Ashurst

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Outpacing change

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Introduction

The second quarter of 2024 has seen a myriad of notable enforcement actions, in both the competition and consumer law spaces, across the Asia Pacific. These enforcement actions remind the business community that competition and consumer law regulators are sufficiently empowered and well resourced to pursue actions for violations of local laws, and the penalties for non-compliance can be severe. In this edition of the CLQ, we have also expanded coverage to include an update on a notable development in the Middle East (in relation to the Egyptian merger control regime).

In summary:

- in Australia, the **Australian** Competition and Consumer Commission (**ACCC**) has launched its first legal proceedings against an entity for greenwashing conduct. The proceedings, alleging several violations of the Australian Consumer Law, highlight the ACCC's ongoing commitment to its enforcement priority in respect of environmental claims. Businesses making claims about the environmental or social impact of their products or services must remain vigilant in the representations they make and good starting place is to have regard to the guidance that has been published by the ACCC and Australian Securities and Investments Commission in respect of environmental claims.
- in **Singapore**, the Competition Commission of Singapore continues its focus on consumer law enforcement by investigation into a furniture retailer for engaging in unfair trading practices by posting fake online reviews;
- in **Hong Kong**, the Hong Kong Competition Tribunal has issued penalties (totalling HK 1,312,000 (c. USD 167,927) in the first cartel case relating to a government subsidy scheme. The Tribunal's decision marks a significant milestone in Hong Kong's competition law enforcement and acts as a timely reminder that businesses must stay vigilant and proactive in maintaining compliance to avoid severe penalties;
- in **China**, the State Administration for Market Regulation (**SAMR**) has published a penalty decision against two Chinese companies for failure to notify a notifiable transaction. The SAMR imposed a fine of CNY 1.5 million (c. USD 207,000) on two companies for establishing a joint venture without notifying the SAMR. This is also the first publicly announced failure to file decision and record high penalty since the amendment of the Anti-monopoly Law (**AML**) in August 2022, nearly two years ago;
- in **Taiwan**, the Taipei High Administrative Court has upheld TWD 45.45m (c. USD 1.4m) in total cartel fines imposed on nine container terminal firms, including Evergreen International Storage and Transport, in 2021. The decision follows from a protracted litigation commencing in 2016, when the Taiwan Fair Trade Commission (**TFTC**) fined 21 entities, including the nine container terminal firms for concerted practices;
- meanwhile:
  - in **Cambodia**, the Cambodian Ministry of Commerce has issued a decision detailing the Cambodian Competition Commission's (**CCC**) powers to grant leniency to a party involved in an "unlawful horizontal agreement". The Decision provides guidance to prospective leniency applicants in Cambodia and potentially signals an intention by the CCC to focus its investigative and enforcement efforts on cartel conduct in the near future;
  - in the **Philippines**, the Philippine Competition Commission (**PCC**) has closely scrutinised potential mergers and acquisitions over the past quarter, and has commenced Phase II reviews of various transactions. These cases demonstrate the PCC's sophistication as a regulator and preparedness to extend review timelines to comprehensively assess mergers and acquisitions subject to the Philippines merger regime; and
  - in **Egypt**, in May 2024 (ahead of the new pre-closing merger control regime coming into effect from 1 June), the Egyptian Competition Authority (**ECA**) issued further guidelines and a commonly asked questions and answers supplement document, providing further details and clarifications in connection with the new pre-closing merger regime.

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Australia

ACCC launches first greenwashing proceedings in Federal Court

The Australian Competition and Consumer Commission (**ACCC**) has commenced proceedings in the Federal Court of Australia against Clorox Australia Pty Ltd (**Clorox**). Clorox is manufacturer of GLAD-branded kitchen and garbage bags.

