

MINISTRY OF INDUSTRY AND TRADE
VIETNAM COMPETITION AUTHORITY

SUMMARY REPORT
COMPETITION ASSESSMENT
ON TEN SECTORS

Hanoi - 2010

A SUMMARY OF COMPETITION ASSESSMENT REPORT ON TEN SECTORS IN VIETNAM

Fair competition plays an important role to economic development as well as social welfare increase. A competitive market economy is established through effective distributions of resources and basing on a transparent and clear legal framework. The factors which affecting on competition include the number of competitors in the market, level of market concentration, level of the economy openness and a system of existing legal provisions (according to World Bank). However, the appearance of anti-competitive competition practices in the market such as abuses of dominant position/ monopoly and competition restriction agreements might eliminate many innovation and development opportunities, while causing damage to the consumers. In addition, there might be some existences of trade barriers or legal provisions that would restrain and influence on market entry of new-comers, hence reduce the efficiency of the economic growth in general. A low level of competition in the market or highly concentrated market will result in diminishing innovation pressures, technological improvements and creation of enterprises, in the long term, productivity and degree of competition in market will decrease. The level of competition depends on many elements such as infrastructure (information, financial and monetary system) as well as many institutional barriers and policies.

The purpose of this research is to assess the degree of competition in 10 specific sectors of the economy in Vietnam, comprising of five services sectors, and 5 manufacturing sectors. These 10 sectors are all important areas to the economy under perspective of significant contributions to national income, growth rates and directly impact on consumer and social welfares.

An introduction of Competition Assessment Frameworks for developing countries

Competition plays an important role in the economy, serving as a driving force of economic growth, especially in developing countries. To help developing countries have a competition assessment tool, in 2007 the United Kingdom Department for International Development (DFID) issued the Competition Assessment Framework; also in 2007, the Organization for Economic Cooperation and Development (OECD) finalized the Competition Assessment Toolkit for assessing competition, forming the

main components of programs of deregulating and reforming institutions for developing countries. The overall purpose of the both above-mentioned documents is to identify positive factors which promote competition as well as the factors limiting competition in the market, especially the limitations arising from the regulations and institutions of Governments (i.e. the management and regulation of Governments through a system of principles and regulations) and thus providing some proposals and recommendations to overcome negative factors as well as improve the efficiency of positive factors.

A Competition Assessment Framework by DFID (2007)

A framework for evaluating the competition was built by the Investment Environment Group - the United Kingdom Department for International Development (DFID), to meet the demand from the literature on competition policy in some countries as DFID partners, and was released along with those from donors and other partners for development.

This framework has been serving as a guideline for policy makers in developing countries in the process of identifying the main barriers to competition. These barriers have taken shapes in many different forms such as technical, financial, and legal barriers as well as barriers relating to politic and economic matters, which could be derived from measures of public and private sectors. Each barrier contains different implications of administration and policy. This framework can also be helpful to other subjects such as investors, donors who are interested in the situations of competition in a certain country. The framework includes the following evaluation criteria:

1. Determining the relevant market and competitors: to identify and define the relevant market and key suppliers (or buyers).

2. Considering the market structure: determining market share of firms in the market to identify the dominant enterprise or groups and businesses with market power. The determination of market structure is to make comments / reviews on levels of competition restriction in the market.

3. Barriers to entry:

- 3.1. Natural barriers: deriving from necessary power or technology to become a supplier in the market. These barriers include the economic efficiency of scale, such as the network industry. Other natural barriers could be difficulties posing

to new businesses to join the market in accessing to the technology, raw materials or distribution channels;

3.2. Strategic barriers (conducting barriers): deriving from measures of the current providers in order to prevent the new market penetration;

3.3. Regulatory and policy barriers: regulatory and policy barriers for the market entry can occur at all levels from central to local government. It is essential to consider these factors impeding market entry such as licensing restrictions, limitations of foreign direct investment or trade barriers.

4. Policies and institutions of governments: analyzing the policies and institutions of the Government to review whether the operation of state enterprises or the conduct of public procurements or the regulation of industry / the application of policies for trade and industries / law enforcement and regulation are unfair restraints of competition or not.

4.1. State enterprises: State enterprises play an important role in the economy. Issues to consider is whether or not the equitized state enterprises have been prioritized as monopoly providers of goods or services or received certain benefits such as preferential interest rates / tax exemptions;

4.2. Public procurement;

4.3. The regulated industries: whether or not the regulatory measures are in line with policy / law of competition;

4.4. Policies on trade and industry: the government polices on trade and industries also have a major impact on the competition levels.

