

# Competition Distortions Dossier

October-December 2016

## 1. Ministry Slams Vinastas Fish Sauce Survey

The Vietnam Standards and Consumers Association (VINASTAS) survey, which released misleading test results of fish sauce, causing public fear, was not independent, reliable or transparent, said the Ministry of Industry and Trade (MoIT). The statement came after an investigation by the Ministry following a national VINASTAS survey on fish sauces.

The MoIT slammed the VINASTAS survey, indicating that it was incorrect, without scientific and legal basis, causing confusion and fear among consumers.

The Health Ministry and MoIT were assigned by the Government to investigate and prescribe appropriate remedies and sanctions on the violations of VINASTAS in accordance with the law.

<http://vietnamnews.vn/society/345943/ministry-slams-vinastas-fish-sauce-survey.html#f30lyTIYDU8CEFKf.97>



### Food for Thought

*This is not the first time that consumers in Vietnam were alerted with food safety warnings, such as arsenic compound used in fish sauces. Some were true, helping consumers to avoid serious health damages caused by unsafe/toxic foodstuffs and drinks. Some, unfortunately, were later found to be false rumours, intentionally spread to lure away customers and kill off competitors. For example, in late 2011, there were some electronic news articles and postings about dirty Vodka Men, a Vietnamese brand of alcohol, which also caused a lot of fear amongst consumers, significantly driving down the consumption level of this product throughout Vietnam. The owner of the Vodka Men brand then submitted a complaint to the Vietnam Competition Authority (VCA). Investigation results later showed that the information was unfounded, and had been spread for the purpose of illegal unfair competition.*

*In the case of VINASTAS survey as well as the Vodka Men case, the highest damages done was the anxiety caused for consumers. VINASTAS's survey results reportedly led to significant business losses for many enterprises, especially businesses manufacturing traditional fish sauces, since consumers immediately switched to using industrially-produced sauce brands, while retailers went to the extreme of not allowing traditional fish sauce products on their shelves any longer. Even though there was public correction later on that the natural arsenic compound found in traditional fish sauces was non-toxic, damages had already been done. What is even more regrettable is that some industrial sauce manufacturers (yet to be named) had allegedly manipulated the consumer surveys to win over the competition.*

*This might be a classic case where the power of the consumer is manipulated for business gains. More than ten years of implementation of the Competition Law in Vietnam shows that unfair competition practices are much more commonly-found as compared to anticompetitive practices, and are doing tremendous harm to both consumer welfare and the overall business environment.*

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## 2. Vietnam may Amend its Competition Law

Vietnam may develop a law on competition, which is more in line with international rules, meeting the demands of economic integration by mid-2018. This was stated by Nguyen Phuong Nam, Deputy Director General of the



Vietnam Competition Authority (VCA) under the MoIT. The Law on Competition, after 10 years in force, has revealed many limitations, especially in human resources and available tools while competition-related violations were more sophisticated in the rapid international integration process.

<http://vietnamnews.vn/economy/34575/4/viet-nam-may-make-amendments-to-competition-law.html#8EgSvR86zL5Vzgp.97>

### Food for Thought

*Competition policy and law emerges in Vietnam against a backdrop of economic reform and trade liberalisation as the country attempts to deepen reforms, and to further integrate into the regional and the world economy. The adoption of the Competition Law by the Vietnam National Assembly in December 2004 was a major step towards this direction. This policy instrument is considered to be of utmost importance by not only the polity, but also by the wider research and academic circles of the country. It is expected to protect the competitive business environment in the country, prevent rent-seeking behaviours by both enterprises and regulators, and promote economic efficiency, fairness and consumer welfare.*

*It has now been more than ten years since the adoption of the law. There have been a number of cases down the road, a few stock-taking exercises by the enforcement agencies themselves as well as talks amongst the wider society about law review as well as amendment. The law at its current stage is thought to be overly complicated and rigid, difficult to be applied in practice, with a lot of ambiguous language that could lead to uncertainty. There remain a lot of conflicting issues and regulatory gaps, either within the law itself, or in its interface with other areas, despite overlaps at times. The Vietnamese competition authorities – the Vietnam Competition Council (VCC) and the VCA – suffer firstly from*

*institutional weaknesses, deep-rooted first of all from the country's political economy conditions and secondly from the construction of the law.*