The ACCC has alleged that Clorox has engaged in misleading and deceptive conduct and made false or misleading representationsby representing that its GLAD Kitchen Tidy Bag and Garbage Bags consisted 50% of recycled "ocean plastic". This was depicted to consumersby way of a wave diagram on the packaging and blue colour of the bags - suggesting that the plastic from which the bags were partly produced was collected from an ocean or the sea. Consistent with the statements (in small font) on the back pack of the bags, the ACCC alleges the bags were instead partly made from plastic that was collected from communities in Indonesia up to 50 kilometres from a shoreline (and therefore not the ocean or the sea).

The proceedings highlight the ACCC's ongoing commitment to its enforcement priority in respect of environmental claims / "greenwashing" conduct. The ACCC is concerned to ensure consumers are making well-informed decisions when selecting products based on environmental / social impact.

The ACCC is not alone in its efforts – the Australian Securities and Investment Commission (**ASIC**) has also been active in cracking down on greenwashing conduct in the financial services sector. Earlier this year, ASIC successfully pursued proceedings in the Federal Court in relation to an "ethically conscious" fund which was advertised as screening securities against applicable environmental, social and governance (ESG) criteria.

"Greenwashing" conduct will remain an area of focus for the ACCC and ASIC in the coming years particularly as consumers become increasingly mindful of the social and environmental impact of their consumption habits and actively seek products and services aligned with their values. It follows that businesses making claims about the environmental or social impact of their products or services must remain vigilant in the representations they make. A good starting place is to have regard to the guidance that has been published by the ACCC and ASIC in respect of environmental claims.

China

Record high gun-jumping fine imposed by SAMR

On 7 June 2024, the State Administration for Market Regulation (**SAMR**) published a penalty decision against two Chinese companies for failure to notify a notifiable transaction. A fine of CNY 1.5 million (c. USD 207,000) has been imposed on each of Shanghai Highly (Group) (**Highly**) and Qingdao Haier Air Conditioning Co. Ltd. (**Qingdao Haier**) for establishing a joint venture without notifying the SAMR.

Qingdao Haier and Highly agreed to establish the joint venture in January 2023 in order to manufacture and sell rotary compressors for air conditions (**Transaction**). The joint venture was registered in March 2023 before receiving approval from SAMR.

This is the first publicly announced failure to file decision and also the record high penalty since the amendment of the Anti-monopoly Law (**AML**) in August 2022, nearly two years ago. The case was put on file in September 2023 and was investigated over a period of approximately 8 months until the final penalty decision was issued.

The SAMR found that the transaction did not have the effect of eliminating or restricting competition. In determining the specific amount of fines, SAMR took into account the nature, degree and duration of the illegal acts as well as mitigating factors. In light of these factors, the SAMR went on to impose a fine on the lower end (30%) of the CNY 5 million (c. USD 690,000) cap on each of the party.

The factors, amongst others, included:

- that both parties were first-time offenders;
- that the parties cooperated actively with the investigation and provided evidence; and
- that the parties actively rectified the conduct by effectively establishing and implementing a "comprehensive antitrust compliance system" relating to merger control.

The last factor aligns with the Anti-monopoly Compliance Guidelines for Undertakings published in April 2024 by the State Council's Antimonopoly and Anti-Unfair Competition Commission, which offers reduced fines for entities with compliance regimes in place. It is also consistent with the enforcement trend to encourage proactive antitrust compliance. Companies therefore are encouraged to develop an effective antitrust compliance system.

Cambodia

Leniency for cartel conduct now available in Cambodia

On 3 May 2024, the Cambodian Ministry of Commerce issued its *Decision on Requirements and Procedures on Leniency under the Law on Competition* (the **Decision**).

The Decision details how Cambodia's recently established competition regulator (established in February 2022), the Cambodian Competition Commission (CCC), may grant leniency to a party involved in an "unlawful horizontal agreement" (ie, cartel conduct).

The Decision sets out the requirements for leniency to apply. In particular to obtain leniency, an applicant must:

- request leniency before the CCC issues a preliminary decision or commences prosecution of a matter;
- file a complete application with the CCC, together with documents and information evidencing the unlawful agreement;
- admit to being party to the unlawful agreement; and
- cooperate with the CCC until it releases a preliminary decision or refers the matter to prosecution.