5. Identifying potential anti-competitive practices: to examine whether the activities of firms in the market exposing signs of vendors or working together through collusion or tacit or the abuse of market dominant position of powerful suppliers, which restricts competition in the market:

- Abusing of dominant market position;
- Collusion and cartel;
- Merger and acquisition;
- Other issues of market structure.

Competition Assessment Framework of the DFID drew the following conclusions:

- If the field is considered a competitive market and unlikely to have any major concerns about competition there is no need to propose any additional measures to improve the level of competition in the market but to announce the results to help stakeholders see the competitive market at the time of the evaluation.

- If low levels of competition could be found, there needs to assess the causes, impacts and proposed measures / solutions to improve the situation.

The guide for Competition Assessment Toolkit by the Organization for Economic Cooperation and Development (OECD)

In 2007, the OECD completed the framework of evaluating competitive market for the purpose of evaluating the impact of institutional, legal provisions by the Government and professional organizations (the association) to issue competition in the market. To assess this effect, the OECD used the concept of competition that the competition authorities often use. Some criteria used to evaluate the competition:

1. Market power: to identify enterprises with market power, there needs to determine the number of businesses and the concentration of enterprises in the market (illustrated by the index of CR and HHI, see Appendix for the calculation of the indexes).

2. Market entry barriers: Entry barriers can be the factors that may impede the entry of new enterprises in the same relevant market. Assessing the extent of these barriers to analyze the impact on powerful businesses in the market, and the accession of new businesses will be able to reduce the market power of the enterprises.

This barrier may also stem from policy and legislation. If these barriers are high, they will make it difficult for new businesses to join and therefore limit the degree of competition in the market. If the barrier is low, new businesses will be easier to access market, hence the degree of competition in the market will increase. Barriers to entry include:

- Natural barriers: arising from internal factors such as the scale or requirement of large financial resources;
- Unseen costs related to barriers: e.g., investment costs unable to be recovered;
- Barriers stemming from the behaviors of businesses with market power;
- The government provisions and other professional organizations may limit the entry of new businesses in the area of distribution and retail trade;

- The accession and withdrawal of enterprises: the number of businesses joining in the market and their efficiency of business activities as well as the withdrawal of enterprises will help assess the level of entry barriers;
- Technological Innovation and effectiveness;
- Existing costs to deal with competitors.

3. The impact of government provisions to regulate competition in the market: governments make regulations to regulate some specific areas such as in natural monopolies, environmental pollutants e.g. electricity, chemicals, paper, oil refining; areas affecting the safety of consumers, such as pharmaceuticals, automobiles or in areas of ensuring the stability of financial markets such as banking and finance to regulate behavior / business activities of enterprises. These regulations can be analyzed under the following angles:

- The entry of new enterprises: Some countries have made limited number of enterprises participating in the market in some specific areas. This may result in restricting competition in the market;
- Limit on the number of output in some sectors such as agriculture;
- Standards: Some countries have set standards in some areas forcing businesses to comply if participating in these areas;
- Price: Some industries are subject to price regulation.

Impact assessment and potential effects of regulations by the Government to regulate competition may be based on the three following groups of criteria:

- Regulations limiting the number of suppliers in the market;
- Restrictions on competition among providers;
- Provisions to reduce competition among suppliers.

For each of the above criteria, analyzing the potential anti-competitive problems could restrict competition in the market, thereby to recommend adjusting provisions for better competitive environment.

A Competition Assessment Framework applied to Vietnam

Based on the criteria mentioned in the two documents and the actual situation of the Vietnamese economy with its own characteristics, the researching team has

proposed a number of groups of basic criteria to assess the competition in 10 areas of the economy as followed:

The first group of criteria: Evaluation of market size

1. Total demand in the market
2. Total output value
3. Total import value
4. Total market revenue
5. The growth rate of the sector: production value and productivity
6. The number and composition of manufacturing enterprise / business in the market: number of enterprises, types of businesses (classified according to the criteria of equity, scale)

The second group of criteria: barriers to entry

The degree of difficulty/ easily to entry and withdraw from the market of enterprises will affect the number of enterprises involved in manufacturing or trading of goods and services in the market, thereby indirectly affect the competition among firms in the market.

