

行政院公平交易委員會
FAIR TRADE COMMISSION, EXECUTIVE YUAN R.O.C. (Taiwan)

The Role of Competition Authority in This Era of High Inflation— Introduction of Basic Concepts and Issues



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30 August 2011 Ho Chi Minh City, Vietnam

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Inflation:
Traditional definition: A sustained increase in the general level of prices for goods and services.

- Cost push: rises in wages, taxes, prices of commodities, imports
- Demand pull: increase in population, economic growth

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Inflation and Competition Authority

1. Political pressures on inflation: lower purchasing power, price increase > wage increase, worse income distribution.
2. Price increase in food and gasoline is always the most important political issue.
3. Politicians often ask competition authority to involve, i.e. to investigate or stop, the price increase.
4. Can competition policy/law be used to fight inflation in the long term? To fight price increase in the short term? Can competition authority resist the political pressures for non-competition related price increases?

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Major Factors for Price Hikes We Face Today:

- Macroeconomic issues: excessive money supply, growth of government debts, changes in interest rates and exchange rates policies.
- Market structure issues: market concentration, dominant power, cartel, barriers to entry.
- Unexpected external shocks: global financial crisis, political instability, oil crisis, natural and man-made disasters.

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Macroeconomic Issues

1. Effective government macroeconomic polices.
2. Competition policy can only develop its positive impact on innovation, growth and employment in the medium and long term.
3. In the short term, its effectiveness in the fighting inflation is quite limited.

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Market Structure Issues: “Market Power Inflation”

- Market power inflation occurs when enterprises exploit monopoly positions or a lack of market competition, or when they collude with competitors to improve profit margins by raising prices (profit-push inflation).
- When compounded with cost-push effects, profit-push effects will precipitate wage-price spiral inflation.
- Inflation induced wage hikes cause companies to raise prices, which in turn creates pressure for further wage increases.

(Jürgen Janger and Philipp Schmidt-Dengler, “The Relationship between Competition and Inflation, Monetary policy and the Economy, 2010, issue 1, pages 53–65)

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Market Power Inflation: price fixing and abuse of dominant power

- A well designed competition law and creation of a comprehensive competition authority .
- Strict enforcement of competition law can counter the effect of market power inflation:
 - effective detections and investigations of price fixing and abuse of market power
 - stronger enforcement in merger control
 - Competition advocacy to reduce inappropriate regulations and man-made market monopolizations.

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Unexpected External shocks: Short-term Price Hikes

- Natural or man-made disasters: earthquake, hurricanes (typhoons), flood, drought, disease (SARS) , wars....
- Price increases quickly due to imbalance of demand and supply in some sectors (food, gasoline) and/or areas.
- Hoarding and price gauging accelerates price increase and may affect the general price.
- Heavy political pressures on competition authority to counter price increase.

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Hoarding and Price Gauging

1. Hoarding: “unreasonably” withholding a commodity (particularly “essential” commodities) for future higher price/profit when there is a scarcity of the commodity in the market.
2. Price-gauging: “unreasonably” raise the price of a commodity when there is a shortage of the commodity caused by a natural or man-made disaster.

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Hoarding and Price-gauging

- Moral issues? Economic issues? Social welfare issues? Competition Issues?
- Anti-hoarding laws and anti-gauging laws?
 - Difficult to define in precise way.
 - How to measure “unreasonably” stock and/or price increase?
 - Is the society benefit from these laws? Can the laws act in time?

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Competition law and price gauging

1. Competition law may be used on the first line of defence against price gouging
2. Gouging by a unilateral firm or collusion among competitors could be condemned as an abuse of monopoly power or a hard-core price cartel.
3. If price gouging is orchestrated by firms with less obvious market power, unfair-competition statutes may prohibit unjust selling or marketing activities.

(Andy Chih-Min Chen, “A market-based and synthesised approach to controlling price gouging,” International Journal of Private Law, Vol. 4, No. 1, 2011, Page 128-142).

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Experiences in Taiwan :Factors to consider for hoarding and gauging

- *Hoarding* – the government shall consider whether there are non-merchants or merchants not in their main business who are purchasing large quantities of commodities needed by people in disaster regions, or whether the merchants in their main business are purchasing, storing, and holding from sales, or sales at prices patently above reasonable profits for those commodities.
- *Price gouging* – the government shall take into account factors such as product characteristics, unit price, the percentage of price increase, timing of price increase, swiftness of price increase, and extent [of price increase] that is acceptable to consumers, at the same time addressing whether the degree of price increase significantly and palpably exceeds the cost increase.