A prospective leniency applicant must:

- first establish whether a "marker" is available (a marker temporarily holds the applicant's place in line for leniency);
- if a marker is available, submit a marker application with the CCC;
- if a marker is awarded, submit a complete leniency application with the CCC;
- and if the applicant has satisfied all requirements, the CCC may issue a grant of conditional leniency (which can only be declared final by a competent court).

The CCC has the power to award leniency to a company or to a current and former employee of a company. A company, including current and former employees, may receive immunity from all penalties or reduced fines and immunity from sanctions.

During its investigation of the unlawful agreement, the CCC will keep the identity of the leniency applicant confidential. However, certain exceptions do apply, including where disclosure:

- is necessary for the CCC to carry out its duties;
- is permitted by another law;
- will allow another government agency to carry out its duties; or
- is necessary to use as evidence for self-defence.

The Decision provides guidance to prospective leniency applicants in Cambodia and potentially signals an intention by the CCC to focus its investigative and enforcement efforts on cartel conduct in the near future.

Hong Kong

Competition Tribunal's penalty orders in first cartel case relating to a government subsidy scheme

In March 2023, the Hong Kong Competition Commission (HKCC) commenced proceedings in Hong Kong's Competition Tribunal (the Tribunal) against four companies and three individuals alleged to have engaged in cartel conduct:

- Multisoft Limited and its parent company MTT Group Holdings Limited (Multisoft);
- BP Enterprise Company Limited and Noble Nursing Home Company Limited (BP/Noble);
- KWEK Studio Limited (KWEK);
- Ms. AU YEUNG Kit Yee (Ms. Au Yeung), trading as Yat Ying Hong (Yat Ying);
- Mr. FAN Sing Chi, a representative of Yat Ying and BP/Noble (Mr. Fan); and
- Mr. TANG Wai Chun, a director and shareholder of KWEK (Mr. Tang).

The HKCC's case alleged that these companies and/or individuals had engaged in anti-competitive practices, including cover bidding when providing quotations for IT solutions in applications for Government subsidies under the Distance Business Programme (D-Biz).

On 7 June 2024, following joint applications from Multisoft, BP/Noble, KWEK and Mr Tang admitting liability for their contraventions, the Tribunal ordered the payment of pecuniary penalties:

- Multisoft: HK 1,190,000 (c. USD 152,312);
- BP/Noble: HK 90,000 (c. USD 11,519); and
- Mr. Tang: HK 32,000 (c. USD 4,096).

In addition, the Tribunal ordered that:

- Multisoft, BP/Noble and KWEK must pay the HKCC's investigation costs; and
- Mr. Tang be disqualified from acting as a director in any company for a period of two years.

The HKCC has also applied for orders against the remaining respondents, Ms. Au Yeung and Mr. Fan, who are yet to file a response in the proceedings. However, this application is pending determination by the Tribunal.

The Tribunal's decision marks a significant milestone in Hong Kong's competition law enforcement and acts as a timely reminder that businesses must stay vigilant and proactive in maintaining compliance to avoid severe penalties.

The decision also highlights.

- collaboration between public bodies in competition law enforcement in Hong Kong. In this case, the Hong Kong Productivity Council (HKPC) referred the case to the Commission after suspecting the D-Biz procurement process had been impacted by anti-competitive conduct. The Commission's collaboration with the HKPC demonstrates a willingness for inter-agency cooperation in tackling complex competition issues.
- the HKCC's firm stance on public funds abuse - in a warning to bad actors, HKCC's CEO Rasul Butt pointed to this case as evidence that exploiting public funding or government subsidies through anti-competitive means will be confronted rigorously by the Commission.