1. Natural barriers:

a. Requirements of naturally specific nature of the industry for a competitor when joining the market (such as unique technology, the economic efficiency of scale, or as the cost of mining and oil exploration gas in the oil industry ...). Analyzing the barriers to an industry needs to answer the following questions:

- Firstly, are there any natural barriers for market entry in the emerging field of study (evaluation) or not? If any?
- Secondly, how have these natural barriers been affecting potential competitors to enter the relevant market?

b. The difficulties that new entrants might face such as technology, input resources or distribution channels (if any – criteria by the DFID)

2. Strategic barriers (conducting barriers): including the barriers created by businesses currently doing business in the market in order to hinder the market entry of new competitors. Those barriers are shown below:

- Production of an excess amount of goods in the market (if any)

- Exclusive contracts with suppliers or distributors (if any)
 - A business or a group of business through acts impeding new businesses by the adjustment of prices in the market (if any)
3. Regulatory and policy barriers (the current provisions for the accession)
- The current regulations such as restrictions of new entrants, restriction of foreign direct investment or trade barriers (tariff and non tariff)
 - The implementation mechanism of the above-mentioned regulations (and the enforcement agencies responsible for conducting those restrictions)
4. Barriers to withdraw from the market: (Laws of Bankruptcy) Analyzed the difficulties and advantages of the current law provisions for withdrawal from the relevant market of a competitor, thereby affecting the level of competition in the market.

The third Group of criteria: Evaluation of market structure

1. Related markets: determining the geographic market and relevant product market related to specific research areas.
2. Market share of enterprises engaging in the market with their revenue.
3. Level of economic concentration in the market
 - a. Determining the market concentration of 03-05 largest enterprises: The existence of the dominant position / monopoly of one group of enterprises (CR3, CR5)
 - b. Determining the degree of market concentration based on the index of HHI
4. Determining market power of the demand side /supply side (if any)
5. Behaviors reflect the market power of the demand side and supply side in causing damages to the final consumer (if any)
6. The number of firms entering and withdrawing from the market during the evaluation phase (2007-2009)

The fourth group of criteria for evaluating: The impact of current institutional policies of the governments on competition

In the previous institution, for example, our country was socialist orientation, SOE kept the leading role, the leader in the key sectors of the economy affecting policies in every industries / sectors

- Institutional and strategic direction for economic and social development of the country and for each sector in the time of evaluation and ahead.
- Policies for each industry (planning / strategy
- Policy of incentives to encourage investment / export
- Different policies for different types of enterprises
- The exemptions

The fifth group of criteria: situation of competition and identifying anti-competitive behaviors in the market

1. Competition activities in the market
2. Identifying anticompetitive behaviors

Conclusion: Evaluation of competition / competitive level and recommendations.

1. Evaluation: in 3 contents (market size, market structure and barriers to entry)
2. Recommendations:
 - Relating to the policy and law
 - State management agencies: Department of competition management and specialized management agencies
 - Business and production businesses

The scope and objects of competition assessment / degree of competition assessment

This report was conducted by approaching to concepts and provisions of competition in the Act and competition policy; so it is necessary to define the relevant market, specifically in each area to assess the competition. Each sector / manufacturing industry includes many different relevant markets, such as dairy markets consisting of powdered milk formula, liquid milk, and yogurt. The steel market consists of the construction, structural steel, welded steel pipe, and steel for the mechanical manufacturing industry, steel casting Ferro-alloy and alloy. Similarly, other areas also include more specific relevant market. In the framework of this report, the team only selected a number of relevant markets as following:

Manufacturing sector: comprising five sectors

- Steel (market of rolled steel for construction)

- Cement (PCB)
- Chemical fertilizer (urea fertilizer market)
- Animal feed (feed market for livestock and poultry)
- Milk (powdered-formula milk market)

The service sector: comprising five sectors

- Petroleum (gasoline and diesel distribution channel)
- Insurance (non-life insurance market)
- Banking (credit market)
- Telecommunications (mobile and internet markets)
- Aviation (domestic passenger transport market)

Research Methodology

The research is combined by primary and second secondary data analysis; conducting intensive interviews, surveys and working groups.

The primary database was collected from the operation of market surveys, collecting information from data sources and official statistics publishing widely in the areas of research

Views and assessment of the degree of competition of enterprises operating in the sectors were collected through the questionnaire and intensive interview. Enterprises assessed the factors related to entry barriers in the way of 3 levels: low, medium and relatively high. Corresponding to point 1, factors to be assessed at this level was considered not a barrier; point 2 was equivalent to the average barrier of no concern; point 3 was relatively high, factors which were assessed at this level should be considered to improve as would obstruct businesses when accessing the sector. Information relating to the survey is shown in the Appendix of the Report. Survey results were used in the report to reflect an objective evaluation of businesses alongside the assessment and analysis of the research team.

