transaction is a government policy.

For further details on the New Merger Regulation and GR No. 20/2023, please see our full legal update [here](#).

5. Issuance of new case handling procedure regulations – change of behaviour

ICC issued Regulation No. 2 of 2023 on Case Handling Procedure ("**New Case Handling Regulation**"), which took effect from 31 March 2023. The New Case Handling Regulation replaces the entire case handling procedure regulation under ICC.

*Regulations
– case
handling
procedure*

Amongst others, the New Case Handling Regulation allows reported parties to propose a change of behaviour to ICC during the investigation stage without admitting guilt and regardless of whether other reported parties do the same. If ICC accepts the proposed change of behaviour and the reported parties fully implement such change, ICC will dismiss the investigation altogether without any sanctions. Previously, such a proposal was only allowed during the preliminary examination hearing (i.e. after investigations have been concluded), required the party to admit their guilt, and required all other reported parties to agree to a change of behaviour.

At the preliminary examination stage, the New Case Handling Regulation retains most provisions on the change of behaviour from the previous regulation (as stated above). The regulations now also give examples of actions that may constitute a "change of behaviour", which includes the payment of fines and/or damages.

Nevertheless, parties seeking to use the change of approach should exercise caution, considering the requirements that they would have to satisfy in order to obtain ICC's approval of the proposal and dismissal of the case. Moreover, if ICC rejects the proposal during the investigation stage, the party cannot submit another change of behaviour proposal later during the preliminary examination hearing. Businesses are highly advised to be prudent in fulfilling the change of behaviour requirements during the investigation stage.

For further details on the New Merger Regulation and GR No. 20/2023, please see [here](#).

Malaysia

The Malaysia Competition Commission ("**MyCC**") continues to be active in enforcing against anti-competitive agreements and cartels in the first quarter of 2023 especially as it relates to cost of living issues, and the regulator is working closely to support the Ministry of Domestic Trade and Cost of Living's agenda on this. We are also seeing other interested parties such as consumer associations playing a more active role in advocating for greater competition enforcement in markets. It is therefore increasingly important for businesses to monitor the views of, and engage positively with, such associations to manage these risks.

1. Warehouse operators

On 24 February 2023, the Competition Appeal Tribunal published its grounds of decision on warehouse operators. The tribunal affirmed the infringement findings of MyCC and subsequently dismissed an appeal by 5 warehouse operators (the "**Appellants**") against MyCC's decision dated 26 July 2021 where the Appellants were held to have engaged in price fixing in relation to the provision of long length handling and heavy lift handling services for import and export cargoes at the Northport and Westport of Port Klang, Malaysia.

Anti-competitive agreements – price fixing

2. Electronic payment solutions providers

On 28 January 2023, MyCC stated that the conduct of electronic payment solutions provider **Touch 'n Go** and **TNG Digital** ("**TnG**") did not raise any competition concerns. The statement was made in response to allegations by the Federation of Malaysian Consumers Association ("**FOMCA**") that MyCC failed to put an end to the monopolistic behaviour of TnG. FOMCA cited issues such as a parking surcharge of 10% and the imposition of a reload charge, amongst others. MyCC stated that it did not have jurisdiction over consumer issues between TnG and its users, which was what the issues here were related to. MyCC had nevertheless previously carried out limited intervention, which resulted in changes being implemented by TnG, including the removal of parking surcharges and introducing more TnG reload channels.

Abuse of dominance

On 21 March 2023, MyCC released a statement applauding the recent commitment by Prime Minister Dato' Seri Anwar Ibrahim to urgently look into the monopoly of TnG in the payment system for tolls and public transportation including reconsidering possible alternatives with a view of stimulating competition in the relevant markets. MyCC also noted the initiatives of the Works Ministry and the Transport Ministry in addressing this issue, which include the introduction of the Multi-Lane Free Flow ("**MLFF**"), allowing users to pay tolls using other payment methods and the plan to develop more payment options for public transportation. MyCC expects these initiatives to end the monopoly of TnG in the relevant markets in line with the demands made by the public.

