

Competition Distortions Dossier

December 2014 - February 2015

A. TRADE POLICIES

1. Vietnamese Businesses Facing Challenges from AEC

The year 2015 is expected to bring transformation in Vietnam’s present business environment as ASEAN Economic Community (AEC) would be established in the current year. ASEAN refers to the Association of Southeast Asian Nations. It is expected to bring several opportunities as well as challenges to the domestic market. Mostly, businesses are of small scale, with limited market share, low potentials in science and technology. Capital and technology limitations have prevented small and medium enterprises from participating in large projects.

The Ministry of Planning and Investment reported that the number of businesses have rapidly developed, although there has not been an overall improvement in the level of competitiveness.

<http://www.saigon-gpdaily.com.vn/Business/Economy/2014/12/111792/>



Food for Thought

AEC is expected to be established by 2015 end, with an aim to create a single market and production base with a population of more than 600mn people and a combined gross domestic product (GDP) of nearly US\$2,000bn. There would be free flow of goods, services, investment, skilled labour and capital among the ASEAN countries. In addition to huge benefits that AEC would offer, such as expanded market and investment opportunities, it would also provide for a competitive economic region where domestic companies would be subjected to fierce competition from foreign ones. It would surely not only encourage further foreign participation in the domestic market by eliminating tariffs but also bring down non-tariff barriers. Hence, in order to survive and prosper amidst the regional integration, domestic companies have no choice but to increase their competitiveness.

However, small and medium-sized enterprises (SMEs) in Vietnam sum up to over 90 percent of the total enterprises. These domestic enterprises are most vulnerable to competition as they lack proper technology application, human resources and capital. Furthermore, their awareness of AEC and its implication is still quite limited. According to a study by the University of Economics and the Business-Vietnam National University, Hanoi, up to 60 percent of Vietnamese enterprises were not aware of AEC and what might lie ahead of them when AEC would be launched at the end of the current year. Though Vietnam, together with Singapore, is one of two countries with best preparations for AEC, most changes with regard to establishment of the regulatory framework, investment promotion or improvement of the business environment have been led by the government at the macro-level.

In a short term, with an increase in competition from foreign players, consumption goods would be the most vulnerable sector in the market. Recently, more and more Thai firms are noted to have successfully entered the Vietnamese retail market. Some of the most remarkable cases are the purchase of Metro Cash & Carry Vietnam by Thailand’s Berli Jucker for US\$879mn and the opening of Thai-owned Robinson department store in Hanoi and Ho Chi Minh City. In fact, in the past two decades, Thailand has become the preferred country of origin for Vietnam’s growing middle class, which is growing very conscious about price as well as quality. However, such incidents are indispensable in the era of regional and global integration and this trend should be treated with an open mind. In fact, healthy competition infused into the market would encourage local enterprises to compete by enhancing product quality and increasing productivity gains.

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In a nutshell, regional integration is economically beneficial to member countries but it is not a panacea. It requires individual efforts of each member country to garner the benefits. Such efforts should not only come from the Government but also from the participants in the business sector. It is worth noting that, the integration process requires minimum government support towards enterprises. Therefore, enterprises have to set their own development strategy appropriately. If they persist in keeping their own scale or keep asking for State loans or subsidy for operation and expansion, this would result in direct government support, thereby distorting the competitive balance in the market. Hence, any changes must be in place for the enterprises to quickly adapt to such changing business environment. In the retail market, it is imperative that the producers and distributors alter their business models to focus on product quality, set up flexible distribution systems, and offer incentives to retailers in order to compete with their foreign rivals. It is also suggested that the retailers should cooperate with each other to retain old market share and attract new consumers.

B. SECTORAL REFORM

2. Vietnam Air Seeks to Buy Airport Terminal after VietJet Air Bid

The Transport Ministry had issued notice inviting agencies to buy the right of operation of Phu Quoc



International Airport and part of T1 Terminal at Noi Bai in 2015. It had intended to raise funds for other projects including the Long Thanh International Airport.

As a reply, the State-owned Vietnam Airlines Corporation sent a letter offering its interest to takeover Terminal T1, which clearly mentioned the Airline's desire to specifically use the Terminal T1 for its own flights and offer related services at the second biggest airport in Vietnam.