*The regime, therefore, is under-enforced and although the authorities have undertaken advocacy work, recognition of the law within the country is only slowly growing. There is clearly scope to do more in the future. For example, one way to better educate enterprises about the competition law is perhaps making them learn it the hard way. A few successful cases with due penalties imposed and remedies executed would certainly wake the business community in Vietnam up to the fact that there is in fact a diligent watchdog and a protector of the competitive markets very much in operation in the country.*

*To sum it up, the amendment of the law and along with it, the re-organisation of the competition authorities, is the need of the hour. The remaining question is what to do so as not to spoil this second home-coming.*

## 3. SHB Merger with VVF Approved in Principle

The State Bank of Vietnam (SBV) has approved in principle a plan to merge the Sai Gon – Hanoi Commercial Joint Stock Bank (SHB) and the Vinaconex – Viettel Finance JSC (VVF). SHB revealed that the central bank also ratified their plan to set up a new subsidiary, which will be called SHB Finance with a charter capital of VND\$1tn (approximately. US\$44.64mn) and will operate in consumer credit.

Under the Circular No. 6812/NHNN-TTGSNH, the central bank asked SHB and VVF to complete their merger in line with SBV's regulations and submit a report on the merger to the SBV Governor for official approval.



SHB Finance will initially provide consumer credit services for individual consumers that have annual income from VND\$150mn to VND\$200mn, later easing the market share to other individual customers with lower income. Once SHB Finance is established, SHB will also transfer all its lists of individual borrowers with annual income of less than VND \$200mn to SHB Finance.

<http://english.vov.vn/economy/shb-merger-with-vvf-approved-in-principle-339599.vov>

### **Food for Thought**

The Vinaconex – Viettel Finance Joint Stock Company (VVF) was established in 2008 with a chartered capital of VNDUS\$1tn by two major shareholders – the Vietnam Construction and Import – Export Joint Stock Corporation (VINACONEX) and the Vietnam Military Telecommunications Group (Viettel). The merger between the Saigon – Hanoi Commercial Joint Stock Bank and VVF is thought to be unavoidable and appropriate, which would contribute to improving the competitiveness of Vietnam’s financial market through creating large-scale banks at the regional level. This is also a good opportunity for SHB to realise their strategy – SHB becomes one of the leading retail banks in Vietnam, increase their competitiveness and strengthen their position in both the domestic and regional markets.

Mergers between financial companies and commercial banks fall well within the strategic policy directions set by the SBV to ensure the long-term health of the country’s financial and banking sector. Currently, consumer finance is a big market with a lot of potential for development, especially when the Vietnamese economy is now on the path of recovery. The banking and financial market in Vietnam constantly witnesses the establishments of financial companies operating in the consumer lending sector as a result of mergers between banks and financial companies. This is because these mergers not only help to restructure the merging financial companies as well as divest State corporations, but also promote the growth of the merging banks’ consumer credits.

Mergers with and/or acquisitions of financial companies is a strategically wise step of banks, which are surely beneficial to these credit institutions. The banks could take advantages of the financial companies’ already available resources, such as well-trained staffs, technical systems, partners, markets, and customer segmentation, etc., as compared to when they have to start afresh.

## **4. Retail Competition Intensifies in Vietnam**

Competition is heating up in Vietnam’s retail market, as deregulation attracts entrants from other sectors and from overseas.

The retailers are springing up thanks to a relaxation of regulations. In Vietnam, a business wishing to open a retail outlet must undergo a review by the authorities to examine what impact the new business might have on the local economy. However, the criteria used to be unclear, making it difficult for companies to set up retail chains.

Things began to change in 2007, when Vietnam joined the World Trade Organisation (WTO). Efforts got underway to create transparent markets, and the



government relaxed the rules for new businesses. In May 2016, the government announced a measure to exempt small shops with a floor space of 500 sq. metres or less from seeking approval. The rule may go into effect by the end of 2016.

<https://biinform.com/News-Detail/223366/retail-competition-intensifies-in-vietnam-5370.html>

### **Food for Thought**

Nine years after joining the WTO, Vietnam has emerged as one of the most attractive retail markets in the world. Many international retail groups have entered the market, providing greater choices for consumers whilst creating intense competitive challenges for domestic players, especially since January 2015, when Vietnam’s liberalisation commitments allowed foreign retailers to set up businesses with 100 percent foreign capital in the country.

Vietnam’s stable economic growth rate and population size of approximately 90 million people also provide an attractive backdrop for development of the retail industry. A relatively young population, coupled with rising income levels, increased urbanisation, and an attractive business environment supported by lower trade barriers and reduced corporate tax rates, have enhanced Vietnam’s position as a high potential growth market.