**SUMMARY OF RESULTS ON COMPETITION ASSESSMENT/ LEVEL
OF COMPETITION IN THE 10 ECONOMIC SECTORS 10 (05
SECTORS IN PRODUCTION AND 5 IN SERVICES)**

The manufacturing sectors: milk, steel, cement, animal feed and chemical fertilizer

In 2009, industrial production value increased by 7.2% compared with the figure in 2008. Industrial production accounts for a large share in total GDP, about 40%. It can be seen that the manufacturing sector plays a very important role in the economy, especially for the five selected areas in the manufacturing sector, serving as the inputs of key industry sectors (steel, cement, chemicals) and inputs for production of essential products for humans, contributing to economic and social development. The increase in production value in recent years in Vietnam also showed that: (i) the manufacturing industry has been on a development trend for the production of substitutes for imported goods, proceeding to self-production (ii) the number of businesses entering the market is increasing owing to improved and more flexible business environment. However, the increasing number of enterprises of all economic sectors, especially in the business sector with foreign investment has speeded up competitive pressure among firms in the situation that the aggregate demand by buying power is also at modest level. In this context, the assessment of competition / competitive level in a typical manufacturing sector is urgently needed to help businesses and investors with a clear view on the status of competition in each specific area whether remaining concerns about competition, thereby helping to produce the strategic planning / business at the enterprise level as well as propose measures to improve policies and institutions to establish a fair competitive environment and harmony among groups of interest (consumers, businesses and governments).

The market size: It can be seen that the 5 manufacturing sectors are in all areas of large-scale market with total market revenue reaching over 10 trillion, namely animal feed for cattle and poultry approximately 60 trillion, milk powder 10 trillion, about 43 trillion for cement and construction steel reached nearly 100 thousand million. With such a large scale, the number of enterprises participating in the market is large and with diverse forms of ownership. These manufacturing industries, now considered the dynamic part in the market with very high degree of competition and also accounting

for a large market share and catching the attraction of investors. Therefore, it is easy to cause the situation of supply exceeding demand in the market such as the cases of cement and steel leading to inevitable consequences of increasingly fierce market competition.

The market structure: Within the 5 mentioned areas of production, market structure is reviewed under two angles: the imported products and domestic products. Currently, five areas have been subject to greater competitive pressure from the same imported products, mainly sourcing from China at low cost with plentiful supply, except for imported dairy products from other countries such as Japan, America, Australia, New Zealand, etc. Proportion of the total import demand in the market is quite large: imported fertilizer from China accounts for 60%. For domestic manufacturers, in most areas, the level of market concentration is low or average; no enterprises or enterprise groups are dominant in the relevant market, except the milk powder market with foreign formula. The noteworthy point is that in the period from 2005 to now, the number of businesses entering the market is increasing, especially in the fields of animal feed, cement and steel so there should be considered here that the barriers to entry in these fields are at low level. On the other hand, these are the opening markets and their total demand is always increasing with the rate of economic growth. Thus, the low level of concentration means increasing competitive pressure among firms in the market, but also establishing market power for both supply and demand sides leading to no limited competition between producers and their clients. However, their products have to face fierce competition with the imported products of lower cost.

Regarding barriers to market entry: through conducted surveys and intensive interviews, it can be seen from the objective evaluation of the respondents in the five business areas that natural barriers were assessed as medium and high. The majority of businesses faced large obstacles in applying technology, and difficulty in accessing the input / output for production. It can be shown that although the five selected fields are all important areas, requiring large initial investment capital, production costs depend very much on inputs (mostly rated 2 to 2.75 on a scale of 3 points). All the 5 mentioned fields are relatively dependent on imported raw materials, such as animal feed and milk. The figure in sector of steel was different; the number of enterprises evaluating natural barrier of average level is equal to that of enterprises of assessment as relatively high. This could be explained easily because the number of new businesses entering the market is large. It is reasonable that these mentioned

enterprises assessed natural barriers as relatively high because investment in steel production requires financial resources and the choice of technology is very important, determining to the efficiency of investment and in the recovery of capital which can be used to evaluate the natural barriers.