(Explanatory letter by the Ministry of Justice (MOJ) for Emergency Order in response to the biggest earthquake on September 21, 1999)

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Case examples by TFTC:

1. 21 September 1999 big earthquake:
 - mass destruction caused by earthquake in central Taiwan.
 - Hoarding and price-gauging surged.
 - 7 enterprises were found to violate the Fair Trade Act by charging exorbitant prices essential goods and equipments (water tanks, generators).

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Case examples by TFTC:

2. 2003 SARS case:
 - SARS (severe acute respiratory syndrome) in 2003 causing hoarding and price-gauging in preventive medical equipments and related accessories (masks, thermometers).
 - 61 mask suppliers and six thermo scan providers were found in violation of the Fair Trade Act by charging unreasonable high prices.
 - TFTC adopted a "30% rule" under which suppliers who priced their products 30% over their purchasing costs would be considered as gougers.
 - Administrative Appeals Commission and High Administrative Court Challenged some decisions by the TFTC

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Conclusions:

- Competition policy is not about price control.
Competition authority is not a price-control agency.
- Strong enforcement and advocacy of competition law by competition authority can contribute to creating the structural conditions in markets that would facilitate greater innovation, expansion and productivity growth without fuelling price inflation; and eliminate the chances for market power inflation.
- Competition authority may step in when there is a short-term price gauging by enforcing competition law.

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Thank you for your attention!

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The role of competition policy in the era of high inflation

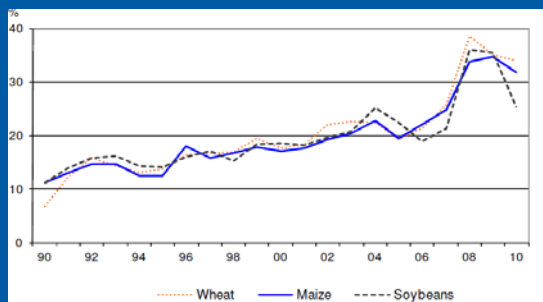
- Focusing on agricultural and food sector -

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 Ho Chi Minh (Vietnam), 30-31 August 2011

Introduction

- Recent surges of world commodity prices
 → concerns about the impact on consumers
- Need to assess whether competition contributes to:
 - lowering prices at ordinary times; and
 - stabilizing prices after surges in commodity and retail markets.
- Challenges for Competition Authorities
 - More probabilities of cartels in times of price falling after spikes;
 - How to mitigate the impact of price spikes; or
 - Political pressure to control prices, etc.

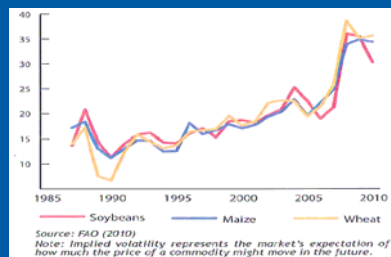
World food price index (Nominal prices)



Source: Policy report by OECD, FAO, etc (2. June 2011)

Features of recent price increase in agricultural and food sector (1)

- Price spikes
- Volatility has increased since 2007. (Gilbert & Morgan 2010)



Source: FAO (2010)

Note: Implied volatility represents the market's expectation of how much the price of a commodity might move in the future.

Features of recent price increase in agricultural and food sector (2)

- Transmission of price spikes to producers and consumers varied across many countries. (FAO)
 - In many EU countries from 2007 to 2008, domestic consumer food price changes was 4 to 5 times higher than EU average (5-6%)
 - Hungary's consumer price change was 3 times of EU average, while producer price change was twice of the EU average.
- Domestic consumer price increases < domestic producer price increases
 - EU producer price change was 1.5 times larger than EU consumer price change (the same period).