HKCC CEO and Chairperson reappointed

On 26 April 2024, the Hong Kong Government announced the reappointment of:

- Mr Samuel Chan Ka-yan as the Chairperson of the Hong Kong Competition Commission (HKCC) for a term of two years, effective from 1 May 2024; and
- Mr Rasul Butt as the HKCC Chief Executive Officer (CEO) for a term of three years, effective from 3 May 2024.

Mr Chan was first appointed as a member of the HKCC on 1 May 2016 and has served as Chairperson since 1 May 2020. Prior to working at the HKCC, Mr Chan was a practising barrister.

Mr. Butt joined the HKCC in April 2015 as Executive Director (Corporate Services & Public Affairs) and was appointed Senior Executive Director in July 2016, overseeing the policy advisory, advocacy, and corporate functions of the Commission. In May 2021, Mr. Butt was appointed as the Chief Executive Officer of the HKCC for a three-year term.

The reappointments of Mr. Chan and Mr. Butt demonstrate confidence in their records and strategic direction to date. Their continued leadership will be essential for advancing ongoing and future competition law initiatives aimed at fostering market competition and safeguarding consumer interests in Hong Kong.

Indonesia

ICC releases its 2023 annual report

On 27 June 2024, the Indonesian Competition Commission (**ICC**) released its 2023 annual report highlighting recent updates in competition law, including:

- updates to its merger control and case handling regulation;
- guidelines to assist corporations with identifying issues in bid rigging;
- guidelines to assist with defining the relevant market;
- guidelines on a mechanism for the payment of administrative fines by instalments; and
- new regulations on case handling for unfair contract terms.

The ICC issued 9 enforcement decisions in 2023, down from 15 in 2022 and over 25 in 2021.

While the merger filing criteria for asset thresholds was amended to only capture Indonesian assets, the ICC continued to receive a significant number of offshore merger filings. These accounted for 43% of its total merger filings for the year. Over 50% of these filings were from the telecommunications, logistics and transportation, minerals and energy, property and construction, and agriculture and farming industries.

The ICC confirmed its intention to actively scrutinise potential unfair business practices and conduct in 2024, in relation to which there are five cases currently ongoing. Under its new leadership, the ICC will also continue to participate in various international forums, including the OECD and ABA Spring meetings.

The report flags potential amendments to competition law that would address overlapping provisions, post-transaction merger control and the current absence of a leniency procedure.

Preliminary hearings commenced for Shopee's alleged anti-competitive conduct

relation to delivery services. Shopee is one of the leading e-commerce platforms in Indonesia.

The ICC alleges Shopee engaged in discriminatory practices against non-affiliated delivery services and used its dominant position to restrict customers' use of competing delivery services. The ICC's investigation into the conduct commenced in February 2024 following complaints from Shopee users. Since then, the ICC has made a number of findings which form the basis of the allegations against Shopee, including:

- Shopee set its delivery services algorithm in a discriminatory manner;
- Shopee selected two specific companies for delivery services, rather than other companies with good service performance – one of these companies has a Shopee executive on its board; and
- Shopee implemented standardisation in the system for selecting delivery service companies by eliminating the option of selecting couriers and shipping costs.

If the ICC makes a finding of anti-competitive conduct, Shopee could face a minimum fine of 1 billion Indonesian Rupiah (c. USD $63,000), and a maximum of 50% of net profits or 10% of total sales earned during the period of violation.

Middle East

ECA clarifies application of new pre-closing merger control regime

In the last edition of the CLQ, we reported on the introduction of a new pre-closing merger regime in Egypt which took effect on 1 June 2024 (and replaced the former post-closing notification system).

Ahead of the new regime coming into effect, in May 2024, the Egyptian Competition Authority (**ECA**) issued further guidelines and a commonly asked questions and answers supplement document, providing further details and clarifications in connection with the new pre-closing merger regime.