As for dairy market (specifically the market of powdered milk): although the number of enterprises evaluating the natural barriers of average level was highest, 38% of asked enterprises assessed natural barriers as relatively high. It could be explained this as following: The domestic companies producing powdered milk account for only 30% of the market share, the rest is of imported products (70%). Possibly the natural barrier is dependent on imported raw materials with no regional planning materials. Moreover, products are heavily dependent on consumer habit of tending to consume imported rather than domestic milk (e.g. brands, promotion, advertising and marketing).

Regulatory and policy barriers: It can be seen from the survey results that all five mentioned areas faced no significant regulatory and policy barriers. The majority of business respondents evaluated the low-level for the influence of regulatory and policy barriers. (Points assessed in the range of 1.5 to 2.5 on a scale of three levels of difficulty). The survey results are consistent with the reality, because of the following reasons: (i) the five manufacturing sectors were not on the list of conditioned business (ii) all 5 product types needed to meet quality standards which were necessary but not barriers. It can be seen that indirect legal barriers causing from the policies and regulations related to resource inputs while these five areas can not self-manage input materials totally dependent on imported raw materials. In the animal feed sector, businesses have the view that foreign firms enjoyed preferential policies than domestic enterprises so only joint stock companies (using 100% foreign capital) have market power. (CON CO is also a major producer of big revenue but do not have the advantages such as joint stock manufacturers because it is a Vietnamese enterprise). This may be due to regulations to attract FDI at the provincial level (i.e. creating more favorable conditions on land and taxes for FDI).

The situation of competition in the market: From the characteristics of the five above-mentioned industries in which the level of economic concentration is not high, as noted above. Through market surveillance and investigation, the researching group

found that acts in restraint of competition almost did not happen or if it occurred, the nature and extent were of less significance than the level of concern, as followed:

1. Competition restriction Agreements

Through the answers for survey questions as well as through directly intensive interview, the obtained information showed that there was no sign of competition restriction agreement in the five mentioned areas. However, from the other data sources (studies by the Competition Management Department for milk market in recent times, the study by VCCI on the competitive environment, especially through some reliable sources that the researching group collected) the signs of competition restriction agreement in the five areas mentioned above have appeared, namely:

Acts of negotiating prices: typically in the dairy industry. Answering the question why at present the price of imported milk powder in Vietnam has been higher than average, nearly double in the world? Has there been a negotiation of the price of milk among foreign suppliers? This is a legal issue that to have the answers, there must be clear evidence from surveys of competition restriction practices. From the recorded experience it is often hard to prove that those companies have had contracts to stipulate the negotiation, because businesses often do not have a written agreement posing difficulties in searching for evidence for those acts. However, foreign dairy firms have proposed too high retail prices for powder milk in Vietnam market compared to their original prices and those in other countries in the region (even though import tariffs in Vietnam are not high when compared). This has severed as unusual signs and sufficient basis for concerns about the manipulation of the markets. Another case in the steel sector, in mid-2008, taking advantage of the instability in domestic and international markets, there appeared a number of speculative behaviors, prices rising to manipulate the steel sector. The Vietnamese government issued documents to request the enhancement in the inspection and control; halting the acts of speculation and manipulation in the steel sector, anti-counterfeiting and unauthorized copying in order to create a healthy and equal competition environment.

2. Identifying unfair competition acts

Misleading indications, deceptive advertising: especially in the dairy industry, with deceiving advertising slogans for example, milk can increased intelligence in children, making children to become prodigies; or in the industry of cement, there appeared slogans of quality gold for all construction work...

Dicrediting other businesses: though there has been no specific complaint. Through interviews with a number of businesses in the Animal Feed Association of Vietnam, it can be seen that there are existences a phenomenon of defamation among businesses, defamation of other enterprises. These disputes were usually resolved through negotiation, mediation and sometimes even with the intervention of the Association.

3. General remarks

As mentioned above, the issue rising in the five main areas is that whether there has been an implicit agreement between the exporters and importers / distributors in Vietnam? The consequently, the prices of products have increased unreasonably. Why can not we control unreasonable increases in the prices of milk, steel, cement...? This may has many causes, including causes deriving from institutions that we will propose later. On the other hand, both causes stemmed from institutional factors, as in Vietnam now at least two agencies have the authority of revising the price stability. They are Vietnam Competition Authority under the Ministry of Industry and Trade, and Department of Price Control under the Ministry of Finance. Nevertheless, the mode of competition has been reflected through the demonstrating prices. Commodity prices of 5 mentioned areas are subject to price adjustment under the Ordinance of Price, if there is an increase of over 20%. The price adjustment will not be so radical as the Ordinance stands independently from the Competition Law and that competition restriction practices normally result in price increase.