To ensure concrete development in this area, MyCC, through the taskforce set up by Ministry of Domestic Trade and Cost of Living, will continue to monitor the progress and behaviour of the incumbent to guarantee the seamless entry of new players into these markets.

3. Enforcement action against food and agriculture cartels

On 12 January 2023, the Ministry of Domestic Trade and Cost of Living stated that investigating cartel activities in the food and agriculture sector is a priority of the Ministry this year.

**Cartels -
enforcement**

4. Investigation into Penang hauliers closed

On 31 January 2023, MyCC closed an investigation into 14 haulier enterprises in relation to conduct involving alleged price-fixing and fixing of a trading condition. MyCC first opened investigations in 2017 into whether a circular issued by the **Association of Malaysian Hauliers ("AMH")** dated 7 November 2016 ("**AMH Circular**") to its members amounted to an anti-competitive agreement resulting in price-fixing and/or fixing of a trading condition among the AMH members, which included the investigated hauliers. The contents of the AMH Circular stated that "*members may wish to raise the charges for the additional service to customers... This additional service sur-charge may apply with effective from 1 December 2016...Note: The present charges of Scan & Periksa by Penang Port is RM98.00.*"

**Anti-
competitive
agreements –
price-fixing**

After the AMH Circular was issued, MyCC found that several hauliers issued their own circular imposing the same scanning surcharge rate of RM75.00 (USD 17). After a more detailed investigation, however, MyCC found that the hauliers were simply reacting to the increased cost due to the implementation of mandatory scanning system (*Scan and Periksa*) imposed by the Royal Malaysian Customs. MyCC noted that the implementation of the mandatory scanning system resulted in increases in the cost of time for the hauliers to move out from the port. Furthermore, although there were increases in price, there was no uniform conduct among the hauliers as each haulier implemented the charges at different rates and did not follow the recommended rate in the AMH Circular. MyCC ultimately closed the investigation as there was insufficient evidence to indicate the existence of an agreement and/or concerted practice between the hauliers.

Philippines

The Philippine Competition Commission ("**PCC**") has appointed a new Chairperson, Attorney Michael G. Aguinaldo. He has identified eight priority sectors for competition enforcement in 2023: e-commerce, health and pharmaceuticals, food and agriculture, energy and electricity, insurance, construction, water and telecommunications. On food, PCC is pushing its enforcement action relating to daily necessities, as it opened a new case into onion cartels. PCC has also again adjusted the thresholds for the compulsory notification of mergers.

1. Updates to merger notification thresholds

On 24 February 2023, PCC announced that it would increase the thresholds for compulsory notifications of mergers and acquisitions, in response to changes to the economy arising from high inflation and effects caused by the Covid-19 pandemic. With effect from 1 March 2023, the merger

**Merger –
notification
thresholds**

review thresholds have been increased from (a) PHP 6.1 billion to PHP 7 billion in relation to the Size of Party (i.e. value of assets or revenues of any party's Ultimate Parent Entity and the entities it controls) and (b) PHP 2.5 billion to PHP 2.9 billion in relation to the Size of Transaction (e.g. value of assets or revenues of the acquired party and the entities it controls). The revised thresholds do not apply to mergers and acquisitions pending review by PCC, notifiable transactions consummated before 1 March 2023 and transactions that are already subject of a decision by PCC.

2. Appointment of new PCC Chairperson and Commissioner

On 1 February 2023, PCC announced the appointment of Attorney Michael G. Aguinaldo as the new Chairperson to lead PCC until 2030. Aguinaldo replaced outgoing interim Chairperson Johannes R. Bernabe, whose fixed term ended on 6 January 2023. Prior to his appointment to PCC, Aguinaldo served as the Chair of the Commission of Audit from 2015 to 2022.

