CUTS International 1983 2012

Competition Distortions Dossier

December 2013 - February 2014

A. TRADE POLICIES

1. Vietnam to Slash Import Taxes for ASEAN-made Vehicles

Beginning January 01, 2014, vehicles imported from 10 Association of Southeast Asian Nations (ASEAN) countries to Vietnam will enjoy a **tax cut** ranging from 10-50 percent following the ASEAN Trade in Goods Agreement (ATIGA).

Specifically, the tax rate for emergency cars and prisoner transport vehicles will range from zero to five percent.

Following ATIGA, 4-seater to 9-seater cars imported from ASEAN countries to Vietnam will incur a tax of 50 percent of the car's value rather than the current 60 percent.

http://tuoitrenews.vn/business/16369/vietnam-to-slash-import-taxes-for-aseanmade-vehicles

Food for Thought

More specifically, the import tariffs of completely built-up cars (CBU) from the ASEAN region will be reduced to 50 percent in 2014, then to 35 percent in 2015, 20 percent in 2016, 10 percent in 2017 and to nil in 2018. Accordingly, Vietnamese consumers could eventually buy imported cars at lower prices, even lower than domestically manufactured cars. And there would be increased market competition between domestic and foreign manufacturers of cars, towards better quality, availability, and innovative products. However, the question is whether that would really be the case.

Recently, relevant State agencies in Vietnam have proposed to exercise stricter control on imported cars. Some such proposals were detailed out by the Ministry of Industry and Trade in the revised version of the Vietnam Automobile Development Plan to 2020 with a vision to 2030. For example, to be granted import quota, import agents may have to fulfill several technical regulations such as strict criteria in terms of their financial capability and storage or qualified warranty and maintenance system. Rigorous testing procedures towards imported cars would also be performed. Applicability of similar procedures to domestically built cars remains doubtful. Most notably, the Ministry of Industry and Trade will also coordinate with the Ministry of Science and Technology, and the Ministry of Transport to work out more suitable regulations. This is more troublesome in light of the fact that companies often complained about the administrative burden they have to bear while working on import procedures.

Technical regulations are commonly-used tools for ensuring quality and protecting domestic consumers by countries around the world. However, they could also be misused in favour of domestic industries to block out imports. Eventually, regulations become 'technical barriers to trade', working to shield a market from import competition. In fact, for a market to be competitive, reduced import duty should go hand in hand with simplified technical regulations instead of tougher ones. Relevant State agencies should be vigilant to maintain this balance in policy-making, so as to be able to protect consumers while also promoting dynamic competition in the market.

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B. INVESTMENT POLICIES

2. Decree Lifts Foreign Ownership Cap

A single foreign strategic investor is now allowed to possess up to 20 percent holdings in a credit institution, an increase from the current 15 percent cap. This is in accordance with the Decree No. 01/2014/ND-CP which came into force on February 20, 2014. The decree is expected to increase the foreign capital flow into the banking sector of Vietnam.

Previously, the holding of a foreign investor was capped at 15 percent, or 20 percent for exception cases which had to be approved by the Prime Minister. The new decree now regulates that the cumulative stake of all foreign investors in a local credit institution cannot exceed 30 percent of the institution's charter capital, which is still lower than the expectation of many banks, being 49 percent.

www.vir.com.vn/news/en/hightlight/decree-lifts-foreign-ownership-cap.html

Food for Thought

According to the State Bank of Vietnam, there are currently over 30 domestic commercial banks in Vietnam and the number should be reduced by half to 14-17 in the next three years. With this decree, the government seems to be on the right track in terms of taking forward the ongoing restructuring process in the banking industry.

However, apparently there is still much hesitation on the part of the government regarding stronger foreign participation. This rate of 20 percent is not attractive to foreign investors as it does not allow them to take significant control of domestic banks. It is not to mention that the total share of all foreign investors stays at 30 percent, much lower than the expected rate of 49 percent. Meanwhile, buying a 100 percent of a weak bank with high rate of bad debts would definitely be a risky choice for foreign investors. The situation is of greater concern as the government is on one hand, trying to deal with bad debts and on the other hand, maintaining a significant barrier against foreign investors' participation in the market, which will ultimately slow down the speed of restructuring.

From the experiences of other countries in Asia which had to deal with the financial crisis, such as Thailand and Korea, long-term foreign strategic participation has been a key to restructuring of banking systems. In the case of Vietnam, undoubtedly more foreign capital should be infused into Vietnamese banks, especially inefficient and weak ones which are in high need of capital during their restructuring process. Foreign investors, however, demand more transparency and high governance standards and their participation would ultimately have a positive effect on the management banks. Having foreign investors on board, domestic banks will benefit from their global experiences and managerial skills. In fact, the participation of foreign investors has partly contributed to successful merger and acquisition (M&A) cases in all industries, including the banking industry. There are currently 13 foreign-invested banks in Vietnam, all of which are excluded from the group of 'inefficient' banks and some of which are among the group of best performers.