In summary, there have been no considerable concerns in the competitive environment of the five fields. Regarding market structure, non-existing businesses / enterprise groups have the dominant position in the market so it is difficult to form potential competition restriction practices by abusing of dominant / monopoly position on the market. However, there might be existing of monopoly of goods in the market of imported milk powder because each distribution company is playing as the exclusive distributor for a foreign manufacturer. Policies and regulations in the business are open and equal to all types of enterprises. Therefore, the number of enterprises participating in the market is quite large; the number of enterprises withdrawing from the market is very small. Business and legal environment are quite good. Degree of competition in the market is relatively high because many companies have been entering the market and domestic products have to compete with products

of same type, mainly imported from China with much lower prices. Therefore, normally the mode of competition has focused on price, advertising and competitive behaviors which are usually unfair competition practices.

It can be said that within the 05 mentioned fields, what can be seen as barriers is the group of market entry barriers, namely the natural barriers. The five manufacturing sectors (chemical fertilizer, milk, cement, steel and animal feed) are all the industries that require large initial capital investment, modern technology, and product costs depending on input material. The results of surveys showed that most of the plants of Vietnamese enterprises have applied obsolete technology with small capacity (except dairy sector). Therefore, production costs are still high. The new-built plants with modern technology and large capacity are possessed by foreign enterprises. Especially in the field of fertilizers, almost no private businesses have penetrated into. All manufacturing plants of nitrogen and phosphate are State-owned.

Regulatory and policy barriers have not virtually appeared in the 5 fields except the policies of investment incentive for FDI. The legal provisions in the 5 areas are clear, transparent and flexible (not include on the list of conditioned businesses)

Although the level of competition in the market is quite high, acts of unfair competition have been emerging in the market. The competition restriction practices almost have not occurred despite the under table agreement making cross-border (between the exporters and importers / distributors in Vietnam). To clearly identify behaviors of this phenomenon surveys, investigation and empirical research are needed (should be conducted within the framework of pre-procurement of an investigative report for each specific related market).

The service sectors: banking, insurance, petroleum distribution, telecommunications, aviation

The 5 selected service sectors are the ones moving towards open and competitive markets. Especially, the telecommunication sector, with eight current service providers, is considered a very competitive market and consumers have been benefiting a great deal from it. The entities of different types have been participating in the growing market. Currently on the market 27 companies of non-life insurance and 37 commercial banks are operating. Competition in the petroleum distribution market has been made under the Government's decision allowing the right of free valuation (Decree 84/2009/ND-CP). Aviation market has been opened to foreign airlines to

exploit international routes since 1998 and recently for domestic flights, with 05 companies on the market, including Vietnam Airlines.

The market structure: The five service areas had relatively high concentration (basing on the index of CR3-CR5 and HHI). Specifically, the highest level of concentration lined in the aviation market, distribution of petroleum and telecommunications with CR3 90% and 75% and 90.3% respectively. Especially in petroleum market the HHI index was 3.305, nearly two times higher than the average level of 1800. The figure in insurance market and banking was above average level. The CR3 index of credit institutions was 43.2%, non-life insurance premiums was 60.29%. The noteworthy point is the degree of concentration in two areas of insurance and banking tended to decrease markedly from 2007 to 2009 (considering only the index of CR3). This represented the joining of new enterprises of a growing market, especially the participation of insurance companies, banks with 100% foreign investment under Vietnam's market-opening commitments.

High level of concentration means that there exist enterprise/business groups with their dominant positions. As in the telecommunications sector, Viettel and Vinaphone had market share of more than 30% in the mobile market, VNPT accounted for 68.9% in the internet market. In the area of non-life insurance, Bao Viet occupied the dominant position (more than 32.68%). It can be seen that the enterprises or enterprise groups having dominant positions were state-owned enterprises. This is entirely consistent with a mode-shifting economy with the starting point by the establishment of state-owned enterprises operating in the key sectors of the economy with essential resources controlled by the State.

