ANNUAL REPORT 2020

OFFICE OF TRADE COMPETITION COMMISSION

eBook Version

OFFICE OF TRADE COMPETITION COMMISSION

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CONTENT

PART 1
Introduction

08 Message from the Chairperson and Deputy Chairperson of the Trade Competition Commission

10 Message from the Secretary-General of the Trade Competition Commission

11 Trade Competition Commission Profile

PART 2
Trade Competition Commission

15 Powers and Duties of the Trade Competition Commission

16 Performance Outcomes of the Trade Competition Commission

PART 3
Office of Trade Competition Commission

20 General Information

22 Powers and Duties of the Office of Trade Competition Commission

24 Performance Outcomes of the Office of Trade Competition Commission

44 Obstacles and Challenges

47 Internal Audit

48 Address

The current situation of trade competition and related urgent policies

The Thai economy in 2020 was severely impacted by the COVID-19 pandemic. Figures compiled by the Office of the National Economic and Social Development Board clearly portray the damaging impact of this pandemic on the domestic economy. Namely, gross domestic product decreased by 6.1 percent in 2020, compared to an increase of 2.3 percent in 2019. Private investment also decreased by 8.4 percent in 2020, compared to an increase of 2.7 percent in 2019. Private consumption year-round decreased by 1 percent as well. Moreover, the export sector contracted steadily, with the total value of exports all year decreasing by 6.6 percent in 2020, compared to a decrease of only 3.3 percent in 2019. As for the manufacturing sector, accommodations and food services were hardest hit, with the latter half of 2020 disclosing a sharp decrease in activities by approximately 35 percent, compared to the same time period in 2019. The transport sector also contracted by 17.7 percent in the fourth quarter of 2020. These figures expose a heavily impacted domestic economy, which will be the trigger forcing the business sector to adapt itself quickly to the COVID-19 pandemic, particularly because of the likelihood of the pandemic returning in 2021.

Business operators of micro, small and medium enterprises (MSMEs[1]) amount to over 3 million nationwide, and accounted for 30 percent of total employment in the entire country. The economic indicators clearly revealed that the economic impacts of COVID-19 felt by MSMEs in 2020 were also very severe. Gross domestic product from MSMEs decreased by about 9.1 percent when compared to the total gross domestic product which decreased by 6.1 percent. At the same time, exports from MSMEs decreased at a proportion that is larger than the decrease felt in the country's total exports. Namely, exports from MSMEs in 2020 decreased by 17.3 percent (YoY), which is significantly large when compared with the decrease in the country's total exports of only 6 percent. Moreover, during the height of the COVID-19 pandemic, MSME business operators were confronted with the problem of cash liquidity and many businesses tried to adapt themselves by trading mainly in cash. Other than that, most MSME business operators were not able to adapt their way of doing business fast enough to respond to changing consumer behavior, which increasingly turned to online services due to a concern of the spread of COVID-19.

After the COVID-19 crisis first appeared on the scene at the beginning of 2020, it clearly had an impact on consumer behavior which adapted completely to the New Normal. This affected the entire structure of market competition and made it unbalanced. Some businesses grew exponentially, such as e-Commerce businesses, while others were completely destroyed and did not survive, such as the brick-and-mortar businesses. It also created further opportunities for exploiting unfair market advantage because the market structure favored the big e-Commerce businesses. Moreover, the economic problems resulting from the COVID-19 pandemic are also likely to lead to an increasing number of businesses mergers and acquisitions long after the pandemic has subsided.

[1] MSMEs is an acronym for Micro-entrepreneurs, Small and Medium-sized Enterprises

In 2020, the Office of Trade Competition Commission faced serious difficulties in regulating trade competition. This was particularly true as it related to having comprehensive information on trade competition used for law enforcement and monitoring changes in business structures and behaviors falling into the category of illegal activity. Other than that, the COVID-19 crisis was a major factor in speeding up changes in the country's economic system and market structure very clearly in this past year alone. Some business operators were not able to stay afloat and had to close their businesses, while the bigger business operators which had enough capital to survive the crisis also had less competitors in the market. The market structure changed into an oligopoly which created direct challenges to the work of the Office of Trade Competition Commission in regulating behaviors such as abuse of dominance, either through imposing trade conditions to reduce the negotiating power of competitors, preventing new competitors from entering the market, or arranging or fixing the price of products and services as well as areas of service. It is expected that after the COVID-19 crisis subsides, there will be a tendency for business operators that are still in the market but no longer gain the profit they were making before the crisis to lean towards collusion in order to protect business interests, as well as mergers and acquisitions in order to increase market dominance or their power to manipulate trade conditions.

The Trade Competition Commission is mindful of these structural changes that have occurred in the economy and the unique challenges in regulating trade competition. As such, the Office of Trade Competition Commission will advance urgent policies within the year 2021, in order to respond to these changes and challenges and to enhance its capacity to effectively regulate trade competition, in the following manner.

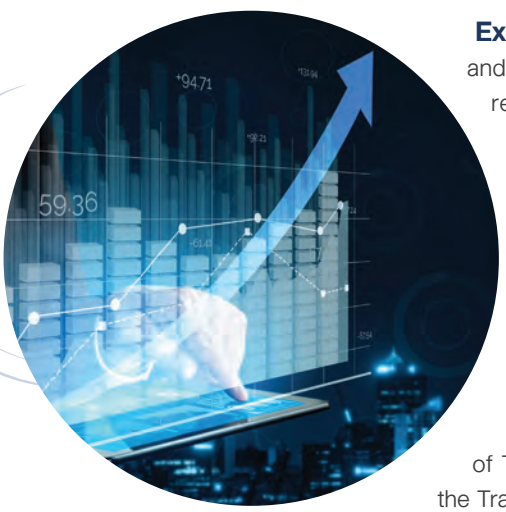
Vigorous law enforcement Law enforcement related to the regulation of the abuse of dominance/market power cartels, unfair trade practices, as well as mergers and acquisitions both domestically and internationally has been strengthened and made more efficient. This has been achieved through a number of ways, namely, by the development of Big Data system in the field of trade competition which ensures accurate information analysis to monitor changes in the market structure and competitive behaviors. The complaints reception system has also been developed. All of this has been aimed to ensure the swift consideration of competitive behaviors and whether or not they can be considered an offense under the law, in order to ensure that business operators who have pursued illegal conduct will be punished decisively, either through criminal or administrative penalties and fines.

Developments in regulating competition in the e-Commerce business The e-Commerce business has expanded exponentially while the business model has also undergone many rapid changes. In addition, this industry has included large foreign business operators who do business in Thailand and who may be considered to enjoy dominance in the market. Therefore, it was necessary to regulate competition in this industry effectively, by creating Guidelines and Recommendations related to business operations to identify what may be considered as anti-competitive practices. These Guidelines and Recommendations have been pursued with a view to enhance and strengthen the regulation of competition in the e-Commerce business and other related platforms. They are envisioned to support and help maintain free and fair competition for all business operators, competitors and trading partners alike. It will also encourage Thai entrepreneurs to become more involved in the supply chain of the e-Commerce business, while preserving the overall benefits and welfare of the consumers as well.

Developing international cooperation Cooperation and exchange of knowledge and information on trade competition regulation has been pursued with a number of agencies abroad, with a view to enhancing the country's regulation of trade competition to ensure that it is in accordance with international standards and is well accepted overall. These agencies have included, namely the Organization for Economic Cooperation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the Japan Fair Trade Commission (JFTC), the Japan International Cooperation Agency (JICA), the Australian Competition and Consumer Commission (ACCC) and other competition authorities abroad. This cooperation has also been pursued in order to support the establishment of a Competition Academy in Thailand, which will be the central information and knowledge management hub on trade competition, to be applied and utilized in the regulation of trade competition in Thailand.

The establishment of a Business Intelligence Unit (BIU)

The Business Intelligence Unit or BIU is envisioned to manage a large amount of data and knowledge about the market structure and trade behaviors in an intelligent and timely manner. It must analyze and monitor the situation and conditions for doing business, the market structure and competitive behaviors in the business sector in order to enforce the law more effectively. In addition, the BIU must also play a role in providing recommendations on how to regulate competition more effectively, develop an analysis of goods and products that are likely to have a monopoly at both the national and regional level (provinces) and create an index to measure trade competition in Thailand in order to be able to consistently report on the country's competitive situation annually. It must also integrate OTCC's works on policy and law for forming and providing policy recommendations to the public sector in order to promote open, free and fair competition in the country.



Extending trade competition policy In order to promote sustainable and efficient economic growth, policies and guidelines on trade competition regulation were presented to the Sector Regulators, or the agencies responsible for regulating businesses under specific laws. Views on the implementation of the economic policies of the government and government agencies were also shared, with a view to creating a pro-competitive environment where business opportunities are widely distributed, and with the participation of businesses at all levels, especially MSMEs which have been severely affected by the COVID-19 pandemic crisis) in order to assist them in adapting and developing their businesses sustainably.

In addition, in order to advance the regulatory operations of the Office of Trade Competition Commission to ensure free and fair competition, the Trade Competition Commission has determined the following work values and ethics of its officers.

Professionalism and good governance OTCC officers are expected to have and utilize their well-rounded knowledge and specialized professional knowledge, to be able to regulate trade competition effectively and in accordance with the relevant standards. They must also have the resourcefulness and be quick-witted enough to solve problems promptly and in a targeted and accurate manner. They must be committed and dedicated to their duties, to ensure that their work can lead to successful outcomes. In addition, relying on knowledge and expertise in work only is not enough. OTCC officers must be honest, sincere, and fair as well.

International standards for competition regulation OTCC officers must work together to enhance the standards of competition regulation to be in accordance with international standards, both in terms of regulating trade competition behavior, as well as mergers and acquisitions which result in limiting trade competition. This is achieved through the regular review and modification of both trade competition laws and secondary laws to ensure they are up-to-date and in accordance with international best practices, as well as through the exchange of knowledge and experience with the world's leading competition authorities. The Office must also promote its roles by sharing its experience and advancing the development of trade competition regulation in the international forum.

A competition principle mindset OTCC officers must regulate trade competition in line with their academic and professional principles, in a stringent manner. All actions in relation to regulating competition must have trackability according to academic principles. OTCC officers must also apply academic knowledge in the regulatory operations of the Office, to regulate and maintain free and fair competition.