The underlying reason behind the limited 'room-widening' is apparent: to prevent a possible collapse of the banking industry in Vietnam, where domestic banks are currently quite vulnerable and where any bankruptcy and establishment normally have massive psychological effect. However, allowing only 20 percent foreign investment is still a protectionist approach and government should seriously consider raising this limit as soon as possible. In the longer term, any reforms must be in line with free market principles and ultimately the number of banks will be entirely determined by market forces in open and fair competition.

3. Vietnam Domestic Logistics Firms Struggle to Survive

Local logistics firms are facing fierce competition since the Vietnamese government allowed foreign investors to set up wholly foreign-invested firms in the industry starting January 2014. Earlier, foreign investors were only allowed to own a maximum stake of 49 percent in such companies.

The country's preparation for the fully-opened logistics market was slow because leaders had underestimated the role of logistics in the economy, said Dang Dinh Dao, a senior logistics expert and director at the National Economics University's Institute for Economics and Development Studies.

www.cargonewsasia.com/secured/article.aspx?id=7&article=32917

Food for Thought

Following Vietnam's WTO membership in 2007, the logistics market has become more vibrant with high growth rate as a result of the increasing number of foreign participants. Currently, there are 25 multinational logistics companies doing business in Vietnam, which account for up to 70-80 percent of the total logistics market. Most Vietnamese logistics suppliers act as agents or subcontractors to the international players.

Foreign participation is expected to be much higher when the logistics market is fully open to foreign invested enterprises (FIEs) following this policy. There are, however, concerns relating to the huge challenges that domestic companies will have to face with, given the increasing competition from foreign companies. Vietnamese companies are mostly small and medium sized with limited resources and capability. Therefore, inefficient ones will be easily pushed out of the market. In order to become agents for foreign companies, some domestic firms even engage in unfair competition with each other by reducing prices below the production cost, which could ultimately allow foreign ones to dominate the young logistics industry of Vietnam.

However, despite these many challenges, great opportunities can be leveraged when Vietnamese companies may join a bigger market and reap greater benefits in terms of capital mobilisation and global experiences. With appropriate strategies and approaches, domestic companies still have chance to grow, win the trust of foreign manufacturing companies and ultimately garner greater market shares in an increasingly competitive environment. It is suggested by many experts in the sector that these companies need to compete fairly, in accordance with market principles and focus on their core businesses rather than non-core ones. It also requires multiple tasks on the part of the government to create favourable conditions for the sector to develop.

For example, the regulatory environment should be improved for regional and international integration of the logistics industry. Infrastructure should be also developed, contributing to reducing logistic costs in Vietnam. Capacities must also be built to prevent and check anti-competitive practices by domestic and foreign-owned companies, alike. Last but not least, suitable policies should be devised to build qualified human resources both in terms of management and expertise.

C. SECTORAL REFORM

4. MobiFone Urged to Detach from VNPT

MobiFone, one of Vietnam's three largest mobile network operators, should be separated from its parent company – Vietnam Posts and Telecommunications Group (VNPT), which also owns Vinaphone – MobiFone's rival in the market and also a dominant service provider, and then privatised/equitised, said experts at a seminar on February 14, 2014. This is also the latest proposal submitted by VNPT to the government for its restructuring scheme.

MobiFone and Vinaphone, along with military-run Viettel, are dominating the country's mobile telecommunications market with a combined market share

of more than 90 percent. It is thus said that there is no real competition in the market as of now, since all the three biggest businesses are wholly state-owned, leaving no room for other small and non-state enterprises to compete. Some even pointed to the examples of Gtel's Beeline and Hutchison's HT Mobile having left the market due to unfair competition and the existence of State monopoly in the industry.

The government is expected to reach a decision on this matter during this first quarter of the year 2014.

www.vietnambreakingnews.com/2014/02/mobifone-urged-to-detach-from-vnpt/#.UxQHx845Wm4

Food for Thought

VNPT, in fact, submitted its first restructuring scheme to the government since May 2012, in which a merger between MobiFone and Vinaphone was proposed, though not receiving much support. This merger had been proposed on the grounds that it would help increase the efficiency of VNPT as a whole while being in compliance with the then newly-promulgated Decree No. 25/2011/ND-CP of the government and ensuring no negative change would affect consumers.