Most notably, these materials:

- clarify the application of the merger filing thresholds under the new regime.
  As noted in the previous edition of the CLQ, under the new regime, a merger filing is mandatory in connection with an economic concentration, where one of the following two thresholds are exceeded:
  - the combined Egyptian turnover or assets of the parties exceeds EGP 900 million (c. USD 19 million) and the Egyptian turnover of at least two parties exceeds EGP 200 million each (c. USD 4.2 million) in the last fiscal year; or
  - the combined worldwide turnover or assets of the parties exceeds EGP 7.5 billion (c. USD 158.6 million) and the Egyptian turnover of at least one party exceeds EGP 200 million (c. USD 4.2 million) in the last fiscal year

The ECA has clarified that the second threshold will only apply if the local turnover of 200 million Egyptian Pounds is achieved by the target entity in Egypt. This clarification should have the (welcome) effect of limiting the number of notifications in particular, in connection with transactions that have no nexus to Egypt.

- provide greater insight into the ECA's likely approach to assessing "full-function" joint ventures. The ECA's guidance notes that a joint venture is not notifiable, unless the following three conditions are met:
  - two or more persons must jointly control the joint venture, either as a result of establishment or acquisition;
  - the joint venture must be intended to permanently operate; and
  - the joint venture must be intended to perform all functions carried out by independent persons operating in the same market, particularly through the presence of an independent management dedicated to handling the daily operations of the joint venture and having separate resources specific to the person, including financing, employees, and assets.

As entities begin to notify mergers to the ECA pursuant to the new regime, we expect there will be more guidance and learnings on how the ECA intends to conduct merger reviews. The ECA has proven a formidable regulator, with notable enforcement in the merger and acquisitions space under the former post-closing regime. Now equipped with a pre-closing merger regime, we remain interested to learn how the ECA will develop its practice of enforcing competition law compliance in the context of mergers and acquisitions.

Philippines

Philippine Competition Commission active in opening Phase II reviews

The Philippine Competition Commission (**PCC**) has closely scrutinised potential mergers and acquisitions over the past quarter, and has commenced Phase II reviews of various transactions. A Phase II review involves a more detailed examination of a proposed transaction and its effects on competition.

Phase II review of drugstore chain

On 23 April 2024, the PCC commenced a Phase II review of AHCHI Pharma Ventures' proposed acquisition of Joleco Resources. Both firms operate competing drugstore chains in the Philippines, Generika Drugstore and St Joseph Drugstore, respectively. During its Phase I review, the PCC formed the view that the proposed transaction required further inquiry, as it raised potential competition concerns in the retail trade of pharmaceutical and non-pharmaceutical products across North of Luzon, an island in the northern part of the Philippine archipelago. The Phase II review will involve a more comprehensive analysis and assessment on the competitive impacts of the proposed transaction.

Phase II review of a Joint Venture

Similarly, on 11 June 2024, the PCC commenced a Phase II review of a proposed greenfield joint venture (JV) between independent telecommunications companies, PTCI Holdings Pte. Ltd, Connect Infrastructure (Philippines) Pte. Limited, and Meralco Industrial Engineering Services Corporation (together, the **JV Companies**). Under the proposed JV, the JV Companies would transfer each of their independent telecommunications tower companies to the new JV.

On 4 May 2024, the PCC directed that a Phase II review be conducted after it determined that there was not enough information to adequately assess the competitive impacts of the proposed JV. The Phase II review will consider barriers to entry into the market for telecommunications tower leasing, how regulators monitor the industry, and whether a conglomerate will emerge due to the proposed JV.

These developments demonstrate the factors the PCC considers when deciding whether to conduct Phase II reviews, and outlines the issues the PCC examines when conducting those reviews.

Singapore

Fake Customer Reviews posted by furniture retailer

On 21 June 2024, the Competition and Consumer Commission of Singapore (**CCCS**) concluded that furniture retailer Loft Home Furnishing published fake 5-star reviews of products on its website between November 2022 and August 2023.

In October 2023, the CCCS commenced an investigation under the Consumer Protection (Fair Trading) Act 2003 (**CPFTA**) against Loft Home Furnishing after receiving complaints from customers. The customers alleged that reviews containing their initials were used on the Loft Home Furnishing website without their knowledge. The reviews provided highly complimentary recommendations on the quality of the purchased furniture and contained actual photos of the furniture displayed in customers' homes.

