



**The Trade Competition Commission Ruling
on the Result of the Merger between A Co., Ltd., and B Co., Ltd.**



Notification of Merger Approval

A Co., Ltd., submitted the form of the notification of merger transaction, along with supporting evidential documents, according to the Trade Competition Notice on for Notification of Merger Transaction B.E. 2561 (2018), to the Office of the Trade Competition Commission on the 22nd of December 2020 to notify the completion of the merger between A Co., Ltd., and B Co., Ltd., which took place on the 15th of December 2020 to the Trade Competition Commission according to Section 51, paragraph 1, of the Trade Competition Act, B.E. 2560 (2017).

Facts

The facts used in the on the notification of the merger between A Co., Ltd., and B Co., Ltd., are as following.

1. Undertakings involved in the Merger

A Co., Ltd., or the acquiring undertaking is incorporated in Japan as a manufacturer and seller of automotive seats and interior accessories, motorcycle seats and parts for motorcycles, and other businesses (medical chairs). It has the annual revenue in 2019 of over 1 billion Baht. It was found that there are three affiliates in Thailand, including (1) A.1 Company, which is offering supporting services to other companies under the same corporate umbrella on product research and development, technical support, and material sourcing and procurements, in 2019, had the revenue of no more than one billion Baht; (2) A.2 Company is

manufacturing of automotive parts, seats, and door panels, having a revenue of over one billion Baht in 2019; and (3) A.3 Company, involved in manufacturing, sales, import, and export of all types of automotive parts including other related equipment, had a revenue of over one billion Baht in 2019.

B Co., Ltd., or the acquired undertaking, was incorporated in Japan and doing the following businesses: (1) automotive parts (seat controls and adjustors, headlamps, electrical parts and horns); (2) electrical wiring and loom (electrical wiring for aircrafts and portable power tools); (3) mobility equipment (electric wheelchairs, prosthetic limbs, and mechanical walkers); (4) other businesses (services for employee benefits). Its annual revenue in 2019 was over one billion Baht. There is one affiliate incorporated in Thailand, namely B.1 Company, manufacturing and sales of automotive parts (seat controls, seat recliners, electronic parts for cars, headlamps), with an annual revenue of over one billion Baht in 2019.

2. Merger Method

Originally, A Co., Ltd., held 3.06 percent of voting shares in B Co., Ltd. Later, A Co., Ltd., acquired shares by issuing public tender offer. As B Co., Ltd., was listed on the Tokyo Stock Exchange (TSE) and Nagoya Stock Exchange (NSE), once the offer was complete, B Co., Ltd., issued additional shares to A Co., Ltd. The total shares held by A Co., Ltd., is 34.74 percent of the voting shares. The acquisition of the stocks was completed on the 15th of December 2020.

3. Post-Merger Shareholders Structure

Following the merger, A Co., Ltd., became the largest shareholder in B Co., Ltd., holding 34.74 percent of voting shares. However, there is no change to the shareholders and directors of B Co., Ltd.'s affiliate in Thailand.

Legal Provisions

The Trade Competition Act B.E. 2560 (2017), Section 51, paragraph 1 states that “undertakings conducting merger that may substantially lessening competition in a particular market, as described in prescribed criteria by the Commission, shall notify the Commission of the merger within 7 days of the date of acquisition.” In addition, the Trade Competition Notice on for Notification of Merger Transaction B.E. 2561 (2018) states in Item 3 that “a merger that may substantially restrict competition in a particular market means a merger of undertakings with either one’s sales revenue or combined sales revenue of 1,000 million baht or higher and

which does not constitute a monopoly or an undertaking with dominant position in the market;”

Issues for Consideration

Whether or not the merger between A Co., Ltd., and B Co., Ltd., shall notify the Trade Competition Commission pursuant to Section 51, paragraph 1, of the Trade Competition Act B.E. 2560.

Decisions

The Trade Competition Commission have thoroughly considered and ruled that the acquisition of 34.74 percent of voting shares by A Co., Ltd., resulted in no change in the shareholders and directors the B Co., Ltd.’s affiliate in Thailand. The acquisition of said shares does not meet the criteria of purchasing shares or acquiring shares of over 50 percent of the voting shares according to Item 4 (2) of the Trade Competition Commission Notice on Criteria for the Assessment of Acquisition of Assets or Shares to Control Business Policy, Administration, Direction, or Management deemed as Merger B.E. 2561 (2018).

As the merger between A Co., Ltd., and B Co., Ltd., does not meet the criteria of being a merger according to Section 51, para 4, and Item 4 (2) of the Trade Competition Commission Notice on Criteria for the Assessment of Acquisition of Assets or Shares to Control Business Policy, Administration, Direction, or Management deemed as Merger B.E. 2561 (2018). Therefore, the undertaking who initiated the merger is not obliged to submit the notification of its merger to the Trade Competition Commission within 7 days of the acquisition, according to Section 51, para 1 of the Trade Competition Act, B.E. 2560, along with other relevant notices of the Trade Competition Commission.

Resolution of the Trade Competition Commission

The Trade Competition Commission reached a unanimous decision to acknowledge the merger between A Co., Ltd., and B Co., Ltd.

The Trade Competition Commission

July 2021