Relationship between competition and price level

- Traditional theory: competitive markets bring lower prices and increased outputs.
- Experiences of OECD member countries are strongly in favor of enhanced competition for lowering prices.
 - * Irish grocery order, Australian milk prices after introducing competition, Guam case, Airline fares in Europe etc

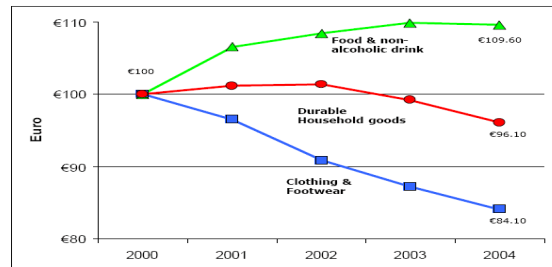
Irish Grocery Order case

- In Ireland, the Grocery Order was introduced in 1987.
 - Prohibiting retailers from selling certain grocery products below their invoice prices
- The Irish Competition Authority examined pricing trends under the Order in 2005.
 - First comparing price trends in food to those in durables and clothing
 - Food price increases were greater than those of durables and clothing

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Effect of Irish Grocery Order (1)

Figure 1: Irish food prices rise while clothing, footwear and household goods prices fall.

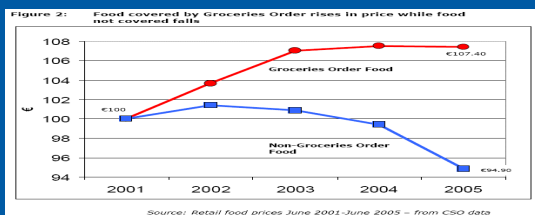


Source: Retail price levels 2000-2004 from CSO data

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Effect of Irish Grocery Order (2)

- The prices of grocery items covered by the Order vs. those not covered by the Order



Source: Retail food prices June 2001-June 2005 - from CSO data

- The Order was estimated to make Irish families pay 500 Euros more per year. (Irish report to OECD, Dec. 2005)

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Australian Milk Price case (1)

- Prior to 2000, farmgate prices for drinking milk were set by State Governments.
- Australia eliminated the restrictions in the dairy sector throughout the country on July 1, 2000.
- The ACCC monitored consumer prices and profits of intermediaries before and after the regulation.

- Concerns: only milk processors and retailers would be the main beneficiaries, not consumers

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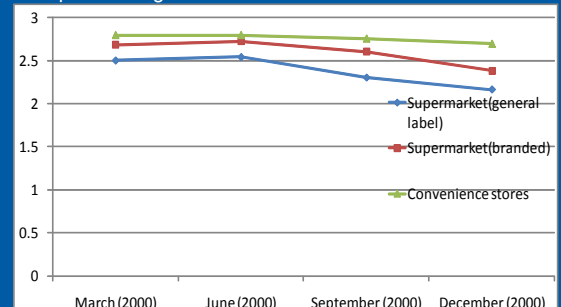
Australian Milk Price case (2)

- One major national supermarket chain announced two year contract plan with processors after the reform.
 - Triggering aggressive biddings between milk processors
 - The chain chose a national marketing strategy of setting low prices to consumers rather than to increase revenue.
- Supermarket prices for plain milk fell by a maximum of 34 cents per liter (2.72A\$→2.38A\$)(June - December 2000)
 - * Similar results for reduced-fat milk prices to a less degree
- Convenience stores also lowered prices: 2.79A\$ per liter → 2.69A\$ per liter

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Australian Milk Price case (3)

Milk price change



source : ACCC (2001)

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Australian Milk Price case (4)

- Retailers' margins also declined <source: ACCC (2001)>
 - Supermarket : declined by 19 percent
 - Convenience store : declined by 24 percent
 - Milk processor : decreased by 12-18 percent
- * Savings from sales of supermarket milk to Australian consumers were estimated about A\$ 118 million on a full year basis. <Source : ACCC (2001) >

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New entries of retailers in Guam

- In Guam, low- price/ high-volume retailers (e.g. K-Mart and Cost-U-Less) first entered this island in 1995.
 - The island experienced sustained retail price declines (including food price) of approximately 15-20% until early 2000s.
- Low prices benefited both inhabitants and travelers in Guam .
- * Decline of small local retailers

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Impact of competition after price surge (1)

- Main issues:
 - The linkage between competition and the degree of the transmission of price spikes
 - Whether competition promotes prices falling after spikes
- Empirical studies by Carton(1986), Domberger and Fiebig(1993) and Slade (1991)
 - Highly concentrated markets have shown:
 - * high correlation between CR4 and duration of price rigidity;
 - * possibility of easier coordination; and
 - * firms' asymmetric behaviors in passing on price changes.