The CCCS determine that the posting of a fake review by a business in relation to a consumer transaction is an unfair trade practice as consumers might be deceived or mislead into thinking that the review was genuine. Loft Home Furnishings also admitted to have engaged in this unfair trade practice.

Loft Home entities have given an undertaken to the CCCS that they would, amongst other things:

- stop posting fake reviews;
- set up a feedback channel for customers to report any fake reviews on the website or any other website that may be owned or operated by Loft Home entities; and
- remove reviews which have been verified by either the CCCS or themselves to be fake.

The owners of Loft Home entities also gave undertakings to the CCS that they would not engage in unfair trade practices or cause any Loft Home entities to do so in future.

The CCCS is concerned about customers' misperception of a brand and its products in circumstances where businesses fabricate reviews to make themselves look good. CCCS Chief Executive Mr Alvin Koh describes these conducts as "unscrupulous acts".

CCCS recommends renewing the block exemption order for liner shipping agreements

The Competition and Consumer Commission of Singapore (**CCCS**) has consulted on its proposed recommendation to renew the Competition (Block Exemption for Liner Shipping Agreements) Order (**LSA BEO**) for five years from 1 January 2025 to 31 December 2029.

The LSA BEO was first put in place in 2006 and is the only block exemption order in force in Singapore. The current LSA BEO exempts: (i) vessel sharing agreements (**VSAs**) for liner shipping services; and (ii) price discussion agreements (**PDAs**) for feeder services, from section 34 of the Competition Act 2004 (which prohibits agreements, decisions and concerted practices that have the object or effect of preventing, restricting or distorting competition in Singapore).

The CCCS considers the VSAs and PDAs will generate net economic benefits for Singapore (including by supporting Singapore's status as a transhipment hub) and renewal for a period of five years will provide legal certainty to the industry and allow industry players to plan for the longer term.

The CCCS will make a recommendation on the LSA BEO to the Deputy Prime Minister and Minister for Trade and Industry after it has considered the submissions received during the consultation, which closed on 17 June 2024. The CCCS's proposed recommendation marks a divergence from some other competition regulators, with both the European Commission and the UK's Competition and Markets Authority recently deciding not to renew the Liner Shipping Consortia Block Exemption Regulation (**CBER**). For example, the European Commission found that the CBER was no longer enabling smaller carriers to cooperate among each other and offer alternative services in competition with larger carriers, market developments in the liner shipping sector meant that a dedicated block exemption regulation was no longer fit for purpose, and the CBER did not deter carriers who fell outside the CBER from cooperating. The Commission also raised concerns about the CBER enabling the exchanging of commercially sensitive information.

CCCS clears ANA's proposed acquisition of Nippon Cargo Airlines at Phase 1

On 24 May 2024, the Competition and Consumer Commission of Singapore (CCCS) announced it had cleared the proposed acquisition by ANA Holdings Inc. of 100% of the issued share capital in Nippon Cargo Airlines Co., Ltd.

The CCCS's review focussed on the markets for the provision of direct and indirect air cargo transport services (i) from Singapore to Tokyo, and (ii) from Tokyo to Singapore.

The CCCS concluded that the proposed acquisition is unlikely to lead to a substantial lessening of competition in these markets for the following reasons:

- third-party feedback generally indicated that the merger parties are not each other's closest competitors and there existed multiple competitors that would be suitable alternatives to the merger parties;
- while barriers to entry and expansion are moderately high, the entry of three competitors as well as an integrator airline in the last five years on the Singapore-Japan routes suggested that barriers to entry and expansion are not insurmountable;
- even though the parties are the only non-integrator airlines operating freighters on a direct basis between Singapore and Tokyo, most third parties indicated that there would still be viable alternative airlines operating freighters on indirect routings between Singapore and Tokyo that customers can switch to in the event of any price increase or reduction of quality or capacity by the merged entity post;
- coordination between competitors is difficult as the prices charged to customers are not transparent and the availability of alternative suppliers and the ease of switching by customers would also create commercial incentives for suppliers to price competitively and disincentivise coordination.