Message from the Chairperson and Deputy Chairperson of the Trade Competition Commission

Professor Sakon Varanyuwatana, Ph.D.
Chairperson of
the Trade Competition Commission

Message from the Chairperson of the Trade Competition Commission

In 2020, Thailand and the rest of the world were confronted with the severe impacts of the COVID-19 pandemic, which resulted in an unprecedented economic recession. This led to a transformation in the economic system, the way we did business and consumer behavior, towards a new way of life (New Normal). The consequences for Thailand were bleak - from an economy that experienced 2.4 percent growth in 2019, it suffered negative growth of 6.1% in 2020. As for the domestic business sector, it was confronted with challenges never before experienced as a result of these consequences, and it had to search quickly for ways to revive business operations. In addition, the domestic business sector has had to build enough strength to enable it to cope with the global situation of structural economic and business transformation which has led to completely new business models adjusted to investment, production and consumer behavior in the New Normal.

In the midst of this very challenging situation, the Office of Trade Competition Commission (OTCC) has been tasked with building confidence in the regulation of the country's trade competition regime which has had to be adapted from its original one. In this regard, the OTCC is committed to developing its duties and tasks further, in order to cultivate trade competition which has to be at the heart of the foundation of the Thai economy in order to help revive and strengthen the country's economic growth. It is also committed to upgrading its regulatory capacity to become the country's main engine for driving a new economy aimed at developing production, investment, and employment leading to innovation and the application of modern technology in business operations. This will also include upgrading the country's production capacity (productivity) to the next level, leading to the improvement of the quality of life of the Thai people. Strong and efficient mechanisms for trade competition must be the driving force for the economy to advance towards a new way of doing business, with strength from within, and with freedom and fairness for all sectors in doing business. It will generate benefits for the people and society at large, while the OTCC will gain the confidence of society as a regulatory agency that enforces competition law fairly in order to enhance transparency (Transparency) and promote confidence in doing business in the country. This will lead to an economy that supports and values competition on an equal basis and one that is sustainable (Equal and Sustainability).

In order to strengthen its capacity to conduct regulatory duties and to enforce trade competition laws, the OTCC has invested in human resource development and modern technology to regulate business operations in today's world which has increasingly turned to digital technology, both in production and consumption. This new trend, however, may present new challenges for business operators who do not have consistent access to technology, which will lead to unfairness in this new business model.

In addition, the OTCC has also accelerated the establishment of cooperation with a number of international organizations in order to jointly develop more competition guidelines for regulating an increasing number of business that presently operate without borders. It has also pursued cooperation in the area of information as well as in the development of international guidelines for competition law enforcement both regionally and globally, aimed at promoting wider acceptance of its roles and duties. Moreover, agreements have been entered into with Thai government agencies and educational institutions to promote knowledge and understanding of the importance of competition as the main mechanism for creating opportunities leading to productivity, employment and the promotion of fairness, playing a critical role in reducing inequality in the economy and society as well. Guided by its duty to strengthen the domestic economy that thrives in a free and fair competitive environment for business operators at all levels, the OTCC shall not stop developing knowledge and ability to be able to adjust regulatory duties in the changing world of business, in a timely and efficient manner at all times.

Mr. Krisda Piampongsant
Deputy Chairperson of
the Trade Competition Commission

Message from the Deputy Chairperson of the Trade Competition Commission

From the year 2020 up until now, entrepreneurs all around the world have been confronted with crisis, both from the COVID-19 pandemic, to the economic uncertainty and a multitude of other challenges. Everyone has been faced with a major test and only those who are able to adapt quickly and in the right direction will survive.

The fact that the COVID-19 pandemic has deeply affected everyone's lives is undeniable. People have fallen ill. The economy has gone into a deep recession and businesses have gone bankrupt. Business operators have had to find solutions in order to survive. This has resulted in many different forms of strategies and policies, some of which may be considered unfair trade practices or affect other business operators unknowingly, such as unfairly exercising market dominance or bargaining power, entering into price agreements between business operators as well as pursuing business mergers. In this environment, the Trade Competition Commission (TCC) and the Office of Trade Competition Commission (OTCC) have dedicatedly performed roles and duties to create and nurture good governance in doing business in Thai society.

In the past year 2020, **with regard to the consideration of cases,** the TCC has adjudicated a total of 41 cases, and issued or amended a total of 3 announcements in order to address issues facing many business operators in a variety of business sectors, such as in the purchase of agricultural products (fruit storage facility), for businesses that offer food delivery services through various platforms (Food Delivery) and franchise business (Franchise). **With regard to the establishment of a network of regulators and a Whistle Blowers Community,** the TCC has drawn up a Memorandum of Understanding (MoU) in various fields, including: in the regulation of competition for broadcasting activities, television activities and telecommunications with the National Broadcasting and Telecommunication Commission (NBTC); in academic matters and public relations with the Thai Arbitration Institute and the Office of the Court of Justice, and; on matters dealing with trade competition with 13 educational institutions across the country. **With regard to international cooperation in the development of universal competition guidelines,** the TCC has collaborated with the OECD and the British Embassy in Thailand to publish a report on a study evaluating logistics regulations affecting Thailand's competitiveness. The study also assessed competitive neutrality in the Small-Package Delivery Services (SPDS), through an online workshop under the theme of regulating and monitoring agreements that lead to monopolies or cartels or other limitations on competition. The TCC has also shared experiences and best practices in linternational cooperation on regulating cross-border cartels which create monopoly, reduce or limit trade competition among countries. **With regard to training officers to obtain world-class knowledge,** the TCC participated in the 8th United Nations Review Conference of the SET on Competition and the 1st online meeting of the ASEAN Experts Group on Competition (AEGC). In addition, the TCC also shared experiences and exchanged views on regulating trade competition during the COVID-19 crisis with representatives from competition authorities of various countries, such as the Australia (ACCC), the Republic of Italy (AGCM), the United Kingdom (CMA), Japan (JFTC), the Kingdom of Norway (NCA), the People's Republic of China (SAMR) and the special administrative region of Hong Kong (HKCC), at a Webinar on Competition Authorities' Responses to COVID-19, which was open to OTCC personnel for intensive training and also provided opportunities for the public and the media to participate through listening in.

In only 2 years, the OTCC was established as an independent organization as part of national reform efforts. It is a respectable organization that has gained the trust and good cooperation of many international organizations and competition authorities such as the OECD, UNCTAD, ASEAN, JFTC, JICA and ACCC, which is a challenging feat as the central body pursuing fair competition regulation, consistent with international standards and based on independent decision-making. The ability of our organization to continue on this path for the next 2-3 years will also be a challenge in Thai society.

On behalf of the Deputy Chairperson of the TCC, I would like to express my appreciation to all sectors for their trust and support on the operations of the OTCC. Most importantly, I would like to thank all OTCC officers for their determination and dedication, both physically and mentally, in always performing their work to the best of their abilities, with a spirit of unity and solidarity. I strongly believe that the OTCC is headed towards becoming an agency firmly focused on reform and on regulating policy as well as effectively enforcing trade competition law, leading to a reduction of inequalities in business and society, strong consumer protection, and international recognition for the OTCC in the very near future.

Finally, I ask the triple Gems to bless all OTCC officers with good physical and mental health. Let us drive the OTCC forward together into becoming an organization that excels in regulating trade competition for the greatest benefit to society and the nation in our shared future.

Message from the Secretary-General of the Trade Competition Commission

Mr. Somsak Kiatchailak
Secretary-General of
the Trade Competition Commission

Secretary-General of the Trade Competition Commission

Presently, the world has stepped into a digital society. Combined with the Covid-19 pandemic which has severely impacted the global economy, including Thailand, the business landscape has also changed significantly. The number of commercial businesses online (e-Commerce) has increased exponentially, leading to the creation of new business models and behaviors in order to adapt to the situation. This has affected a large number of business operators, especially SMEs. Business operations have become very difficult, and some have even had to liquidate their businesses because they cannot compete with the large business operators.

The Office of Trade Competition Commission (OTCC), as an organization that regulates and monitors business operations to ensure free and fair trade competition, is committed to monitor, study and analyze the market structure and behaviors of business operators in order to keep up with the changing business dynamics today. It is also committed to developing efficient legal procedures for competition law enforcement, while also consistently promoting and advocating knowledge and understanding of trade competition law for business operators, stakeholders, as well as the civil society with the purpose of raising awareness and importance of competition law compliance to all parties concerned. The OTCC believes that regulating trade competition to ensure that it is free and fair will support equal opportunities for business operators at all levels, enable business operators to continue their businesses, and drive the entire economic system forward, to experience growth that is stable, prosperous and sustainable.

The OTCC is well aware that it is significant to build a strong foundation of organization to be able to perform roles and duties effectively as a competition authority, as well as to keep up with the changing context, and to become well accepted and trusted by all sectors. Therefore, we have focused on consistently developing the potential and capacity of the organization and its personnel, whether that is through bringing technology and innovation to help support operations, creating an organizational culture that nurtures love, unity and solidarity or encouraging personnel to learn the necessary skills, at all times, in order to be able to perform our duties as best as possible. The OTCC sincerely hopes that you will trust us and watch our organization grow with you, together. Thank you.

Trade Competition Commission Profile

"Enhancing the level of trade competition for better businesses and Thai economy."

1

Prof. Sakon Varanyuwatana, Ph.D.

Chairperson of Trade Competition Commission

Education Background

- Ph.D. of Economics, Syracuse University, USA
- Master of Economics, Syracuse University, USA
- Bachelor of Economics, Thai Chamber Commerce University, Thailand

Professional Experience

- Dean of Faculty of Economics, Thammasat University, Thailand
- Vice Minister for the Ministry of Commerce, Thailand
- Board member of National Strategies, Thailand (Balance and Development of public Administration)
- Member of Thammasat University Council (Representatives of University Administrators), Thailand
- Board member of spread prosperity to the region, Ministry of Finance
- Board member of Policy and Budgeting, House of Representatives
- Board member of Ethics Protection, Customs Department, Ministry of Finance

"Fair competition leads the country to stability and the people to prosperity."

2

Mr. Krisda Piampongsant

Deputy Chairperson of Trade Competition Commission

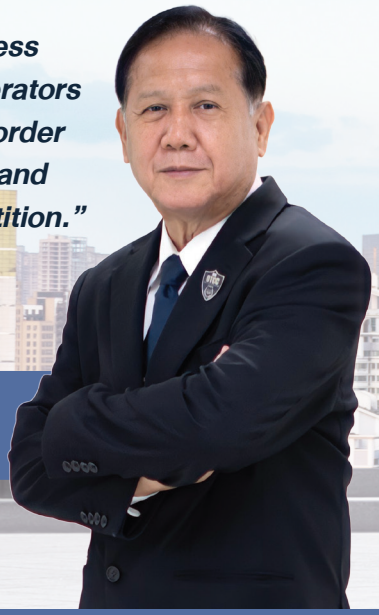
Education Background

- Master of Arts in Public Policy and Administration, University of Wisconsin at Madison, USA
- Bachelor of Arts, University of Western Australia, Australia

Professional Experience

- Ambassador, Permanent Representative to the Permanent Mission of Thailand to the World Trade Organization (WTO), Geneva, Switzerland
- Deputy Permanent Secretary, Ministry of Commerce, Thailand
- Minister (Commercial), Royal Thai Embassy, Washington D.C., USA
- Minister (Commercial), Royal Thai Embassy, Brussels, Belgium and the European Union
- Associate Judge, Intellectual Property and International Trade Court, Royal Thai Government, Thailand

"Create fairness for business operators at all levels, in order to create free and fair trade competition."