<http://english.thesaigontimes.vn/39674/Vietnam-Air-seeks-to-buy-airport-terminal-after-VietJetAir-bid.html>

Foods for Thought

With the rapid increase in customer demand, the aviation sector has become a key transport sector in Vietnam. Currently, the country has 21 domestic and international airports, which are already operating at high intensity levels. But it is observed that infrastructure development is not

keeping pace with the fast-growing demand from aviation systems.

According to the web-based poll results announced in 2014, Vietnam's dual vital airports of Tan Son Nhat in Ho Chi Minh City and Noi Bai in Hanoi were among the worst in Asia. The reasons for this situation were, firstly, the substandard infrastructure of the aviation industry and poor air passenger transport market in Vietnam that failed to serve a population of 90mn people. In 2014, Tan Son Nhat airport in HCM City, the biggest airport in Vietnam, only had the capacity of 22mn passengers per year, just one fifth or one sixth of the capacity of Bangkok, Kuala Lumpur, and Singapore airports. In the north, Noi Bai airport with the T1 terminal could only serve about 14mn passengers a year. Most of the country's airports were built in the 1960s and limited funding had led to poor maintenance of facilities and equipment. Therefore, the Transport Ministry considered it essential for an all-round investment in airport infrastructure in the very near future.

Private investments into aviation infrastructure were necessary to promote airport development. Therefore, it was a good signal that the airport sector was being opened up with the investors getting involved in developing the airport facilities. However, Vietnam Airlines, which showed interest to buy the Terminal, is a state-owned airline, which holds approximately 97 percent market share of the local aviation market. In case of an auction, the possibility of winning could be foretold given their advantages of capital or bargaining power. Consequently, accepting the proposal would deprive other airlines the right to use the terminal, thereby creating an unfair business environment in the aviation sector.

It is never doubted that airport expansion projects are needed to infuse more capital into the aviation market. However, it is advisable for the government to adopt a balanced approach before arriving at any decision, by creating a level playing field for all the market participants, be it a public or a private entity. One of the suggestions worth considering is that there should be an independent airport company to buy the terminal and then sell services to all airlines in a fair and transparent manner.

3. Vietnam's Central Bank Buys out Distressed Bank for Construction

The State Bank of Vietnam (SBV) took over the struggling Vietnam Bank for Construction (VNBC), more than six months after the police arrested its top leaders for embezzlement. It acquired the bank, whose capital had fallen far below the minimum requirement of VND3tn (US\$140.6mn).



The central bank neither had to pay anything for the shares nor revealed the current capital level of the bank. This was done according to the new regulation introduced by the Vietnam Government in September 2013 that allowed the Vietnam Central Bank to restructure weak banks by purchasing its shares.

<http://www.thanhniennews.com/business/vietnams-central-bank-buys-out-distressed-bank-for-construction-at-0-dong-38334.html>

Food for Thought

The State Bank of Vietnam acquired the Bank for Construction at 0VND per share as it had no choice but to file for bankruptcy after a long time of struggling with their restructuring plan. This shows that the Government seems to be on the right track in terms of taking forward the ongoing reform processes in the banking sector. The underlying reason behind the purchase is to keep the system stable and ensure the rights of debtors. Other commercial banks that were on the list of being acquired were GP Bank and Ocean Bank. It is expected that restructuring operation and management of credit institutions including banks be completed in 2015. In the coming times, not only these weak banks but also strong banks are to be restructured for the health and stability of the whole banking system.

In these cases, it is evident that the banking system is experiencing drastic changes with increasing government intervention. Through mergers, the scale of State-owned commercial banks seems to be on the rise, evidenced by the cases, such as Vietcom bank merging with Saigonbank and Vietin Bank merging with PG Bank. On the contrary, joint-stock commercial banks of which the majority of shares come from the private sector are narrowing down in terms of quantity.

It is essential that the government should come up with cautious approaches and measures to regulate mergers and acquisitions activities effectively and not to restrict the sector to big State-owned giants. In any case, there should be a fair competition between the private sector, specifically strong joint stock commercial banks and state-owned banks participating in the sector, to guarantee the competitive balance therein.