The degree of low concentration in the manufacturing sector can be seen as a big difference between the service and manufacturing sectors; though there are few businesses seizing dominant position (in the milk market). The service sector seized a high concentration in most areas and within the five businesses there existed dominant position of many enterprises. In reality there have been cases limiting the competition such as the abuse of monopoly position in the market to supply jet fuel (VINAPCO) and the agreement about an increase in motor insurance premiums by 19 enterprises providing services for non-life insurance. These areas need attention and updated annual market structure. However, the service sector also has its own characteristics,

with a high level of concentration and high level of competition as well, different from theories (high level of concentration means low level of competition and vice versa)

Market entry barriers: including the natural, legal and policy barriers. Most respondents' answers in the five business areas stated that natural barriers lined on average level (from 2 to 2.5 points on a scale of three levels of difficulty). Natural barriers in the service sectors were represented by three factors: technology, development of infrastructure (including hardware and software) and access to inputs and outputs of the service. Especially in the service sector, the factor "customer base" is of quite importance for new businesses to enter the market. This factor showed the ability of service providers in their accessing to the services. Respondent enterprises rated it above average, and not easily accessible. Particularly, aviation business requires large capital, modern technology, management and politic factors as well as economic, social, regional and global factors which can be seen as natural barriers. In the field of telecommunications, bandwidth limitation was seen as an natural barrier which enterprises rated as very high due to new businesses entering the market would not have opportunity to access to spectra because all of those had been granted for current suppliers.

Survey results showed that most businesses in the service sector evaluated barriers to entry in the current market as average and low (rating within about 1.5 - 2.25 on a scale 3 points of the level of difficulty). However, for both telecommunications and aviation, most results for those entry barriers to the two markets were at a high level (rating from 2.25 to 2.5 on a scale of 3 of difficulty level). These two areas require modern technological, large capital and advanced infrastructure. Therefore, these are the major obstacles for enterprises to join the two markets.

Legal and policy barriers: except telecommunication, other service sectors like insurance, banking, aviation and petroleum distribution line in the conditioned businesses. In addition, all five mentioned service areas are required the legal capital when establishing. Thus, all five areas are obliged to comply with the law for entering the market, besides the natural barriers mentioned above. The concerning legal and policy barriers are: the legal capital, requirements for conditions of infrastructure, required qualifications for human resources, administrative procedures; the lack of between the legal documents and strategic planning development for the industry.

Among those listed barriers, administrative barriers and lack of uniformity in the legislation were estimated at relatively high level (2.75 points). Other barriers were assessed as medium. Moreover, conditions on specialized permits, conditions on related facilities could be seen as legal and policy barriers. Businesses evaluated these barriers as relatively high (3 points).

The current situation of competition in the market: Featured by a relatively high level of concentration, recently the market there have appeared some cases of restricting services competition which the Department of Competition Management have processed and investigated as the case of abuse of monopoly position by VINAPCO; or the case of agreement on increased price of 19 insurance companies. Besides, there are some signs of agreement on competition restriction such as an agreement on fixing the interest rate ceiling of the credit institutions in the Association of banks; agreement on continuously increasing fuel prices (the agreement on fixing the gas oil). In the service sector, demonstrations of competition activities are mainly the launch of discounted price to entice customers, promotions and discounts to attract the traditional customers. Service areas are highly profitable much more than the manufacturing sector. Although the investment cost is quite large, they are still attractive to investors; especially the investors of 100% foreign capital now increase in number after Vietnam's commitment to open its market upon WTO accession. Thus, activities of competition in the market will become increasingly dynamic and competitive level will gradually go up, accompanied by the threat of more frequent anticompetitive behaviors and unfair competition.

In summary, the level of concentration is quite high in the service sector and level on competition is also high. The number of enterprises in the market is small but with quite fierce competition, especially in the field of telecommunication. In the market, there appeared enterprises and business group with dominant positions, underlying the possibility of anticompetitive behaviors. Recent years have witnessed such behaviors. In the service sector, there are no concerns about entry barriers and behavioral barriers. The considerable concerns of businesses are caused by legal and policies barriers, such as government provisions on legal capital, specialized licenses and ability to survive in the market stemming from the demand to access to services as well as quality of service provided. Except for telecommunication, the remaining areas are of conditioned business activities.

Recommended measures to maintain and strengthen competition / level of competition in the market in the 10 mentioned areas

Improving recent policies / legislation

1. Policy/Law on competition and relevant policies/laws

Concerning issues for all 10 mentioned areas are mostly related to policy and legislation (natural barriers and incentives for FDI for the production areas).