3

Mr.Somchart Sroythong

Commissioner of Trade Competition Commission

Education Background

- Master of Public Administration Program, National Institute of Development Administration (NIDA), Thailand
- Bachelor of Law, Ramkhamhaeng University, Thailand

Professional Experience

- Advisor to the Minister of Commerce, Thailand
- Deputy Permanent Secretary, Ministry of Commerce, Thailand
- Director-General Department of Internal Trade, Ministry of Commerce, Thailand
- Chief Inspector General, Ministry of Commerce
- Commercial Advisor Ministry of Commerce, Thailand
- Deputy Director-General, Department of Internal Trade
- Director of Business Promotion and Development Division, Department of Business Development

"Pursue strong work outcomes with honesty, fairness and the acceptance of all parties involved."

4

Mr.Santichai Santawanpas

Commissioner of Trade Competition Commission, Spokesman of Trade Competition Commission

Education Background

- Master of Economics, National Institute of Development Administration,(NIDA) Thailand
- Bachelor of Economics, Chiang Mai University, Thailand

Professional Experience

- Distinguished member of The Acting Trade of Competition Commission, Thailand
- Member of the Commerce Sub-committee of the National Legislative Assembly, Thailand
- Deputy Director, Department of Internal Trade, Ministry of Commerce, Thailand
- Director of the Office of Thai Trade Competition Commission, Ministry of Commerce, Thailand

"Knowledge and virtue leads to the creation of free and fair trade."

5

Ms. Aramsri Rupan

Commissioner of Trade Competition Commission

Education Background

- Master of Economics, National Institute of Development Administration (NIDA), Thailand
- Bachelor of Economics, Ramkhamhaeng University, Thailand

Professional Experience

- Expert in the field of Development and Advocacy of Trade Competition
- Chairperson of the Sub-committee on the Promotion of Trade Competition
- Vice Chairperson of the Sub-committee on Considerations of Secondary Laws
- Chairperson of the Sub-committee on the Investigation of Serious Disciplinary Issues according to the Order of the Department of Internal Trade
- Senior Lecturer on trade competition law to the Faculty of Law, Thammasat University, Prince of Songkla University, Chiang Mai University, including entrepreneurs and interested parties

"Regulate to ensure free and fair trade competition, to keep pace with the changes in the economic era of a new way of life (New Normal)."

6

Mr.Somkiat Tankrittiwat

Commissioner of Trade Competition Commission

Education Background

- Master of Management, College of Management Mahidol University, Thailand
- Bachelor of Business Administration (Accounting), Rajamangala University of Technology, Thailand

Professional Experience

- Vice President and Board Member of Executive Directors of Warrix Sports Co., Ltd., Thailand
- Vice President of Covenant Co., Ltd., Thailand
- Accounting and Finance Manager of Kaset Phol Sugar Co., Ltd., Thailand
- Member of the Independent Committee and Audit Committee of Professional Waste Technology Pub Co., Ltd. and Solution Corner Pub Co., Ltd., Thailand
- Member of the Independent Committee, Audit Committee, and Nomination and The Remuneration Committee of Terabyte Net Solution Pub Co., Ltd. and Filtech Enterprise Pub Co., Ltd., Thailand
- Member of the Independent Committee and Chairman of the Audit Committee of Adamas Incorporation Pub Co., Ltd., Thailand
- Certified Public Accountant

"Dare to fight, for the sake of what is right."

7

Asst. Prof. Visanu Vongsinsirikul, Ph.D.

Commissioner of Trade Competition Commission, Deputy Spokesman of Trade Competition Commission

Education Background

- Ph.D. of Economics, University of Birmingham, Birmingham, UK
- Master of Economics, University of East Anglia, Norwich, UK
- Bachelor of Economics, Chulalongkorn University, Thailandd

Professional Experience

- Director of Institue for SME Innovation (ISI), Thailand
- Board of Director Member, Public Warehouse Organization, Ministry of Commerce, Thailand
- Member of the Risk Management Committee of TOT Public Company Limited, Thailand
- Researcher of Center for Gambling Studies, Faculty of Economics, Chulalongkorn University, Thailand
- Lecturer of Faculty of Economics, Dhurakij Pundit University, Thailand

Powers and Duties of the Trade Competition Commission

According to the Trade Competition Act B.E. 2560 (2017), the Trade Competition Commission shall have powers and duties, as follows:

1. To make recommendations to the Minister in issuing ministerial regulations pursuant to this Act;
2. To issue regulations or notifications for the performance of duties under this Act;
3. To regulate business operations and impose guidelines to maintain free and fair competition;
4. To consider complaints and make inquiries regarding offenses under this Act;
5. To consider and make decisions on requests under Section 59;
6. To impose regulations on investigation and inquiry undertaken by subcommittees of inquiry;
7. To notify the appointment of officers to perform duties under this Act;
8. Proceed with criminal cases according to a complaint of injured persons under Section 78;
9. To consider and impose administrative fines under Section 80, Section 81, Section 82, and Section 83, as well as to file lawsuits in administrative courts;
10. To invite any person to provide factual information, explanation, recommendations, or opinions;
11. To propose opinions and recommendations to the Minister and the Cabinet with regard to the government's policies on competition;
12. To give recommendations to government agencies on rules, regulations or orders which are obstacles to competition and causing obstruction, restriction, or reduction of competition, and that may result in unfairness between business operators;
13. To determine plans, strategies, and guidelines on management of the Office;
14. To issue regulations or rules regarding organizational structure, personnel management, budgeting, finance, and property and other operations of the Office;
15. To perform other duties as the law prescribes as powers and duties of the Commissioners.

Annual Report on the Performance Outcomes of the Trade Competition Commission (TCC)

The enactment of secondary laws pursuant to the Trade Competition Act B.E. 2560 (2017)

1. **Criteria (1)**
   - TCC Announcement on the Criteria of Business Operators with Market Dominance

2. **Guidelines for implementation/guidelines for consideration (3)**
   - TCC Announcement on Guidelines for considering Unfair Trade Practices in Franchise Businesses
   - TCC Announcement on Guidelines for considering Unfair Trade Practices and Conducts that Monopolize, Reduce, or Limit Competition in the Fruit Trade Business
   - TCC Announcement on Guidelines for considering Unfair Trade Practices in Franchise Businesses (No. 2)

3. **Complaints (2)**
   - TCC Regulation on Complaints Receiving, Fact-finding and Criminal or Administrative Prosecutions B.E. 2562 (2019)
   - TCC Regulation on Complaints, Fact-finding and Criminal or Administrative Prosecutions (No. 2) B.E. 2563 (2020)

4. **Other rules and regulations (7)**
   - TCC Rule on Appeals and Appeal Judgments B.E. 2562 (2019)
   - TCC Rule on Disciplinary Actions B.E. 2562 (2019)
   - TCC Regulation on Human Resource Management (No. 2) B.E. 2562 (2019)
   - TCC Regulation on Human Resource Management (No. 3) B.E. 2563 (2020)
   - TCC Regulation on the Internal Structure and Division of Work of the Office of Trade Competition Commission (No. 2) B.E. 2563 (2020)
   - TCC Regulation on the Disbursement of Expenses of the Office of Trade Competition Commission (No. 2) B.E. 2563 (2020)
   - TCC Regulation on the Payment of Medical Expenses, Accommodations and Travel Expenses of Witnesses and Expert Witnesses, B.E. 2563 (2020)

The Sub-committee appointed by the TCC pursuant to the Trade Competition Act B.E. 2560 (2017)

The Trade Competition Commission has appointed sub-committees to support, and to provide advice and recommendations on operations in various areas, whether on organizational or personnel management, analysis of market structure, market definition, market share, trade behaviors and competitive conditions in various businesses, enhancement of knowledge and cooperation in trade competition, and consideration of the draft secondary law issued under the Trade Competition Act B.E. 2560 (2017), as well as consideration of administrative offenses. Moreover, there are sub-committees with the authority to investigate criminal offenses.

Scan the QR Code for more details.

Outcomes of the Decisions of the Trade Competition Commission

The Request to Conduct a Merger between CP Retail Development Company, Limited and Tesco Stores (Thailand) Company, Limited

The outcome of the decision:

Conditional business mergers allowed.

Scan the QR Code for more details.

Unfair Refusal to participate in business fairs, and to sell real estates

The outcome of the decision:

Imposition of administrative fines.

Scan the QR Code for more details.

Other outcomes of the decisions

Scan the QR Code for more details.

Outcomes of the decisions of the Trade Competition Commission

(1) In the case of unfairly abusing market dominance in the rubber asphalt emulsion market

(2) In the case of a prohibition on selling competitors' products in the energy drink market

(3) In the case of the termination of a distributor and after-sales service contract in relation to measuring equipment for industrial applications

(4) In the case of the sale of mobile phones at a below-cost price via the social media

(5) In the case of the purchase of shares in a public company

(6) In the case of the agricultural products trade in Sa Kaeo Province

(7) In the case of unfair trade practices of agricultural product buyers in Mae Hong Son Province