PCC – New appointments

Separately, on 6 March 2023, PCC announced the appointment of Attorney Ferdinand M. Negre as its latest appointed Commissioner, thereby completing the bench of the five-member antitrust authority under a new administration. Negre is a certified public accountant by training and an Intellectual Property law expert by trade. Negre is joined by fellow Commissioners Marah Victoria S. Querol, Michael B. Peloton and Lolibeth Ramit-Medrano (who was appointed on 30 January 2023).

According to PCC, the diverse expertise of the new officials, including in economic, legal, procurement, and corporate laws, are seen to significantly contribute to the enforcement of competition cases involving cartels, abuses of dominance, sanctioned monopolies, and anti-competitive mergers.

3. Priority sectors for 2023

On 27 February 2023, PCC identified eight priority sectors for 2023 due to their high levels of business concentration, which would make them susceptible to competition issues. These sectors were e-commerce, health and pharmaceuticals, food and agriculture, energy and electricity, insurance, construction, water and telecommunications. PCC stated that investigations and enforcement in the priority sectors were expected to intensify, with 16 cases and investigations underway at present in sectors such as power, cement, shipping, telco and internet service providers.

Enforcement sectors

4. Potential additional fines on Grab Philippines

On 27 February 2023, PCC stated that it was considering imposing additional fines on Grab Philippines for "defects" in the company's compliance with an order to disburse refunds to eligible users who did not use GrabPay Wallet.

Penalties – non-compliance

PCC had previously ordered Grab Philippines to refund a total of PHP 25.45 million for overcharging, violating voluntary commitments and pricing issues in 2019 and 2020. However, PCC found that less than one quarter of the total amount was claimed by passengers as of June 2021. Grab Philippines has since refunded around 70% of the total amount to users and has filed a motion before PCC to suspend the disbursement of remaining refunds, as well as a plea not to be penalised for non-compliance with the deadline to refund users.

5. Probe of onion cartel allegations

On 16 February 2023, PCC announced that it had been investigating the onion market for possible cartelistic or abuse of dominance conduct, as retail prices of onions were observed to be at an unusually high range, peaking at PHP 600 per kilo in December 2022.

*Cartel and
abuse*

Singapore

The Competition and Consumer Commission of Singapore ("**CCCS**") has continued to scrutinize mergers during the first quarter of 2023. Despite being a voluntary notification regime, CCCS continues investigations into proposed transactions, even where parties to the transaction have notified that there are no horizontal or vertical overlaps between parties. CCCS has also continued to focus on conglomerate theories of harm – most recently in the SATS / WFS merger.

1. SATS / Promontoria Merger

On 27 January 2023, CCCS cleared the proposed acquisition of **Promontoria Holding 243 B.V.** by **SATS International SAS** (a wholly owned subsidiary of SATS Ltd) from **WFS Global Holdings S.A.S.** While CCCS agreed with Parties that they did not compete in the provision of any products/services in Singapore, a potential overlap was identified in the provision of bespoke passenger services in Singapore. CCCS found that the proposed acquisition was unlikely to result in a substantial lessening of competition in Singapore because:

*Merger –
horizontal,
vertical,
conglomerate*

- (a) Horizontal concerns: No horizontal concerns arose as Parties provided bespoke passenger services and premium longer services at different airports and to different passenger groups. Further, sufficient competitors were present at these respective airports.
- (b) Vertical concerns: No vertical concerns arose from SATS Ltd providing ground handling services to WFS as it was not viable nor in the parties' business interests to carry out customer or supplier foreclosure strategies.
- (c) Conglomerate concerns: No conglomerate concerns arose from combining the Parties ground handling services, cargo handling services, premium lounge services and premium bespoke passenger services, as there were sufficiently strong competitors and countervailing buying power, amongst others.