Vietnam’s retail sector currently remains fragmented, with small family-owned businesses dominating the industry. Nevertheless, the number of modern retail outlets is growing in urban areas. Statistics from the MoIT show that more than 700 supermarkets, 125 shopping centres and 8,600 traditional markets are currently operational throughout Vietnam. Of these, 4 percent of the supermarkets and 25 percent of the shopping centres are owned by foreign businesses.

Several strategic entries by foreign retailers could be mentioned in recent years, some even said to raise considerable competition concerns and merit closer scrutiny by the competition agencies, such as the acquisition of Metro Cash and Carry by Thailand’s Berli Jucker Corporation (BJC) and the selling of Big C Vietnam to Thailand’s Central Group. That aside, there are also concerns/talks about how large retailers/supermarkets have been abusing their superior bargaining power to squeeze the profit margins of small suppliers while manipulating consumer’s choice.

## 5. MoIT to Hold Public Consultation

The VCA under the MoIT would hold a public consultation with related parties on investigations for anti-dumping tariffs on coated steel sheets.



The consultation, related to coated steel sheets imported from China (including Hong Kong) and South Korea, would be organised on December 22, 2016 to help related parties express their opinion on the anti-dumping tariffs.

Earlier, the Ministry had issued a decision to apply temporary anti-dumping tariff on imported coated steel sheets from China (including Hong Kong) and South Korea into Vietnam. The tariff is in effect for 120 days – from September 16, 2016 to January 13, 2017.

<http://vietnamnews.vn/economy/345702/moit-to-hold-public-consultation.html#Orot7vrjszDhDcJA.97>

### **Food for Thought**

*The steel industry of Vietnam in recent years is not having a bright picture. Foreign steel flooded the domestic market, creating difficulties for many domestic enterprises due to ever smaller market shares. Meanwhile, domestic steel production only reached around 60 percent of designed capacity, with most companies having to suspend their production temporarily, and thousands of jobs lost. The production scale of Vietnamese enterprises is relatively smaller, so production costs are naturally higher and thus the price of their products is not competitive. Their factories, machineries and equipments are also getting increasingly worn out after having been in use for several years without renovation and upgrading. The productivity level therefore*

*is not satisfactory because production technologies are much more outdated as compared to foreign competitors. Moreover, the technological level of Vietnamese steel enterprises has already been rated as weak. Their financial capacity is also limited, therefore, many companies could only invest in small-scale production lines and old electric furnace technologies, leading to non-competitive products.*

*Besides the above-mentioned difficulties and challenges, Vietnam's steel industry is also faced with unfair competition behaviours, such as steels being disguised as alloys etc. Besides, Vietnam has ratified the Association of Southeast Asian Nations (ASEAN)-China Free Trade Agreement (ACFTA), and the tariff reduction schedule under this Free Trade Agreement (FTA) also caused many difficulties for the Vietnamese steel industry. The domestic steel market is, as a result, flooded with Chinese cheap steel, which entered the country via both official channels and by way of illegal smuggle. Currently, China is scaling up their production and supply, which means this inflow of cheap steel from neighbouring countries would continue to increase. If they do not resort to trade defence instruments, and form association or production/supply alliance to increase competitiveness, Vietnam's domestic steel enterprises will face more problems, even bankruptcy.*

*The MoIT should continue to consider applying trade defence measures to ensure fair competition with imported products to promote the country's steel sector. However, according to integration trend, Vietnam's markets can not be closed using trade barriers forever. Therefore, it is crucial that the steel industry has to transform itself, undertake reforms and actively improve its internal strength. If the domestic steel manufacturers grow too dependent on these trade defence measures, they cannot survive the integration race.*

*Vietnamese enterprises should improve their product quality and invest in modern technologies to reduce production costs and enhance competitiveness in their own market. They need to change fundamentally, attach more importance to quality and collaborate with each other. When the Vietnamese economy integrates deeper into the global market, it would be no longer possible for steel enterprises to rely on the support of State authorities. They would need to become more proactive in competing with foreign producers, while still ensuring the interests of consumers and showing their responsibility towards the community and society.*

*This Competition Distortions Dossier is prepared by CUTS Hanoi Resource Centre. The information in this newsletter has been collected through secondary research and CUTS Hanoi is not responsible for any errors therein. The press clippings used here have been suitably adapted and summarised to convey their essence to the reader without any distortion of content.*

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