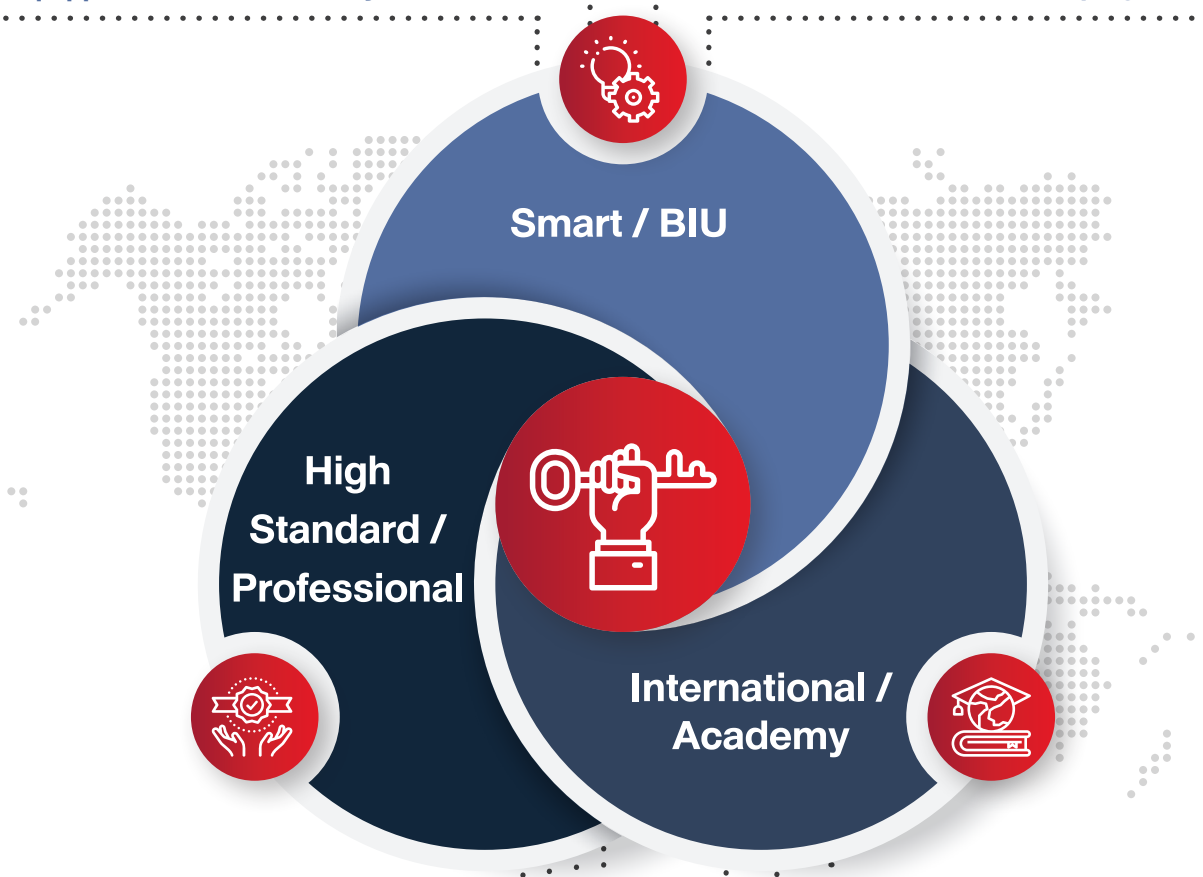
The Determination of Criteria for Standard Credit Terms for Small and Medium-sized Enterprises (SMEs)

Credit terms are one of the costs of doing business. Currently, small and medium-sized enterprises (SMEs) who sell products to large companies often negotiate for longer credit terms because they are abused by the superior bargaining power of large companies. Entrepreneurs of SMEs are thus often burdened with high costs, affecting their management of the cash conversion cycle (CCC), and resulting in a lack of liquidity and limited access to funding. The Office of Trade Competition Commission has consulted with the Office of the National Economic and Social Development Council and the Bank of Thailand to determine the criteria for standard credit terms, taking into account the various impacts related to the law in all its aspects, including the varying conditions that different types of businesses operate under. It was concluded that credit terms shall be set for a reasonable period and with flexible conditions leading to the adjustment of the guideline for determining the period of credit terms to 30-45 days depending on the suitability of the type of business. The guideline is set to become effective with exceptions, legal penalties, as well as a transition period for the preparation and adjustment of the business sector.

The Center for COVID-19 Situation Administration (CCSA) has assigned the Ministry of Commerce, together with the Office of Trade Competition Commission, to designate the criteria for standard credit terms and to ensure that the criteria becomes effective. Therefore, in order to help entrepreneurs of SMEs have liquidity in cash flow (Cash Flow) and to ensure fairness in business operations, the Office of Trade Competition Commission has been assigned by the CCSA to carry out this task by virtue of the Trade Competition Act B.E. 2560 (2017). As a result, the OTCC has drafted a TCC Announcement on guidelines for the consideration of fair trade practices regarding credit terms for Small and Medium-sized Enterprises (SMEs) as a tool to increase SME competitiveness.

OTCC's Key Success Factors

- Based on academic research and logic
- Pursues evidence-based decision-making
- Keeping up with global trends and situations and continually developing oneself
- Equipped with the necessary knowhow



- Operations are in accordance with the principles of good governance
- Performs work with standards, quality, accuracy, comprehensively, fairly, and responsibly
- Processes and mechanisms are in accordance with trade competition laws
- Professionalism leads to high standards
- In accordance with international standards
- Exchanges and applies international knowhow appropriately
- Well-known, accepted and trusted both domestically and internationally

The Office of Trade Competition Commission General Information

Organizational Values, Vision, Mission, Strategies and Objectives

Organizational Values

O — **ONE** — UNITING OUR HEARTS AND MINDS AS ONE

T — **TECH – SAVVY** — KEEPING IN STEP WITH TECHNOLOGY

C — **CREATIVITY** — INNOVATIVE THINKING

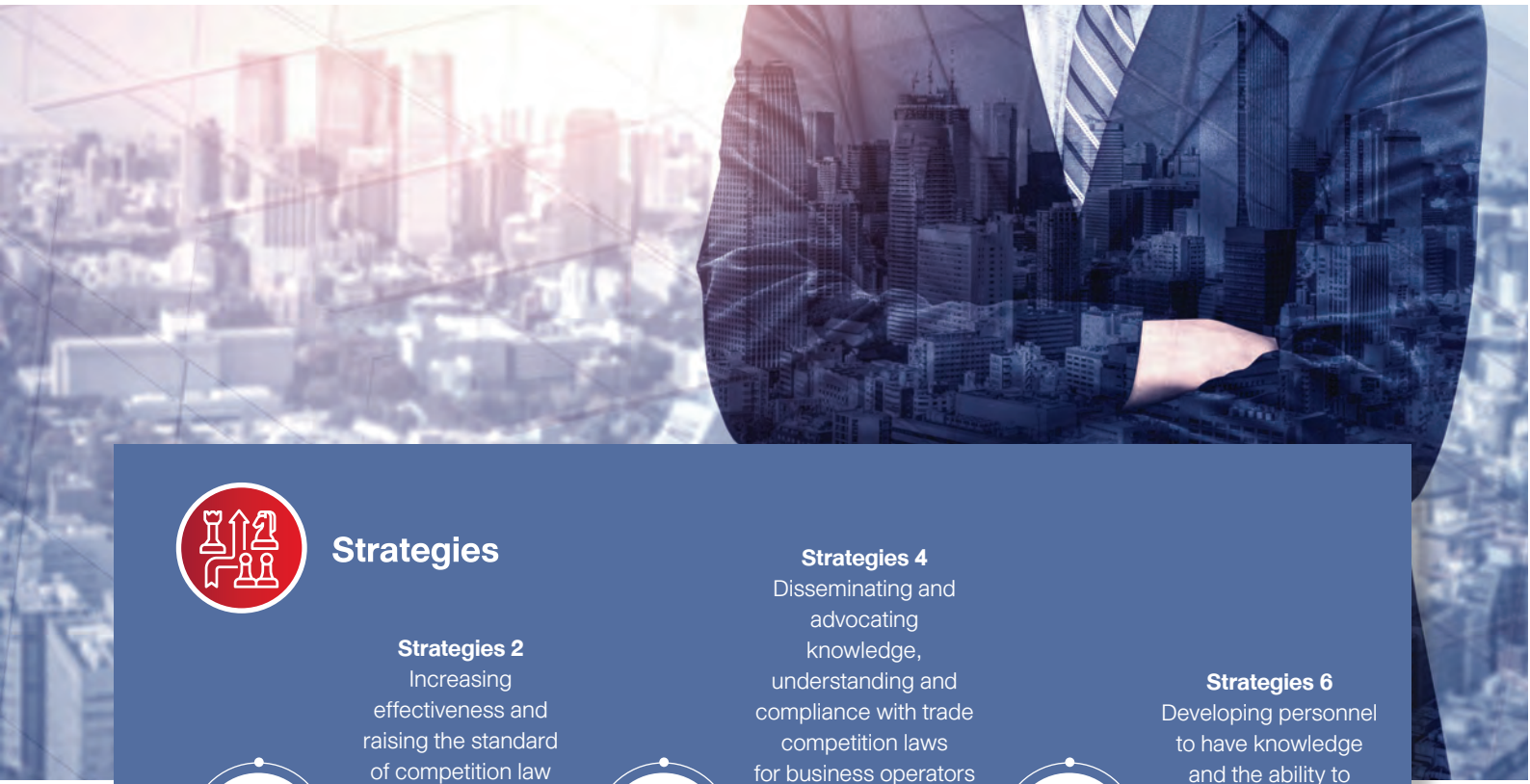
C — **COMMUNICATION** — PROMPT, ACCURATE AND CLEAR COMMUNICATION

Vision

To be an organization that, regulate businesses for free and fair trade competition, and receive well recognition by all stakeholders

Mission

1. Regulating and ensuring free and fair trade competition in accordance with international best practices.
2. Developing the mechanisms and tools in regulating trade competition to ensure compliance with international standards.
3. Developing national and international cooperation on trade competition.
4. Enhancing participation in promoting fair trade competition.
5. Developing the organization into a highly capable agency that advances good governance, to gain the trust and credibility of all sectors.