2. NielsenIQ / GfK SE merger

On 22 February 2023, CCCS cleared **AI PAVE Dutcho I B.V.**'s proposed acquisition of **GfK SE** to merger its business with **NielsenIQ**, a wholly owned subsidiary of AI PAVE Dutcho I B.V. CCCS determined that the relevant market was the market for Customised Market Research in Singapore as both Parties overlapped in this area. CCCS found that the proposed acquisition was unlikely to lead to a substantial lessening of competition in the relevant market as there are sufficient competitive alternatives in the fragmented market, customers can easily switch to the many competitors, the tender process utilised to provide services leads to limited price transparency and reduces chances of collusion between competitors, amongst others.

*Merger –
horizontal*

3. DSME / Hanwha merger

On 22 March 2023, CCCS cleared the acquisition of **Daewoo Shipbuilding & Marine Engineering CO ("DSME")** by various entities in the **Hanwha Corporation**. CCCS found that the proposed acquisition is unlikely to result in a substantial lessening of competition in Singapore in the relevant upstream market (global Supply of dynamic/turbo air/gas compressors) and Downstream Market (global supply of LNG carriers, offshore plant production facilities and offshore plant storage facilities) because:

*Merger –
vertical*

- (a) Horizontal concerns: No horizontal concerns arose as the proposed acquisition would not reduce the number of exiting competitors or increase barriers to entry into both the upstream and downstream Markets. As such, competitors in both markets would not have the ability to collude.
- (b) Vertical concerns: No vertical concerns arose regarding the foreclosure of inputs provided by the upstream Market to customers in the downstream Market. This is because of sufficient competing suppliers being present in the upstream Market. These competing suppliers have comparable or larger market shares than DSME in the downstream Market.

Thailand

The Trade Competition Commission of Thailand ("**TCCT**") also continues to be active on merger control, having reviewed 23 merger notifications in the first quarter of 2023 in a wide range of industries such as insurance, automotive parts, household appliances. Importantly, while the merger between True and DTAC was completed in February 2023 to create Thailand's largest telecoms player following a non-objection by the telecoms regulator, this decision has been subject to challenge in the courts. This reflects the increasingly complex regulatory risks that can ensnare large transactions in Thailand.

1. Amendments to the Trade Competition Act

On 22 February 2023, the outgoing chairman of TCCT, Sakon Varanyuwatana stated that the proposed amendments to the Trade Competition Act ("**TCA**") would likely be ready for submission to the government in the third quarter of 2023. Possible areas of amendments include merger filing procedures and the definitions of market dominance and state-owned enterprises, among others. TCCT is also considering introducing leniency into the TCA, as Thailand is one of the only jurisdictions in the Asia-Pacific region where a leniency program has yet to be introduced.

*Legislation -
Amendments*

2. Price recommendation for chicken eggs

On 15 March 2023, TCCT published a decision relating to the alleged price fixing of chicken eggs. TCCT had received a complaint on 10 January 2022 alleging that an unnamed association ("**Association B**") had colluded with other associations to set the purchase and selling prices of chicken eggs. Association B had announced a recommended retail price ("**RRP**") for chicken eggs at 3.00 baht per egg, and three other business operators selling eggs from Association B clarified that they had increased the prices of chicken eggs to 2.60 to 2.90 baht per egg. TCCT found that there was no infringement of the TCA as, despite the recommended retail price, there were fluctuations in the price of the eggs being sold. Instead, implementing a RRP was beneficial to

*Recommended
retail price*

individual egg farmers, who could use the RRP as a reference price in selling their chicken eggs, so as not to be taken advantage of by middlemen.

3. True / DTAC Merger

On 28 February 2023, **True Corporation** ("True") and **Total Access Communication** ("DTAC") announced the completion of their merger, which is Southeast Asia's largest telecoms merger. The merged entity, called True Corporation, debuted on the Stock Exchange of Thailand on 3 March 2023.

*Merger -
horizontal*

The merger is a three-to-two transaction - True and DTAC reportedly hold 34% and 21% market shares respectively (based on mobile subscribers), and the merged entity will become the largest player, overtaking the present market leader Advanced Info Service Pcl with 44% market share. The telecoms regulator, the National Broadcasting and Telecommunications Commission ("**NBTC**"), acknowledged the USD 8.6 billion merger between True and DTAC on 20 October 2022 and stipulated conditions for the merger, including pricing conditions, capacity allotment requirements for mobile virtual network operators' use, and hold-separate requirements. The new entity is required to continue using the DTAC and TRUE brand names for a period of three years.