Taiwan

Cartel conduct fines upheld in container terminal market

The Taipei High Administrative Court has upheld TWD 45.45m (c. USD 1.4m) in total cartel fines imposed on nine container terminal firms, including Evergreen International Storage and Transport, in 2021. The decision follows from a protracted litigation commencing in 2016, when the Taiwan Fair Trade Commission (**TFTC**) fined 21 entities, including the nine container terminal firms for concerted practices.

The contravening conduct involved the competitor companies jointly charging cargo handling equipment usage fees for export cargo weighing less than 3 tons at container freight stations in 2014.

The TFTC initially imposed TWD 72.6m (USD 2.23m) in fines. The companies then appealed the penalty decision and the Supreme Administrative Court ordered a retrial of the case in the court of first instance. On retrial, the Taipei High Administrative Court decided to revoke the TFTC's penalty decision on consideration of whether the concerted behaviour sufficiently affected the market and whether the TFTC appropriately relied on its discretion when calculating the fines.

Following this ruling, the TFTC refunded the fines and reviewed its decision, concluding that the concerted action violated Article 15(1) of the Fair Trade Act and impacted the upstream, midstream and downstream players in the market. The TFTC thereafter imposed the fines totalling TWD 62.25m (USD 1.9m). Nine companies challenged the fines before the Taipei High Administrative Court on 13 June 2024, but the decision was affirmed on 13 June 2024.

The TFTC's rigour to pursue notable fines, despite the appeals and time that had passed, signals to the business community the authority's commitment to identifying, carefully assessing and not shying away from imposing sizeable penalties for the most egregious forms of anti-competitive conduct.

Thailand

Thailand undertaking a review of its competition enforcement regime

Thailand's Competition Act BE 2560 (2017) (**Competition Act**) is reported to be undergoing extensive review through a five-year plan to align competition policy with Thailand's business goals and enforcement priorities. The Trade Competition Commission of Thailand (**TCCT**) has prepared a report on the effectiveness of the Competition Act in consultation with parliamentary bodies, which will feed into a broader review of the Competition Act. The TCCT also recently released a five-year strategy for the period 2023 to 2028, which will guide its activities over that period of time (pending any legislative impacts).

Further, Thailand's cabinet has approved ten principles on platform economy law to form the basis of the Platform Economy Act (**PEA**), which will address illegal content and transparency, and regulation of market powers of 'gatekeepers'. The PEA will include a competition chapter, making the Electronic Transactions Development Agency and the TCCT co-regulators. There is still uncertainty surrounding the intended interaction of the two agencies, as well as the ongoing application of the Competition Act to the activities of 'gatekeepers' regulated under the PEA.

Vietnam

Vietnam to investigate potential breach of competition law in rice exports market