Strategies

Strategies 1
Regulating the market structure and competitive behaviors for free and fair trade competition

Strategies 2
Increasing effectiveness and raising the standard of competition law enforcement to the international level

Strategies 3
Promoting and creating a network of agencies involved in regulating trade competition leading to international standards

Strategies 4
Disseminating and advocating knowledge, understanding and compliance with trade competition laws for business operators and relevant stakeholders

Strategies 5
Enhancing an efficient and flexible management system to nurture corporate governance

Strategies 6
Developing personnel to have knowledge and the ability to perform duties ethically

Objectives

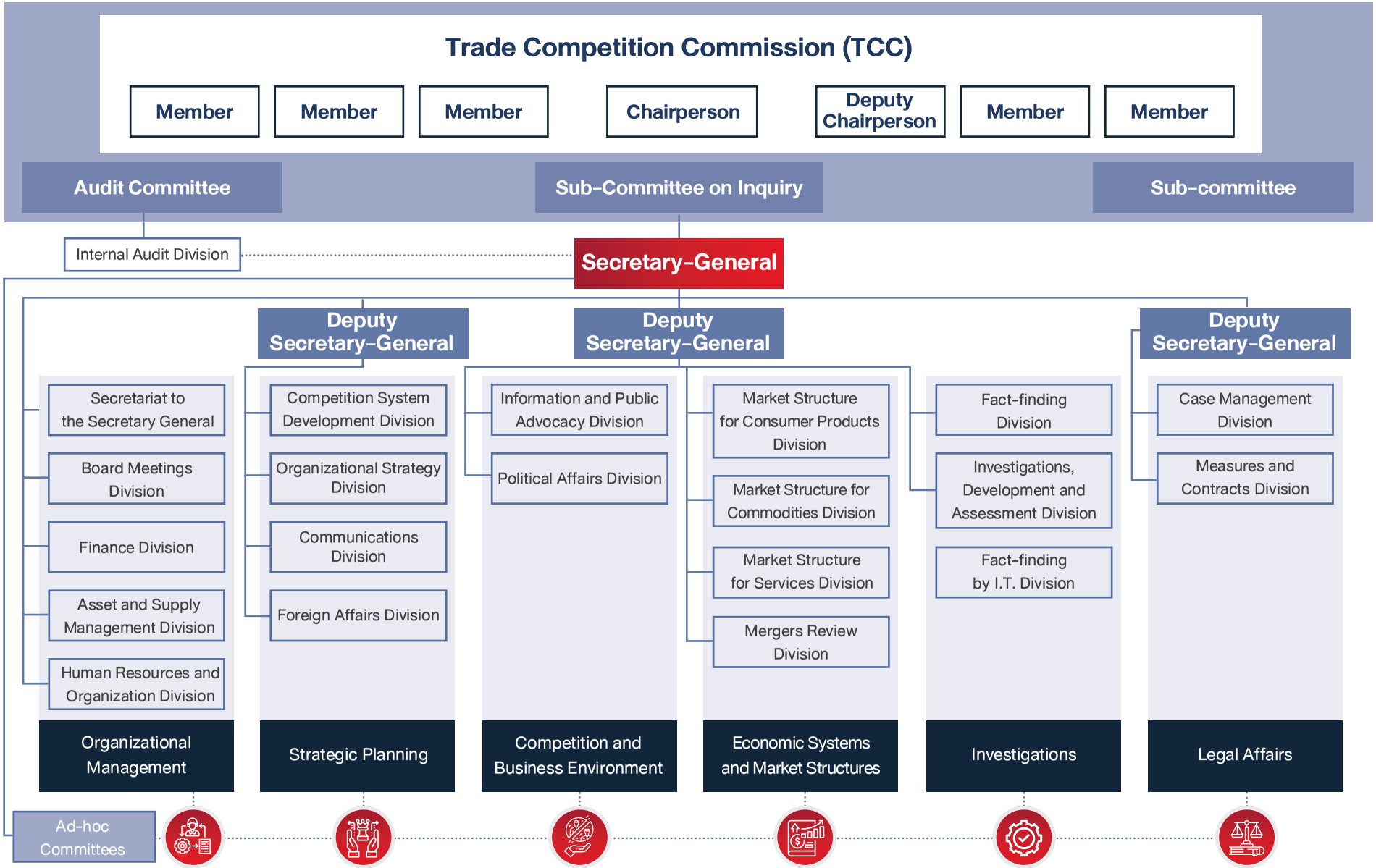
1. To have a pro-competitive environment which facilitates businesses and underlines the confidence of business entrepreneurs in trading and investing in the country.
2. To have modern mechanisms and tools for legitimate law enforcement which are in accordance with the context of national trade and international standards.
3. To have networks and cooperation among agencies at national and international levels.
4. Business entrepreneurs and stakeholders acquire knowledge and understanding, as well as comply with law.
5. To be an agency that has the capacity for excellence in regulating after trade competition.

Powers and Duties of the Office of Trade Competition Commission (OTCC)

Under the trade Competition Act B.E. 2560 (2017) , the Office of Trade Competition Commission shall have powers and duties, as follows

1. Be responsible for the administrative work of the Commission and its subcommittees;
2. To monitor business operators for violations of this Act and report the same to the Commission;
3. To study, research, analyze, and research goods, services and working conducts in business operations, as well as to make recommendations on trends and provide opinions to promote, develop, and assist to regulate business operations;
4. To establish a database on the size of goods or service markets that have a tendency to create market monopolies, as prescribed by the Commission, and make such database available to the general public;
5. To receive complaints in which a person alleges that there is a violation of this Act. Then, it shall seek all factual information and gather evidence on such complaint to a sufficient degree in order to submit the matter to the Commission. This shall be conducted in accordance with a regulation prescribed by the Commission;
6. To hold a title, possessory right, or other rights in proprieties;
7. To establish a right or enter into any legal act with regard to property;
8. To exchange information, participate in negotiations, make an agreement and cooperate with other entities or agencies both in and outside the country with regard to matters related to the Office's operation;
9. To provide for or cooperate with other entities on training and knowledge development with regard to competition matters;
10. To coordinate and cooperate with other civil service offices and government agencies relevant to the performance of duties under this Act;
11. To receive fees, as prescribed by the law, as well as remunerations, service charges, or income from its operation;
12. To disseminate the outcome of matters considered by the Commission to the general public;
13. To produce an annual report demonstrating the results achieved and challenges met by the Commission and the Office, which shall be provided to the Cabinet and disseminated to the general public;
14. To perform duties pursuant to notifications, regulations, the Commission' s resolutions, and duties assigned by the Commission or its sub-committees;
15. To perform any other function that the law prescribes as powers and duties of the Office.

Structure of division of tasks of the Office of Trade Competition Commission



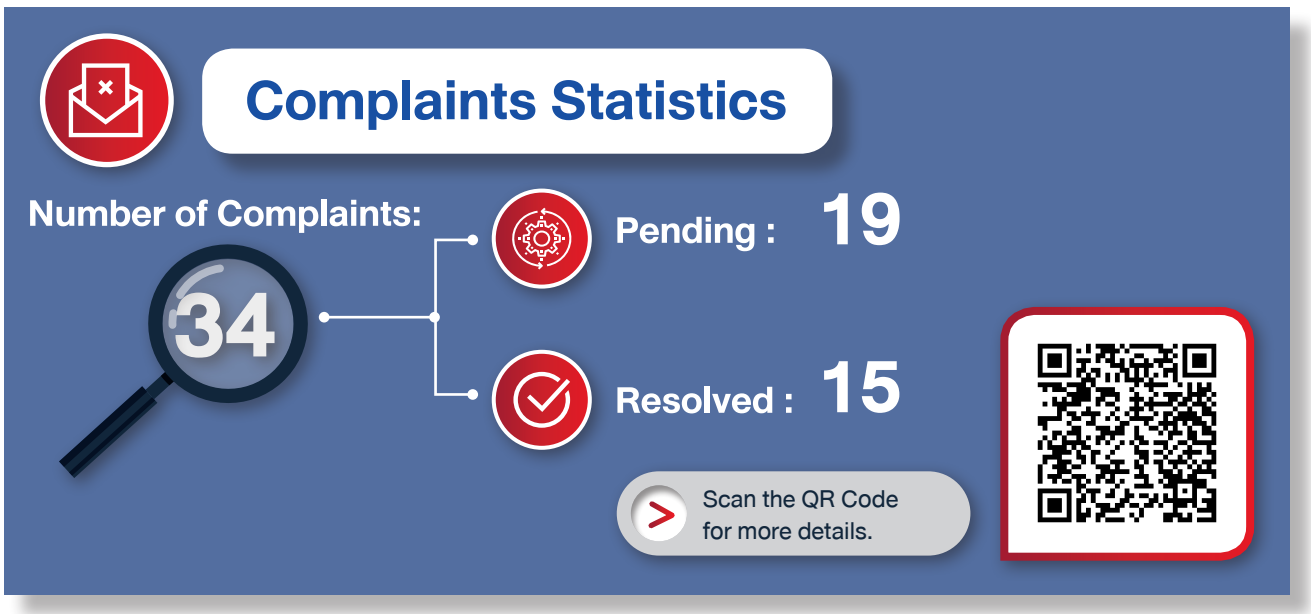
Performance Outcomes

Law Enforcement

Case insight

explores the decision of TCC in the case of a prohibition on selling competitors' products in the energy drink market

Scan the QR Code for more details.



Standard Operating Procedures (SOP)

The Office of Trade Competition Commission has key tools to support its operations in conducting fact-finding and gathering evidence to prosecute violators of trade competition laws, namely a TCC Regulation on Complaints and Fact-finding and Criminal or Administrative Proceedings, B.E. 2562 (2019) and a manual on how to proceed with complaints and Fact-finding, as well as criminal or administrative proceedings. However, there is still a need to set up a system and define procedures, processes, and standards in conducting prosecutions. This is for the Sub-committees of inquiry and competent officers to have guidelines for prosecuting cases according to the same standards. It will also enable them to carry out legal proceedings completely, accurately and in accordance with the law as well as related regulations, announcements and orders. There is also a need to develop a system for evaluating how cases are processed, in order to enhance the efficiency and effectiveness of prosecution. The Office of Trade Competition Commission has therefore appointed a Sub-committee on the development of the system, processes and case evaluation with the Investigation Development and Assessment Division acting as secretariat of the Sub-committee. It sets up the systems, procedures, processes and Standard Operating Procedures (SOP) for both criminal and administrative cases in accordance with the Trade Competition Act B.E. 2560 (B.E. 2017). It also sets up a system and method for evaluating case processing and makes recommendations for the development of OTCC regulations and announcements relating to prosecution.

M & A (Mergers and Acquisitions)

A business merger is an agreement between two business operators who wish to expand their investment in existing or new markets for goods or services. There are cases wherein an existing company is maintained or changed into a new company altogether, through a method of purchasing shares, swapping shares, increasing capital or buying the assets of other companies. This affects the original ownership and management structure, enlarging business operations and increasing business strength. There is also a tendency for business expansion. The reason for business operators to undertake a business merger is because combining businesses can allow it to grow rapidly, generate income, increase market share, reduce costs from economies of scale in production and enjoy savings due to the increased scope of the production of goods or services, which can create business bargaining power and increase profits for business operators.

However, such a business merger may lead to reduced competition in the market, and a high market concentration because market share is distributed in the hands of a decreased number of business operators. This is especially the case with business mergers with a limited number of competitors (Oligopoly) and market barriers to entry (Barrier to entry) as well as in the case of upstream and downstream or vertical business mergers (Vertical merger), horizontal business mergers (Horizontal merger), or unrelated business mergers (Conglomerate merger). These aforementioned business mergers may result in a significant reduction in trade competition, leading to a monopoly or unfair competition. This is the reason, therefore, for the Trade Competition Act B.E. 2560 (2017) which is intended to create a framework of rules for doing business with free and fair competition, while maximizing the benefits for consumers.