The merger has been subject to challenges. Lawsuits against the NBTC have been brought to the Central Administrative Court, notably, by the Thailand Consumers Council ("**TCC**"), to repeal the NBTC's decision on the True – DTAC merger. On 9 December 2022, the Central Administrative Court rejected the TCC's plea for an injunction as the court found 'no ground which would suggest that the NBTC's decision was unlawful'. This decision to reject the injunction request paved the way for the completion of the merger; however, the case itself is pending the court's decision.

4. Review and clearance of mergers

From January to March 2023, TCCT reviewed and cleared 23 merger notifications under Section 51 of the TCA from the following industries:

*Merger –
notifications,
clearances*

- chemicals industry;
- stationery and office supplies industry;
- steel products industry;
- insurance industry;
- coffee shop industry;
- automotive parts industry;
- optical instruments industry;
- semiconductor industry;
- household appliances industry;
- beauty industry;
- signal connection industry;
- digital lifestyle products industry; and
- electrical circuits industry.

Vietnam

The long-awaited Vietnam Competition Commission ("**VCC**") has finally begun to take shape this quarter. VCC was first referenced by the government of Vietnam in the Law on Competition 2018 and is intended to be the regulatory authority responsible for overseeing competition matters in Vietnam. However, few infringement decisions have since been issued under the Law on Competition 2018 due to a lack of clarity on the structure and functions of VCC. With the establishment of VCC, competition law enforcement is expected to increase in Vietnam.

1. Establishment of the Vietnam Competition Commission

On 10 February 2023, the Government of Vietnam issued Decree 03/2023/ND-CP providing for the functions, tasks, powers and organisational structure of VCC. The Decree will come into force from 1 April 2023.

*Establishment
of Vietnam
Competition
Commission*

VCC will fall under the purview of the Ministry of Industry and Trade ("**MOIT**") and is a consolidation of the Vietnam Competition Council and the Vietnam Competition and Consumer Authority. Under the Decree, VCC will be the only authority responsible for investigating anti-competitive agreements, economic concentration management, consumer protection, amongst others. VCC will comprise an anti-competitive investigation authority, a secretariat to assist councils handling anti-competitive cases and a competition supervision board. The Decree also stipulates that the MOIT will establish affiliated units to assist VCC with the tasks of state management of competition, protection of consumer rights and multi-level marketing operations, although there is no notification as to the establishment of these units yet.

More muscular enforcement of Vietnam's competition law is expected now that the regulator has been properly constituted and empowered to take action. Compared to the institutional structure where the investigating agency is different from the enforcement agency, the newly constituted VCC is responsible for both functions and is expected to deal with cases more quickly. On merger control, case review timelines may also be faster as VCC has plans to also expand its merger control team going forward.

2. Updates on consumer protection rights

On 15 February 2023, the National Assembly of Vietnam organised the 20th session of the National Assembly Standing Committee to further discuss the draft law on the protection of consumers' rights. The draft law was released in January 2022 for public comments and consultation.

*Legislation –
consumer
protection*

The draft law supplements current regulations by setting out the responsibilities of businesses in relation to their consumers. These include:

- (a) Responsibilities when authorising a third party to collect, store and use the personal information of consumers;
- (b) Responsibilities on establishing and publishing a policy on personal information protection or collecting customer's personal information;
- (c) Responsibilities for receiving and handling consumer complaints or requests;
- (d) Responsibilities in relation to the protection of vulnerable consumers (e.g. elderly, disabled people, children, ethnic minorities, etc.)

With updated and more specific regulations, the draft law is expected to protect consumers' interests more effectively. The draft law is expected to be enacted in May 2023 and take effect in early 2024.

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