The Decree No. 25/2011/ND-CP, guiding the implementation of the Telecommunications Law, stipulates that, "An organisation or individual owning more than 20 percent of charter capital or shares in a telecommunication enterprises shall not be allowed to possess more than 20 percent of charter capital or shares of other telecommunication enterprises doing the business in the same market belonging to the List of telecommunication services promulgated by the Ministry of Information and Communications". This provision is said to essentially aim at preventing competition distortions in the telecommunications industry caused by cross ownership and market dominance.

This new restructuring proposal by VNPT has certainly got better success so far. Analysts said the effects of the separation of MobiFone from VNPT could be three-fold. First, the monopoly on the telecommunications market will be broken and it promotes fair competition among market participants. Second, MobiFone would be privatised ('equitised') and would have no alternative but to become more efficient to be able to compete in the market. No longer subsidised by its stronger brother, Vinaphone would also have to renew itself by increasing service quality, downsizing and improving the management mechanism. Third, in a more competitive environment, consumers will benefit the most in terms of wider choices, lower prices and better services.

In a nutshell, this might be the first but very significant step to restructure the telecommunications market, especially the mobile service sector, in Vietnam. There is still much to be done such as removing barriers to encourage market entry by private and foreign service providers or engaging

stakeholders in the restructuring process of MobiFone and Vinaphone. Inside VNPT, in addition to Vinaphone and MobiFone, there are other big companies and units that operate in various fields. It would depend greatly on VNPT's management skills so as not to let these companies and units be left behind the competition.

5. Viettel, FPT to Provide Cable TV Services

Having won approval from the Ministry of Information and Communications, the military-run telecom group Viettel is preparing to launch a cable television service in April 2014 while FPT Telecom will offer the service in August the same year at the latest.

Viettel is giving discounts to customers using its service during the trial period. After that, customers will have to pay for equipment and a monthly fee of VND85,000.

Nguyen Van Khoa, Director, FPT Telecom said that FPT service would be launched one year after the date of licencing at the latest, or in August.

http://english.thesaigontimes.vn/Home/business/ict/33144/Viettel-FPT-to-provide-cable-TV-services.html

Food for Thought

Vietnam in total has 4.5 million cable television subscribers, of which 70 percent are controlled by the national channel, Vietnam Television (VTV). VTV owns three subsidiaries, namely VTVC, SCTV (a joint venture between VTV and Saigontourist) and K+ (a joint venture of VTV and the French Canal+).

By licencing Viettel and FPT Telecom to provide cable TV services, the government shows it is taking initial steps to break the monopoly on the pay TV market. VTV has enjoyed its monopoly status for a long time and it is much hoped that the situation will change when Viettel enters the market. In another market, the market for mobile telecommunications services, despite being a latecomer, Viettel has gradually gained a strong foothold, and in fact become the biggest service provider, competing against Vinaphone and MobiFone, formerly two sole dominant businesses therein, thanks to its low-fee strategy.

Participating in the pay TV market, Viettel could take advantage of its 200,000 kilometers of fiber cable covering 95 percent of the country's areas and could become a counterpoise against VTV. Apparently, more intense competition will ultimately benefit consumers. Both FPT Telecom and Viettel have promised to bring reasonable prices and provide attractive service packages to consumers. Moreover, the unoccupied area in rural and remote areas would be targeted as currently most of the cable TV subscribers are in the central areas and big cities and towns.

Recently, it was observed that, in order to attract more subscribers and expand market shares, existing pay TV service providers have participated in a heated race by means of reducing subscription fees or improving service quality. Notably, the pay-TV market is still a very promising one. However, it is still too soon to say whether the problem of monopoly will be solved. The main concern is that Viettel is also a state-owned company and the point that has to be taken under consideration is whether fair bidding process was adopted before providing license to Viettel or not. Besides, it is uncertain that Viettel is going to share its powerful infrastructure system with other enterprises or not. Hence, there must be suitable enforcement mechanism to ensure that and 'common carrier' principles must be adopted and implemented.

6. VietJetAir Acquires over 100 Airbus Aircraft

VietJetAir, Vietnam's first private airline, has finalised an order with the Airbus Group to purchase and lease 100 aircraft with a total contract value of US$9.1 billion.

The signing ceremony took place in Singapore on February 11 on the sidelines of the ongoing Singapore Airshow 2014.

Dinh Viet Phuong, Vice President of VietJetAir said that the first aircraft will be handed over in 2014 and with this contract, the company will have more efficient planes to serve passengers.

www.saigon-gpdaily.com.vn/Travel/2014/2/107894/

Food for Thought

Until the end of 2013, the total market share of Vietnam Airlines is 61.4 percent, giving itself a near-monopoly status on the local aviation market. The immediate consequence is its power in setting the fares which are not necessarily in accordance with increasing quality, as complained by many consumers. With Vietjet Air finalising the deal of US$9.1bn, it is much hoped that the monopoly of Vietnam Airlines will be broken, paving the way for a more competitive aviation market.