Section 51 of the Trade Competition Act B.E. 2560 (2017) focuses on the regulation of structural business mergers (Structural control) to promote a market structure for Thailand's economic system that facilitates competition among all business operators equally and does not create a trade monopoly by those who enjoy market dominance. The Office of Trade Competition Commission (OTCC) established by the Trade Competition Act B.E. 2560 (2017) has guidelines for regulating all types of business mergers while its main objective is to foster a competitive business structure, minimize the potential impact of a business merger and contribute to the creation of maximum benefits for the consumers. There are 2 specific cases of business mergers that are regulated, as follows:

1. Business mergers that may cause significant reductions in competition. In these cases, the results of the business mergers must be reported to the Commission within 7 days from the date the merger was completed.

2. Business mergers that may create a monopoly or market dominance shall obtain permission from the Commission before proceeding with the merger, which requires the consideration and analysis of the shareholder structure, an analysis of the market structure of goods or services related to those wishing to merge their businesses before and after the merger, the market scope and impact assessment on competition after the merger, such as market concentration, entry into the market by new entrepreneurs and expansion of market competitors (Entry and Expansion) based on consideration of various factors such as laws and state regulations, transportation costs, access to patents for original technologies, and access to raw materials or other production necessities. Other factors that need to be considered include assessing the impact on competition from business operators who have pursued business mergers (Non-Coordinated Effect), assessing the impact on competition caused by cooperation (Coordinated Effect), assessing the impact on the overall economic benefits and consumers, assessing other impacts that may affect market competition (if any) and market performance after the business merger, along with studying and analyzing the factors under Section 52, paragraph two of the Trade Competition Act B.E. 2560 (2017). These factors include, namely 1) business necessity and benefits for business promotion, 2) impact and damages on the economy, and 3) impact on the significant benefits that should be earned by the general consumer which should be considered in any application for permission to merge a business.

In the past fiscal year 2020, the OTCC received a total of 18 post-merger notification cases under Section 51, paragraph one, and a total of 3 pre-merger request cases under Section 51, paragraph two, which can be classified by industry, as follows:

1. Post-merger notification under Section 51, paragraph one of the Trade Competition Act B.E. 2560 (2017), Fiscal Year B.E. 2563, totaling 18 cases.

Cases 8 — Agro & Food Industry

Cases 2 — Consumer Products

Cases 6 — Financials

Cases 2 — Technology

2. Pre-merger request under Section 51, paragraph two of the Trade Competition Act B.E. 2560, fiscal year B.E. 2563, totaling 3 cases.

Cases 2 — Industrials

Cases 1 — Services

Finally, the Office of Trade Competition Commission has monitored business operators who have pursued business mergers and the overall market structure involved, to support the effective enforcement of the Trade Competition Act B.E. 2560 (2017) and to promote the sustainable economic growth of the country.

Scan the QR Code for more details.

Economic Systems and Market Structures Research Line

The divisions that fall under the Economic Systems and Market Structures Research line are responsible for the study, examination, analysis, and research on products, services, and business behavior. They are also responsible for providing recommendations on guidelines and opinions on promoting, developing and regulating business operations, as well as preparing a database on the market size of products or services likely to create a monopoly, as determined by the Commission.

During the fiscal year 2020, the Economic Systems and Market Structures Research line studied the market structure and behavior of business operators in the market of products or services, divided into the following 3 main study areas:

(1) In-depth Study The Economic Systems and Market Structures Research line conducted an in-depth study on 6 businesses that tend to create monopolies, comprising: 2 consumer products businesses, namely chemical fertilizers and motorcycles; 2 commodities business, namely MSG and instant noodles; and 2 service businesses, namely private hospitals and logistics platforms.

(2) Preliminary Analysis The Economic Systems and Market Structures Research line has conducted a preliminary analysis of the following 9 businesses: 1) modern retail business 2) movie theater business 3) life insurance business 4) restaurant business 5) car sales business 6) space rental business for real estate exhibitions 7) functional drinks business 8) bubble tea beverage business and 9) auto parts business. These businesses needed to be urgently studied to support information in considering and regulating business operators pursuing business mergers, including in considering complaints about behaviors that may violate the Trade Competition Act B.E. 2560

(3) Recommendations for Other Agencies The Economic Systems and Market Structures Research line has provided recommendations and opinions to external agencies on the impact and preparedness for dealing with Disruptive Technology among business operators in the hotel services sector, jointly prepared by the Office of the National Digital Economy and Society Commission and the Thailand Development Research Institute (TDRI) as a guideline to promote, develop and regulate such business operations as well.

Business	In-depth Study	Preliminary Analysis	Recommendations for External Agencies
Services	• Private hospital business • Logistics Platform Business	• Modern retail business • Movie theater Business • Life insurance business • Restaurant business • Car sales business • Space rental business for real estate exhibitions	On "Impact and preparedness for dealing with disruptive technology in the hotel services sector."
Consumer products	• MSG business • Instant noodle business	• Functional Drinks Business • Bubble tea beverage business	-
Commodities	• Chemical fertilizer business • Motorcycle business	• Auto parts business	-

Performance Outcomes of the Economic Systems and Market Structures Research Line

	Type of Study	Status
	Businesses in the services sector	
(1) Logistics Platforms	In-depth study	pending
(2) Hospitals	In-depth study	pending
(3) Modern retail business	Preliminary analysis	completed
(4) Movie Theater business	Preliminary analysis	completed
(5) Car sales business	Preliminary analysis	pending
(6) Space rental business for real estate exhibitions	Preliminary analysis	completed
(7) Restaurant business	Preliminary analysis	completed
(8) Life insurance business	Preliminary analysis	completed
(9) OTCC representative participates in the brainstorming meeting and provides views	Providing views to other agencies	completed

pending completed

	Type of Study	Status
Consumer products businesses		
(1) Instant noodles	In-depth study	
(2) MSG	In-depth study	
(3) Functional Drinks business	Preliminary analysis	
(4) Bubble tea beverage business	Preliminary analysis	

	Type of Study	Status
Commodities		
(1) Chemical fertilizer	In-depth study	
(2) Motorcycles	In-depth study	
(3) Auto spare parts (shock absorbers)	Preliminary analysis	

pending

completed

Knowledge Dissemination, Public Relations and Promoting Participation in Trade Competition

Developing Know-how on Trade Competition

A booklet titled "Competition Focus" under the project of public relations for disseminating competition law and on having organizational image in the following 5 issues published during May - September 2020:

issue no. 60

May 2020 monthly on "Revealing competitive behavior in the food delivery service business that may violate trade competition law"

Scan the QR Code to read the booklet.

issue no. 61

June 2020 monthly on "Decisions of the TCC in the case of the prohibition on the sale of competitors' products in the energy drink market"

Scan the QR Code to read the booklet.

issue no. 62

July 2020 monthly on "Are large companies that do business from upstream to downstream considered a monopoly in violation of competition law?"

Scan the QR Code to read the booklet.

issue no. 63

August 2020 monthly on "When 'collusion' violates trade competition law"

Scan the QR Code to read the booklet.

issue no. 64

September 2020 monthly on "Fruit buyers and unfair behavior under trade competition law"

Scan the QR Code to read the booklet.

Fact Sheets on the Trade Competition Act B.E. 2560 (2017) under the project of publishing fact sheets on the Trade Competition Act B.E. 2560 (2017) and the project of designing and printing fact sheets on the Trade Competition Act B.E. 2560 (2017), amounting to the following 8 articles during April - September 2020:

Scan the QR Code to read the article

Article no. 1

on Competition Authority and the scope of law enforcement

Scan the QR Code to read the article

Article no. 2

on Analysis of Market Definition and Market Share

Scan the QR Code to read the article

Article no. 3

on Market Dominance and Factors on Competition Conditions

Scan the QR Code to read the article

Article no. 4

on Abuse of Dominance

Scan the QR Code to read the article

Article no. 5

on Mergers and Aquisitions (MsAs)

Scan the QR Code to read the article

Article no. 6

on Restrictive Agreements among businesses which monopolize reduce, or limit competition in the market.

Scan the QR Code to read the article

Article no. 7

on Unfair Trade Practices

Scan the QR Code to read the article

Article no. 8

on Case Study of the Decision for “the Pumpkin Case”

Knowledge Dissemination on Trade Competition

A Seminar on "Trade Competition Law and Guidelines for the Consideration of Unfair Trade Practices in the Wholesale, Retail and Franchise Business" was held under the Project to Enhance Knowledge and Understanding of the Trade Competition Act B.E. 2560 (2017). It was targeted for a specific group (Focus Group) in the fiscal year B.E. 2562 (2019) to create awareness and vigilance of business behavior that may be considered to violate the Trade Competition Act B.E. 2560 (2017) for business operators in the wholesale, retail and franchise business and related parties. Taking place in 3 provinces between 21 February 2020 and 11 March 2020, the Seminar drew in 193 participants. Details are as follows:

1) 21 February 2020 at Furama Chiang Mai Hotel, Chiang Mai Province
2) 4 March 2020 at Topland Phitsanulok Hotel, Phitsanulok Province
3) 11 March 2020 at Centara Hotel and Convention Center, Udon Thani, Udon Thani Province

Summary report of the Seminar

Scan the QR Code to read the Summary Report of the Seminar

Management of Information on Trade Competition

Kluwer Competition Law Database was created under a Project on the Procurement of Books and Journal Subscriptions. It is an online competition law database that comprises books, journals and articles on competition law, such as law books, case studies, decisions, analysis, etc.

Book titled "Fighting Cross-border Cartels: The Perspective of the Young and Small Competition Authorities" purchased under a Project with the same name, 5 volumes.

Organizing public hearing events of draft secondary laws issued under the Trade Competition Act B.E. 2560 (2017)

8 May 2020 to 6 June 2020

Draft Trade Competition Commission Announcement on Guidelines for Considering Unfair Trade Practices and Acts that Monopolize or Reduce or Limit Competition in the Fruit Buying Business on the website and Email of the Office of Trade Competition Commission.

29 May 2020 to 27 June 2020

- **Draft Announcement of the Trade Competition Commission on Guidelines for considering Unfair Trade Practices in Franchise Businesses (No. 2)** via the website and Email of the Office of Trade Competition Commission
- **Draft Announcement of the Trade Competition Commission on the Criteria for a Business Operator with Market Dominance B.E. ....** on the website and Email of the Office of Trade Competition Commission

17 August 2020 to 15 September 2020

Draft Announcement of the Trade Competition Commission on Guidelines for Considering Unfair Trade Practices between Business Operators providing Food Delivery Service through Electronic Channels with Restaurant Business Operators on the website and Email of the Office of the Trade Competition Commission

and on 11 September 2020 a meeting was held to pursue consultations with business operators providing food delivery services via electronic channels, restaurant business operators, academics, legal advisors and experts totaling 76 related persons at The Sukosol Hotel, Bangkok.