C. ANTICOMPETITIVE PRACTICES

4. Vietnam Electricity to Raise Electricity Price

Vietnam Electricity Corporation (EVN) intends to raise the retail electricity price by 9.5 percent, which would bring



VND700bn to the company.

As per Prime Minister's Decision No 69, EVN does not have any reason to raise the electricity price at the moment. The VND/USD exchange rate has been stable, over the last several years, with VND having depreciated by only one percent in December, 2014. The input cost i.e., crude oil price has also dropped sharply by 30 percent, making it cheaper to generate electricity. Also, hydropower plants have also been running well and EVN can buy electricity from the plants at low prices.

<http://english.vietnamnet.vn/fms/business/119366/evn-to-raise-electricity-price-despite-lower-input-material-prices.html>

Food for Thought

The excuse given by EVN for its proposed price increase plan is that it would help to cover the company's losses. Furthermore, electricity price would become more competitive; hence, it might encourage a larger number of market participants and eliminate monopoly. Ultimately, the government, enterprises and consumers could all enjoy the benefits. It was also suggested that the retail electricity price in Vietnam would be raised by 40 percent in the next three years to 'save' Vietnam's power sector.

However, such excuses are subject to widespread criticism and distrust. First of all, it can be easily seen that no individual or corporation would benefit from increasing electricity price, which affects all aspects of production and life of end consumers. In fact, price increases would only benefit EVN and investors in the sector. This was not to mention that EVN's productivity was very low, while the loss during electricity transmission was very high.

At the same time, the possibility of eradicating monopoly is still very vague. According to the Government's decision, the roadmap for Vietnam's electricity market reform includes three phases: 2005-2014 (forming a competitive power generation market); 2015-2022 (developing competitive power trading market) and after 2022 (operating a competitive retail power market). After nearly three years of officially operating the competitive market, the Vietnam power market has gained certain achievements with an increasing number of direct power plants. However, it is worth noting that EVN still holds the dominant position in power distribution. EVN also owns a majority stake in most power production plants, of which the overall productivity is about 64 percent of total electricity output. Being a dominant player, EVN is abusing its strong position and freely factoring its losses over non-core investments into the electricity prices to be borne by the consumers.

To conclude, the practice of increasing the selling price when all the input materials are getting cheaper is unfair as well as unjustifiable. In order to adjust electricity price in line with market principles and eliminate monopoly, it is important that State administration agencies thoroughly review input costs and consult experts, consumers and relevant stakeholders before approving any price increase proposals. Electricity price should be regulated in a way that protects the legitimate interests of the consumers. It is suggested that EVN must also innovate and restructure itself in order to reduce the cumbersome mechanism for optimal productivity and efficiency in the power distribution system.

5. Transport Firms Fail to Cut Fares

The Ministry of Transport established four inspection teams to supervise transportation fares among transportation enterprises. With the drop in fuel price, many transportation enterprises those are members to the Ho Chi Minh City Transport Association have reduced their



fares from 10 to 15 percent, however, 70 other enterprises have not yet reduced their prices.

The Ministry of Finance also requested the central provinces and cities to ensure that fares matched fuel price's downward regression, however, several enterprises refused to publicise their new fare amount. Therefore, the Ministry of Transport issued a document that set up inspection special teams with the aim to tackle such issues of unresponsive enterprises.

<http://vietnamnews.vn/society/265570/transport-firms-fail-to-cut-fares.html>

Food for Thought

According to Dr Nguyen Dinh Cung, Head of the Central Institute of Economic Management, the attempts of the government to administer fuel prices is actually against the principle of market mechanism. The Ministry of Finance and the Ministry of Transport join efforts to review price registration, inspect transport enterprises and force them to lower their charges, instead of finding out the reason why enterprises are reluctant to do so.