Barriers to the fields of services line in policy and legislation. Therefore, we have proposed a set of recommendations as followed:

- Efforts should be made to properly build competition policy associated with the development of policy for each industry, namely the strategy and development planning should be linked to and consistent with competition policy.
- Giving more authority to managing agency of competition. Experience of many countries around the world and in the region show that the competence of the investigators in investigating competition is almost equivalent to the investigators in the fields of criminal justice and legal police. Only then, the agency of managing competition could promote their role in monitoring and enforcing laws on competition;
- Loosening regulations on economic concentration in the direction of encouraging the establishment of large conglomerates under the right guidelines passed in the 10th Congress of Vietnam Communist Party to strengthen the degree of competition of enterprises Vietnam in the international arena (this is the experience of the EU in its recovery period after the World War II).
- Conducting specific researches and surveys on the activities of cross-border cartels (such as the trade of milk, steel ,...) to assess impact on the competitive environment in Vietnam as well as the feasibility of introducing regulations to control this form of cartels in amending the coming Law on competition.

2. Improving the Ordinance on price.

Economically, degree of competition of goods and services can always be exposed through the relationship between price and quality of goods and services, demonstrating in practice mainly through competition of price. Therefore, policies and legislation on prices should be a part of the policy / legislation on competition, reflecting the state's intervention in managing the price-an essential part of the competition rules.

The two natural documents-Competition Law and Ordinance on prices regulating competition in Vietnam not only cause the overlap in management and scattered status of the legal system. In fact they also cause difficulties in the process of enforcing the ordinance. For example, for the two above-mentioned legal systems regulate one act (such as the act of price-fixing agreement). This regulation has never been encouraged in any law-controlled state. Meanwhile our target is to build our state a socialist state under the rule of law (Article 2 of the Constitution of 1992, Resolution 48 of the Politburo in 2005 on legal reforming strategy to 2020)

Currently, the law on price control has been put into the 2011 working programs the XII National Assembly's tenure. The building of the Law on competition is naturally to accomplish the existing Ordinance on price. However, to overcome these above-stated shortcomings, the scope of price control law should not include both the provisions on competitive acts through price control and management of monopoly prices because these regulations line in the scope of the competition law.

3. Completely document the overall planning / strategy for all the sectors and industries.

We found through our research that only the fields of steel and animal feed are enjoying the overall strategic plan of government, but the strategies for animal feed are too outdated (issued in 1996). In the coming period the government should issue the overall planning strategy for sectors in the fields of cement, chemical fertilizer, and animal feed (a new strategy), and milk. The coming strategy should be similar to the current strategy for steel industry, because of the following reasons:

Firstly, these mentioned areas are of great importance for the economy and the interests of the consumers. It is significant that the Ordinance on prices considered those as the areas of price stabilization. An overall strategic plan will have a huge effect on both the macro level (government's initiative to help in operating the economy) and micro level (contributing to increased the degree of competition, lowering prices of products and bringing benefits to consumers);

Secondly, the overall strategy is one effective tool in the reconstruction of economic sectors, contributing to the efficient allocation of human resources, contributing to economic growth and increased welfare and social benefits.

Regarding the viewpoint on institution

The Department of Competition Management should be supported to strengthen its functions, duties, and organizational structure under which functions of policy oversight and monitoring the competition situation should be advocated. The general

trend in the world today has shown that the settlement of cases conducting under typical ad-hoc mechanisms is going along with regulatory agencies taking periodic surveillance in each sector, recently focusing on the industries important to the economy, from which proposing the amendment / supplement for related institutions.

Regarding measures to strengthen law enforcement (including measures for monitoring and managing competition)

- Enhancing the function of supervision of the Department of Competition Management on specific sectors / industries;
- Building the databases in some specific markets of special attention, such as imported milk powder, animal feed and fertilizer NPK;
- Announcing a yearly report on competitive environment;
- Making reports on monitoring in several specific areas which are selected to match the reality of competition in the market.

Additional measures (increasing legal awareness and enhancing capacity of staff, international cooperation ...)

- To enhance training, advocacy of competition law and related documents;
- Department of Competition Management should be assigned to conduct studies and propose the signing of Acts / bilateral agreements with other countries to combat cross-border cartels. The competition law is not sufficient to handle these activities because regarding the legal nature; it only regulates the domestic market. Signing international treaties are effective measures to enhance international cooperation in dealing with transnational cartels.

Recommendations for the business community and investors

- Competitive environment is a favorable condition for business but also means a greater level of competition in the market;
- Do not perform any acts of unfair competition/restriction of competition
- Small businesses should cooperate to each other to exploit the advantages of each other and increase the size/capacity in the market, especially for the enterprise with market share of less than 5%. Other forms of economic concentration (M & A) should be encouraged for this type of enterprise.