Communications and Public Relations

Another role of the OTCC is to enhance the organizational image and make it memorable, credible, and accepted by the general public, as well as to support the task of enhancing knowledge on competition (Competition Advocacy) covering target groups in a far-reaching and comprehensive manner. The OTCC has communicated and undertaken a public relations campaign on the role, tasks and operations of both the TCC and the OTCC through various channels below.

Television and Radio Media

- Producing and distributing short documentaries to create awareness of the roles and tasks of the TCC and the OTCC in order to enhance the organizational image and support the promotion of knowledge on trade competition law.
- TCC participated in an interview on television and radio station to publicize the various operations of the TCC and the OTCC.

Video Media

- Producing and distributing video clips presenting information on the operations of the OTCC and the TCC and the roles and tasks to enhance knowledge and understanding among all of the relevant target groups in a comprehensive manner through the established communication channels of the Office.
- Producing and disseminating video interviews given by the TCC presenting its vision and management policies, including publicizing its various activities through the communication channels of the Office.

Media Reporters

- Preparing Press Releases, including disseminating articles written by the executives to media journalists who have set up a line group for mass media/journalists specifically to be able to send the information from the TCC and the OTCC and disseminate it in the regular channels they are affiliated with on a regular basis. This creates awareness, enhances knowledge and publicizes the important tasks of the TCC and the OTCC. It is also a channel for receiving information and disseminating information on the rules, regulations, announcements and guidelines to support the enforcement of competition laws for specific target groups to be aware of.

Online Media

Website

- **Website of the Office of Trade Competition Commission www.otcc.or.th**

  The website has been developed, improved, and its presentation and illustrations designed in a beautiful and attractive manner to appeal to those visiting the site, including by presenting information that is current and always up-to-date.

Facebook Fanpage

- **Facebook: Office of Trade Competition Commission – OTCC**

  This is a channel for disseminating content and accompanying media such as infographics, short animation containing information and interesting content on trade competition, including performance outcomes of the TCC and OTCC to create awareness and enhance understanding about the roles and tasks of the organization in a regular fashion. Activities have been undertaken to increase the number of followers while a question and answer channel is maintained at all times.

Line

- **Official LINE Account: OTCC**

  As it is a popular communication channel nowadays, the OTCC has an official LINE account in the name of @OTCC to disseminate content and news regularly, including to undertake public relations targeted at specific groups that prefer using this communications channel, in order to increase the number of followers.

Youtube

- **YouTube Account: Office of Trade Competition Commission**

  This is a channel for disseminating video clips and animation videos about the role and task of the organization and information about trade competition law. The aim is to establish an OTCC Channel, as an important channel to replace television and radio in the future.

Other Types of Media

To ensure that communications and public relations are effective and able to reach the target audience in a comprehensive manner, the OTCC has therefore arranged to undertake public relations through other communication channels as well, namely Out of Home media, and by considering additional activities as appropriate.

International and National Cooperation on Trade Competition

International Cooperation

1. International Cooperation Project on Competition Policy and Law

1.1 OECD – ASEAN Competition Assessment Project supported by the UK Government

Objective

To reform logistics regulations and policies to promote and enhance competition between state owned enterprises and business operators in the logistics sector by preparing and disseminating two reports studied by the Organization for Economic Cooperation and Development (OECD) and OTCC, as follows:

1) Studied by OECD Competition Assessment Reviews: Thailand - Logistics Sector 2020
2) OECD Competitive Neutrality Reviews: Thailand - Small -Package Delivery Services

Important undertakings

- Organizing Launching Event: Competition Roundtables for Enhancing Competition in Logistics Sector of Thailand on 16 September 2020 at The Sukosol Hotel, Bangkok.
- Organizing a government session to discuss preliminary findings in the Logistics Sector on 3 October 2019 at Centra by Centara Hotel, Government Complex and Convention Center, Chaengwattana.

Scan the QR Code to read the report.

OECD Competition Assessment Reviews: Logistics sector in Thailand

Scan the QR Code to read the report.

OECD Competitive Neutrality Reviews: Small-package delivery services in Thailand

Outcomes according to organizational strategies : Strategy 1, 2

1.2 Technical Training and Consulting Project on Trade Competition Regulation (Advisory Services) under the Malaysia and Thailand Reform Partnerships of the Australian Department of Trade and Foreign Affairs

Objective

To enhance the efficiency of the organization's operations and develop capacities of human resources by undertaking advisory services provided by the Australian Competition and Consumer Commission (ACCC).

Important undertakings

Implementing project and training on 6 key topics, namely: 1) Merger Control 2) Competition and public policy 3) Investigations 4) Market Dominance 5) Market Studies 6) Review and Conclusion of Consulting and Training (Review Sessions)

Outcomes according to organizational strategies : Strategy 1, 2, 6

1.3 The Provincial Trade Competition Index: Prototype Development Technical Cooperation Project under the Malaysia and Thailand Reform Partnerships of the Australian Department of Trade and Foreign Affairs

Objective

To develop a prototype of trade competition indicators at the provincial level for evaluating and examining trade competition trends in Thailand as well as to use in identifying anti-competitive practices. The index will be compiled through a broad survey of competitive market conditions and prices at the provincial level and regional level for various niche markets.

Important undertakings

Preparing concept papers of the project to submit to the Asia Foundation for consideration, and to jointly develop detailed project proposals.

Outcomes according to organizational strategies : Strategy 1, 2

1.4 UNCTAD – OTCC Technical Assistance Project

Objective

To support the operations of the organization in 3 aspects:

1) Conducting market studies in the cross-border online travel agency (OTA) business in Thailand.
2) Preparation of recommendations and guidelines for regulating trade competition in the Multisided Platform market in the hospitality and tourism industry in Thailand.
3) Training for personnels of the OTCC and other competition authorities in ASEAN member states (Training for Trainers Program).

Important Undertakings

Establishing a Sub-committee on Technical Cooperation Projects with the United Nations Conference on Trade and Development (UNCTAD) and in close consultation with UNCTAD experts to supervise and implement such project. Preparation of gathering views and issue of trade competition from Thai hotel business operators was also pursuing to be used as important information for implementing the next phase of the project.

Outcomes according to organizational strategies : Strategy 1, 2

1.5 Technical cooperation on trade competition between the Japan Fair Trade Commission (JFTC), Japan International Cooperation Agency (JICA) and OTCC (JFTC – IICA – OTCC Technical Cooperation)

Objective

To enhance the organization's operational efficiency and develop the potential of personnel through various forms of technical cooperation, such as webinars, staff exchange programme and expert placement.

Important undertakings

- Organizing the first online workshop between the OTCC and the JFTC on 1 October 2020 to exchange knowhow, information and experience in regulating trade competition between Thailand and Japan while using such information as a basis for developing a proposal for a more comprehensive technical cooperation between the OTCC and the JFTC.
- Preparing proposals for technical cooperation between the OTCC and the JFTC, focusing on the Staff Exchange and Expert Placement Programmes.

Outcomes according to organizational strategies : Strategy 1, 2

1.6 Competition Law Implementation Program: (CLIP)

Objective

To strengthen the operational efficiency of competition authorities in the ASEAN region and to develop the potential of personnel in regulating trade competition.

Important undertakings

Organizing the CLIP Module 6 Workshop on Market Studies during 19 - 21 November 2019 at the Mercure Hotel Bangkok to exchange knowledge, experiences and best practices in market studies, data collection and analysis and the preparation of recommendations based on the results of a market study between the OTCC, the ACCC and other competition authorities in ASEAN member states, namely Malaysia (MyCC), Indonesia (ICC) and Brunei Darussaram (CCBD).

Outcomes according to organizational strategies : Strategy 1, 2, 6

1.7 ASEAN Regional Integration Support from the EU Plus Project: ARISE Plus – Thailand

Objective

To support sustainable and comprehensive growth in trade; the program is inclusive of assistance with trade issues and trade competition policy, with OTCC taking on responsibility for project implementation. The European Union has assigned the International Trade Center (ITC) to conduct 4 technical cooperation projects to support OTCC operations, as follows:

1) Strengthening the institutional capacities of OTCC and building the capacities of the OTCC division.
2) Establishing a Competition Academy of Thailand.
3) Strengthening cooperation with other relevant Thai Government Agencies.
4) Developing advocacy, vis-a-vis the business sector, commerce, and relevant stakeholders.

Important Undertakings

Closely coordinating and implementing projects with ITC representatives and representatives from the Department of Trade Negotiations in order to prepare an action plan and to set a time frame for activities under the ARISE Plus - Thailand cooperation project, which was scheduled to start in late 2020.

Outcomes according to organizational strategies : Strategy 2, 3, 4, 5, 6

1.8 Project on a Study on Recommended Procedures for Cooperation on Cross-Border Competition Cases

Objective

To support the operations of competition authorities in ASEAN in accordance with Strategy 3 of the ASEAN Competition Action Plan 2016 - 2025 (ACAP 2025) in developing a mechanism to enforce trade competition law against Cross-border cases.

Important undertakings

The OTCC and the Indonesian Competition Commission (ICC) jointly developed the scope of study for the project, discussed the scope of study with ASEAN member states, coordinated project consultants and formulated a plan for design the ASEAN framework of information exchange, warning, and jointly action against cross-border cases. Project consultants will deliver the completed study in September 2020 for further approval by ASEAN members.

Outcomes according to organizational strategies : Strategy 2, 3

International Cooperation Diagram of the Office of Trade Competition Commission

2. Negotiation of Competition Chapter under Free Trade Agreements

2.1 Regional Comprehensive Economic Partnership (RCEP)

Status : Thailand has ratified the Regional Comprehensive Economic Partnership (RCEP), which is expected to come into effect in 2021.

Important undertakings

Considering and providing opinions on entry into the Regional Comprehensive Economic Partnership (RCEP) and preparing translation into the Thai language as well as summaring the essences of competition chapter.

2.2 Negotiation of upgrading ASEAN–Australia–New Zealand Free Trade Agreement (AANZFTA)

Status : Negotiations to upgrade the AANZFTA, which is currently in effect.

Important undertakings

- Coordinating with the Office of the Consumer Protection Board (OCPB) to request views regarding expansion of competition chapter to include consumer protection provisions, prepare views to be proposed to the Department of Trade Negotiations, and discussing such issues in the meetings of ASEAN Experts Group on Competition (AEGC).
- Providing views for the preparation of Key Elements for consumer protection provisions and set up a workplan for negotiations at the meeting of the Committee on Competition (AANZFTA CC) under the ASEAN-Australia-New Zealand Free Trade Agreement Joint Committee (AANZFTA-FJC).