In fact, since its first flight in 2011 Vietjet Air has been considered a rising star in the aviation market thanks to its low-fare strategy. In 2013, its local passenger market share has increased 9 percent up to 25 percent, in comparison with 16 percent in 2012. On the contrary, Vietnam Airlines' local market share dropped 7.3 percent in 2013, leaving them with just 61.4 percent of the market share. It is also predicted that in 2014, they will lose more than 6.4 percent of local passengers and by the end of the year will only have 55 per cent of market share. Undoubtedly, consumers are the first to benefit from a more competitive environment, especially when

Vietnam Airlines has dominated the market for a long time. With the existence of competition, passengers can have more choices and better-quality services that suit their needs as well as their financial capability. For example, when VietJet Air unveiled a new route to Phu Quoc, Vietnam in 2009 consumers only had to pay 480,000 Vietnamese Dongs instead of millions of dongs flying to Phu Quoc by Vietnam Airlines and Air Mekong (another airline then providing services in this route, now suspended).

With VietJet Air's plan to expand their fleet and local routes, competition in the market will increase even more sharply. It is expected by many people that, to compete with VietJet Air, existing airlines have to choose between reducing prices or increasing service quality or do both at the same time. Of course, it is not likely that the situation will be changed overnight given the fact that Vietnam Airlines still dominates the aviation market, and still remains a big shareholder of Vietnam Air Service Company (VASCO) and Jetstar Pacific, other market participants, as well as owning all the logistic services. In any case, consumers are expected to benefit from increasing competition between these airlines.

C. ANTICOMPETITIVE PRACTICES

7. MoF Monitors Rising Price of Milk

The Ministry of Finance (MoF) plans to closely manage domestic milk prices, in cooperation with other relevant State agencies, given that one milk trader has increased its prices while others plan to follow suit.

Since the first day of 2014, Mead Johnson Nutrition, one of the largest milk-trading companies in Vietnam, has hiked the prices for nine of its 35 product lines, according to the MoF.

According to Mead Johnson Nutrition, the increase was in response to a 12.6-12.8 percent surge in import prices for three kinds of products sold in Viet Nam since August 1, 2013, and due to losses incurred from the sales of other products.

Nguyen Anh Tuan, Director General of the MoF's Price Management Department, told *Thoi bao Kinh te Viet Nam* (VnEconomy) newspaper that other dairy traders were also asked to review their price plans before proposing a hike in prices of dairy products to the Ministry.

Under existing regulations, all six dairy traders in Viet Nam must register any amended selling prices with the Ministry of Finance to gain official approval.

http://vietnamnews.vn/economy/251104/mof-monitors-rising-price-of-milk.html

Food for Thought

As per the latest development, the Ministry of Finance is considering to set a ceiling price for milk products for children under 6 years old. However, the feasibility of this idea should be questioned given that the Ministry failed to do the same thing in 2009 when milk price soared up. Various challenges should be considered, including the highly competitive milk market where there are thousands of dairy products. Therefore, different production costs and different brand names exist which make it hardly possible for the Ministry to set up a single ceiling price for them.

At the same time, the Vietnam Competition Authority (VCA) under the Ministry of Industry and Trade is said to be starting an initial investigation into the allegation of collusive price-fixing conduct among these dairy companies. However, it seems that not much should be expected given that this is not the first time the issue of price-fixing has been a topic of concern for relevant authorities when existing competitors in a market simultaneously raise their product prices. In a similar case in the telecommunications industry, the VCA also investigated and eventually announced that mobile service providers did not violate the Competition Law with their 3G fee hike.

So the question is how to better manage the milk market. According to a research study on the competitive landscape of the market for infant formula products for babies under 12 months of age in Vietnam between 2009-2011 period, undertaken by CUTS and released by the Central Institute of Economic Management, this market is very competitive. It consists of 28 companies with 50 different brands in the product segment for infants between 0-6 months and 27 companies with 53 different brands in the product segment for infants between 6-12 months. The number is definitely bigger now. That competitive market is supposed to bring a lot of benefits to consumer such as competitive prices, product quality and freedom of choice but in reality, Vietnamese consumers have not been able to fully enjoy these benefits mostly due to the lack of information about prices and product quality. Therefore, perhaps the government should come up with suitable policies to make sure that product information could reach consumers in more convenient channels, and in a more transparent manner, so that the consumers could decide which products best suit their needs and income level.

This Competition Distortions Dossier is prepared with the support of the Friedrich Naumann Foundation for Freedom under the project entitled 'Competition Distortions in Vietnam'. 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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