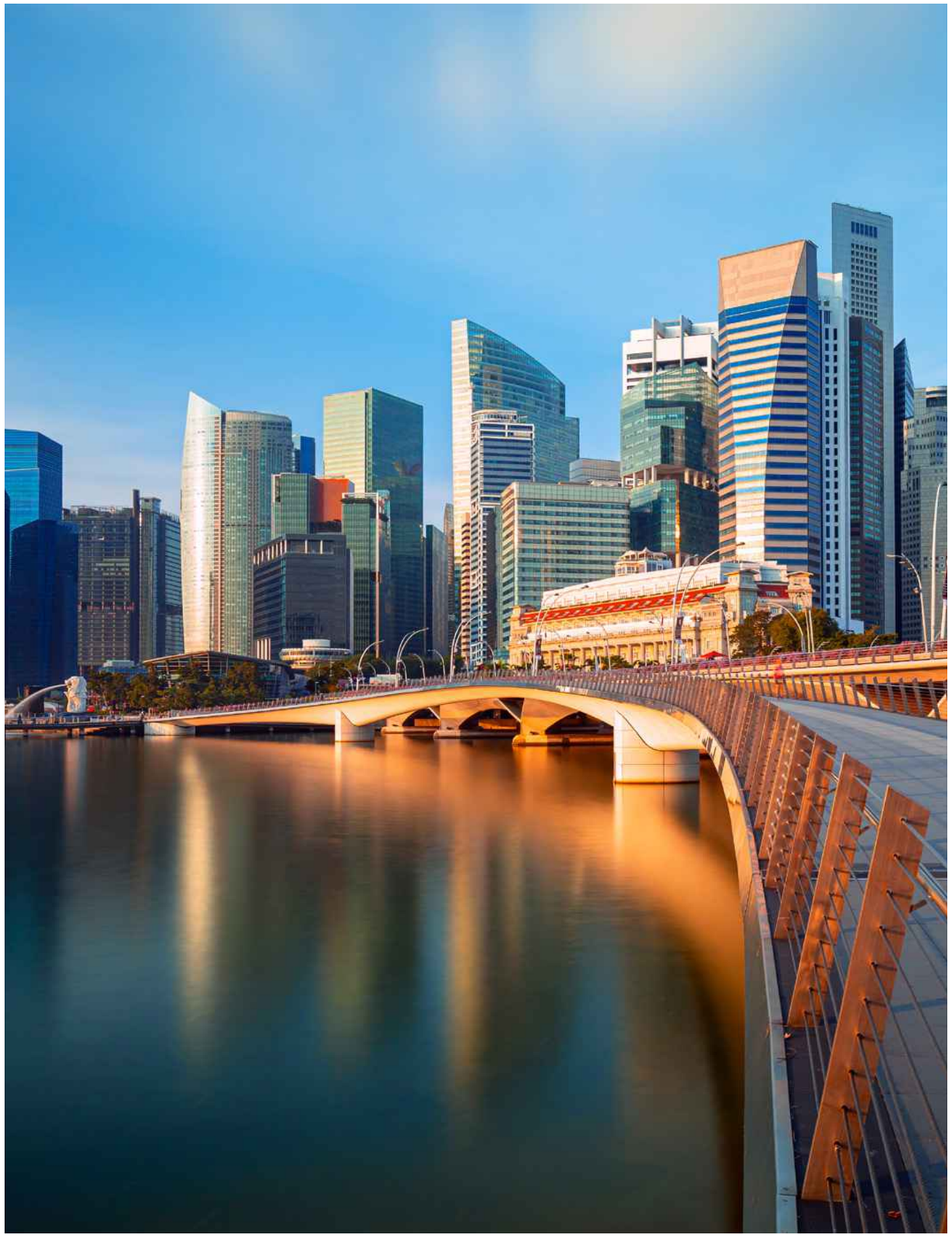
Vietnam's Ministry of Industry and Trade (the **Ministry**) has directed the Vietnam Food Association to investigate allegations that rice export companies have won bids at prices lower than the market rate.

The Ministry is concerned that violations of competition law have occurred due to abnormal bid prices. This relates specifically to Indonesia's purchase of 300,000 tonnes of white rice on 21 May 2024, where Vietnamese exporters won the bid at abnormally low prices. The lowest bid price between exporters was USD 563 per tonne, which was USD 24 lower than the domestic price listed by the Vietnam Food Association. The Ministry has not elaborated upon which areas of Vietnam's competition law they believe has potentially been breached.

The motivation behind the Ministry's direction appears to be to protect the quality and reputation of Vietnamese rice in overseas markets, and to consolidate Vietnam's position in Indonesia, which is its second-largest rice export market.

In response to this incident, local stakeholders have recommended that a minimum price for rice exports be implemented.

This serves as an important reminder that anti-competitive conduct is on the regulatory radar in Vietnam, especially concerning markets of national importance.



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