2.3 EU – Thailand Free Trade Agreement

Status : Revitalizing negotiations for the free trade agreement by preparing the document on the scope of the free trade agreement (Reference Paper).

Important undertakings

Providing views on the reference paper and participating in the meeting to prepare for revitalized negotiation of EU-Thailand Free Trade Agreement.

2.4 EU – ASEAN Free Trade Agreement

Status : Revitalizing negotiations for the free trade agreement by preparing the document on the scope of the free trade agreement (Reference Paper).

Important undertakings

Providing views on the reference paper and participating in a meeting of working group on the preparation of Thailand tasked with defining the scope of the EU - ASEAN free trade agreement, which some significant trade competition issues, such as the application of trade competition law on the operation of the state-owned enterprises, and subsidies were still required further consideration.

2.5 ASEAN–Canada Free Trade Agreement

Status : Preparing for negotiations by drafting a Reference Paper for a Possible ASEAN – Canada Free Trade Agreement

Important undertakings

Providing views on the relevant sections of the draft Reference Paper for a Possible ASEAN - Canada Free Trade Agreement, with the Department of Trade Negotiations and coordinating with the ASEAN Secretariat on relevant issues.

2.6 Providing information and views on the operations of the World Trade Organization (WTO)

Important undertakings

Considering and providing views and recommendations on the draft structure of the Thai Government's report on trade policy and preparing information for the review of trade policy of Thailand propaved by Thailand and WTO in relation to trade competition, as well as providing views and preparing information for the negotiation meetings to establish e-commerce rules and criteria under the World Trade Organization.

3. Participation in international meetings on the following important tasks:

3.1 International meetings related to the development of trade competition policy and law.

5 meetings

3.2 International meetings related to policy implementation and enforcement of trade competition laws during the COVID–19 pandemic.

3.3 International workshops for enhancing organizational efficiency and capacity development for personnel of competition authority (Training Workshops).

3 meetings

3.4 International meetings for exchanging knowhow and enhancing International cooperation on trade competition regulation (Knowledge Exchange Workshops).

2 meetings

Scan the QR Code for more details.

National Cooperation with domestic agencies

1. Creating a network of cooperation with academic institutions
2. Creating a network of cooperation with government agencies
3. Participating in a discussion on the topic of "Competitive Thailand" at the BOT Symposium 2019
4. Participating in the discussion at the NBTC Competition Forum 2019: Looking Ahead in Broadcasting
5. Preparing information on the impact of foreign platforms on business operators in Thailand
6. Providing information to other government agencies for official meetings or as requested
7. In response to government policies
8. In the area of cooperation and in maintaining relations with government agencies

Scan the QR Code for more details.

Organizational and personnel development

ERP SYSTEM

- Case Management Information System
- Education and research of Products and services Information System
- Complaint Management system
- Database system for the market size of goods or services that tend to monopolize the market
- Information linking between external agencies System
- Pre-diagnosis request submission system
- Business merging authorization system
- Fact finding and Investigation System
- e-Document System
- Personal Management System
- KPI and Performance Assessment System
- Right Management
- Budget Management
- Financial Management
- Parcel System
- Accounting System
- The Board meeting Support System
- Strong Room Management System
- Risk Management System
- Business Intelligence System/ MIS
- Overseas Business System
- IOT Management System and Meeting room Management System
- Vehicles Management System
- Meeting Room Booking System
- e-Document Management System
- Internal Audit System
- Registration System
- Email System (Unlimited User support)
- Intranet and Web Portal System
- Strategic plan tracking System
- Booking Schedule System
- Mobile Application (Supporting OTCC working process)

Training courses to develop investigative skills

Applying information technology systems in the office

Work in supplies/material

Scan the QR Code for more details.

Personnel Recruitment

Personnel and Organizational Development

Occupational Health

Organizational Assessment

Obstacles and Challenges for the Office of Trade Competition Commission

The Covid-19 pandemic has clearly affected the country's economic system, in these key areas

- **Market structure**

Due to the fact that some business operators will not be able to survive this crisis, businesses will need to be ceased operations while large operators with enough capital to sustain their businesses will have fewer competitors. As a result, the market structure has changed to one with less competitors (Oligopoly).

- **Market dominance**

Because some products have only a few manufacturers, but enjoy a growing demand during crisis situations, new producers are still unable to come into production in time, leaving consumers with not so many choices. Producers may therefore enjoy market dominance and can distort market forces (Abuse of Dominance) by stipulating conditions to reduce the bargaining power of trading partners in a variety of ways, whether that is by setting up the price of a product or service, defining the service area, or preventing other trade competitors from entering the market.

- **Collusion**

Moreover, post-crisis, business operators that remain are not going to be as profitable as they were during pre-crisis times. Therefore, there will be a tendency to enter into mutually beneficial agreements referred to as collusion between business operators, in order to maintain mutual business interests.

The Office of Trade Competition Commission therefore needs to be prepared to deal with the changes that will occur.

1. Determining rules and regulations on trade competition

- Defining rules, regulations inrelation to, competition in specific business sectors such as retail and other fields, as well as clarity on international mergers and acquisition

2. Enhancing knowledge and understanding of trade competition law

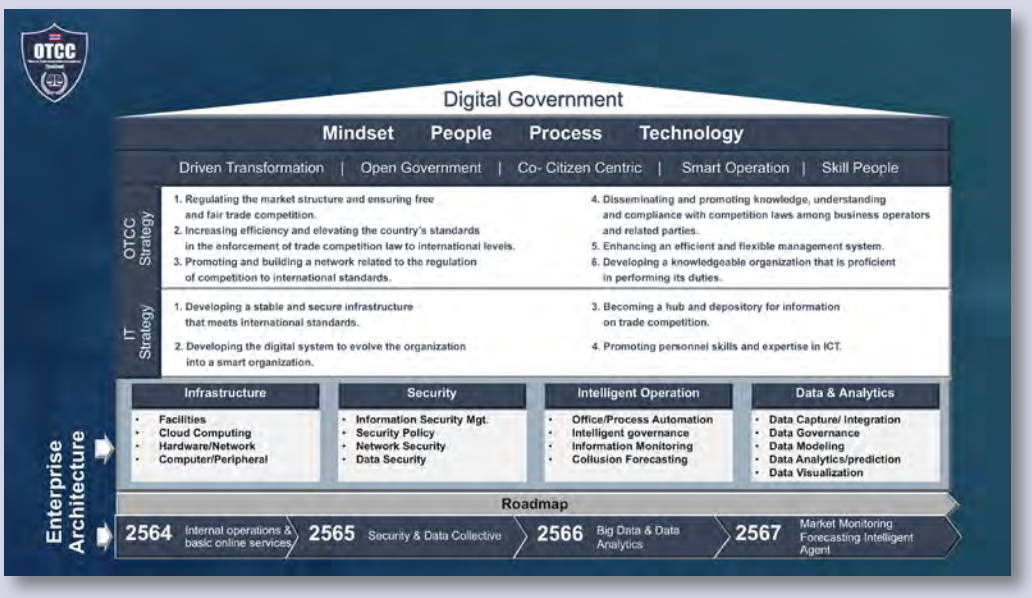
- Enhancing understanding and awareness of trade competition to attract foreign investment
- Disseminating trade competition outcomes to the public

3. Studying, analyzing and monitoring behaviors that might be considered as violations of trade competition laws

- Studying and analyzing market conditions and trade competition that may be affected, leading to a change in the business structure
- Monitoring the situation and context of doing business as well as the new normal society in order to regulate the market structure in a more intensive manner.

Preparations to Advance into a Digital Government

The Office of Trade Competition Commission is committed to transforming general operations into digital operations, by focusing on enhancing efficiency and raising standards in enforcing the country's trade competition law to be in accordance with international standards. This was in line with Thailand digital government development plan in 2020 in the area of management efficiency and access to government services, increasing competitiveness, and supporting economic development and income distribution.



OTCC's Digital Government Framework

The OTCC has placed the issue of personnel as a top priority. OTCC personnel must embrace technological change (Mindset) and officers must acquire digital capabilities (People), which must be followed by designing work processes that are convenient and flexible and that reduce the steps involved and obstacles encountered in the past (Process). Perspectives towards work must also be adjusted to look in from the outside (Outside in) instead. For these reasons, the OTCC has pursued cooperation with the private sector to regularly exchange knowledge on information technology in a semi-workshop format which has allowed for the exchange of ideas with its personnel to ensure they have a critical mindset targeted to development (Growth mindset) before choosing the appropriate technology for OTCC's mission to connect and exchange with other government agencies.

Since the year 2020 up until 2021, the OTCC has started planning a digital strategy (Digital Strategy) by surveying the needs (Survey) of executives and personnel. It has also organized a seminar on a digital action plan (Digital Plan Workshop) to start nurturing a digital culture and knowledge of digital needs which is then compared with what is available and what is expected to happen in the future, in order to achieve value (Value Gap) for the digital aspects of the OTCC. This will be used to assess capacities and prioritize the urgent use and selection of appropriate technology, aimed at enabling the OTCC to be responsive to and keep up with the current and future situation of trade competition.

OTCC's steps to digital government

Moreover, in the near future, the OTCC also recognizes the importance of an Agile digital culture to respond to the changing environment in trade competition and sudden technological changes, and has initiated the creation of units for in-depth analysis of big data (Business Intelligence Units: BIU) to develop the OTCC into a highly efficient government agency with potential and which is able to adapt itself in a timely manner. This is in line with the policy on achieving a digital government for the country.

Internal Audit

The Internal Audit Division is a unit directly under the Commission, with Sub-committees of Audit serving as supervisor, in accordance with the rules of the Trade Competition Commission on the Sub-committee of Audit and Internal Audit, the Office of Trade Competition Commission (2019). It reviews and evaluates the efficiency and effectiveness of operations according to the specific functions of the unit being inspected. It also provides advice and recommendations for improvements, risk management, and internal control and regulation, and supports the work of the Sub-committees of Audit and the OTCC, as assigned. Key performance outcomes can be summarized as follows:

The Sub-committee of Audit

The Sub-committee of Audit operates independently in accordance with the duties and responsibilities as prescribed in the Trade Competition Commission Regulation on the Sub-committee of Audit and Internal Audit, the Office of Trade Competition Commission 2019 and the Charter of the Sub-committee of Audit. There were a total of 7 meetings convened by the Sub-committees of Audit, which were fully attended by all members of the Sub-committees each time. In summary, notable performance outcomes, are as follows:

- Review of internal control system
- Good corporate regulation
- Risk management
- Regulation of internal audits

Scan the QR Code for more details.

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