One of the main reasons is that fuel prices, the major determinant of transport fares, soared and plunged unexpectedly according to prices on the international market. However, the underlying reason behind this situation is the supply-demand relationship. There is a lack of competition in the transportation market, where demand exceeds supply, leading to the fact that enterprises are not pressured to reduce fares or if they are, they do within a very small range. Furthermore, market entry barriers are still very high for new enterprises to enter the market. With such a market structure, the supply could be not changed shortly. Especially, in case of Tet festivals or holidays, the demand for transport among the public often intensifies, which makes transport fares substantially higher.

Therefore, instead of price intervention by means of inspection groups, it would be more sensible for government agencies to encourage competition and restrict monopoly by

strengthening the role of the Vietnam Competition Authority, media or consumer associations. In addition, a healthy competitive environment should be built for new market participants to bolster the supply and meet customer demands.

6. Transport Minister Urges Regulations for Taxi Services

Uber, an American taxi service, offers low-cost taxi rides in expensive cars through a downloadable phone application (app). The app informs the customers how much the ride would cost, and gives them information about the car picking them up. It charges the customer's Visa or MasterCard for the service. However, Vietnam's present laws do not address Uber's specific business type. Hence, the Transport Ministry urged transport agencies to study and adopt policies to legalise Uber.

<http://vietnamnews.vn/society/263650/transport-minister-urges-regulations-for-taxi-service.html>

Food for Thought

Not only in Vietnam, Uber is a controversial service in many of the 250 cities world-wide where the company has a presence, mostly because it can offer lower fares due to the absence of regulations. In Vietnam, it has raised great concerns that this type of business has not been defined in any legal documents, decrees, circulars, instructions, making it difficult for State administrators to regulate. Besides, it operates without registering its business or paying insurance or tax, which would be unfair to traditional firms as the latter have to bear many kinds of fees and taxes, including value-added tax and corporate income tax. It is also said to pose a serious risk to customers, such as lack of safety, lack of insurance, unfair treatment between the ones with credit cards and the ones without credit cards. In a recent case, the Ho Chi Minh City Police imposed fines on people employed by the service as they had no licenses.

However, undoubtedly this type of business has certain competitive advantages, such as lower price, better service, and more convenience than the traditional type. Besides, from the legal perspective, individuals' freedom of business is to be respected and protected by the Constitution, which says all Vietnamese citizens are allowed to do business in all sectors that are not banned by law. This explains why Uber is well-received by the public but face opposition from traditional taxi firms as it may threaten their existing and potential markets. In any case, if technology makes people's lives easier and better, whether it is related to taxi or other things, it must be optimally utilised. Most importantly, it is highly advisable that the government, instead of imposing bans, should legalise Uber so as to create a fair and level playing field between Uber taxis and traditional taxis. The presence of Uber taxis, together with traditional taxies, will facilitate fair competition, which in turn benefits consumers with more choices, lower prices, better services and more innovation.

7. Vietnam Seeks to Tax E-commerce, Facebook Retailers

A draft circular that envisages requiring online retailers to register and pay taxes has drawn mixed reviews. The Ministry of Industry and Trade circular would require e-commerce and social media site retailers to register their transactions in order to facilitate the collection of taxes, starting from January 20, 2015. The regulation attracted broad public attention in Vietnam, where online shopping has recently flourished. Many have questioned the extent to which the regulation is feasible.

<http://www.thanhniennews.com/business/vietnam-seeks-to-tax-ecommerce-facebook-retailers-35164.html>

Food for Thought

According to the Ministry of Industry and Trade, the move is aimed at creating a healthy competitive e-commerce environment, helping to protect the interest of consumers and ensuring effective State management. However, the feasibility of such regulation is highly questionable. It is a fact that millions of people, including Facebook users, sell goods online using anonymous accounts, making it very difficult to regulate such activities. Besides, according to the newly promulgated Tax Law, households with revenue of less than 100mn VND per month would be exempted from tax; consequently, Facebook retailers would not be obliged to pay tax as their income from Facebook is approximately 9-10mn VND per month.

From a competition perspective, limiting the number of Facebook retailers would not only restrict the right to business freedom of Vietnamese citizens but also restrict the freedom of choice to the consumers, thereby restricting competition in the e-commerce market. In its decision-making process, it is imperative that the Government should be cautious in its approach to protect the interests of consumers in addition to promoting and sustaining fair competition.

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