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Impact of competition after price surge (2)

- So price surges in raw markets will be more easily transmitted to retail prices in less competitive markets.
- As raw agricultural/ food prices come back down from the peak:
 - Fall of the retail prices in competitive markets will be more than in less competitive markets.
 - Competition could contribute to more lowering prices after spikes
 - Less competitive market may be associated with more rigid price movements after shocks. → Stable(?)

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Competition authorities' activities (1)

- < Australia (ACCC) >
 - Sector inquiry into grocery industry (Jan. 2008)
 - Issues papers by ACCC → request for information and documents → hearings/ public consultation → recommendations on how to improve competition and competitiveness
 - * Report of the ACCC inquiry into the competitiveness of retail prices
 - Grocery price monitoring (May. 2008)
 - The ACCC conducted a monthly survey of the prices for typical grocery baskets made up of 500 products.
 - A wide range of supermarket retailers located in 61 different regions
 - Published the survey results on a dedicated consumer website (www.grocerychoice.gov.au) → assisting consumers to compare

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Competition authorities' activities (2)

- < India >
 - Investigation into price fixing of sugar millers (Jan. 2011)
 - The background was a substantial slide in retail prices(about 40%)
 - Sugar millers were suspected of price fixing to stem the fall of sugar prices and to stop them falling below production cost
 - Probing the possibility of a cartel on the price of onion
- < Ireland >: publicans' one-year price freeze led by their trade association (Dec. 2008)
- < Italy >: 26 pasta manufacturers' price fixing cartel (Oct. 2006 to March 2008)

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Competition authorities' activities (3)

< Estonia >

- Investigation into a possible cartel behavior in the dairy and bread industry (Autumn 2010)
- An increase of milk prices by 25% in September(2010) and bread producers announcing plans to increase prices by between 10 and 20%

< Germany >

- Dawn raids against firms in the sweet, coffee and pet food markets (manufacturers and retailers, Jan 2010)

< Korea >: Price monitoring + Providing info on price differences between domestic and foreign prices + cartel investigations

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Conclusion

- Commodity price increases: a challenge to Competition Authorities
- Enhanced competition → Lowering prices → Necessity for structural efforts
- Alert on anti-competitive conducts, particularly cartel behaviors in times of falling prices.
- Importance of competition advocacy for political pressure

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The Role of Competition Authority during the Era of High Inflation

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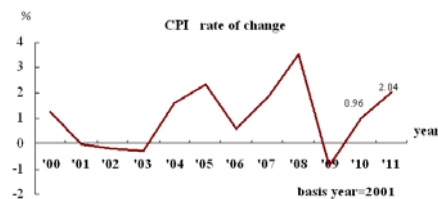
Contents

1. Background : inflation 、 Present regulation
2. Task force of price surveillance (Executive Yuan)
3. TFTC' s investigation I 、 II
4. Investigation of consumer goods
5. Intergovernmental cooperation-FTA#9
6. Resources

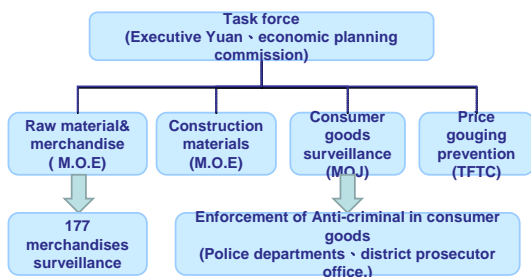
1. Background

- Background : 1.inflation
- 2.martial law-" Agriculture 、 mining & commerce regulation act"
- 3.President emergency order (2000) & FTA #24
- Present : There is no price surveillance act or authority
- Intergovernmental price surveillance task force of Executive Yuan (May, 2008)

Inflation Rate of Taiwan



“ Task force of price surveillance (anti-hoarding operation) ” of Executive Yuan



2. “anti-hoarding operation” of E. Yuan

- “anti-hoarding alternative” (2008)
 - The law 、 the act 、 each competent authority
 - Criteria for hoarding (ministry of justice)
 - Business & non-business inventory (shop vs non-shop)- ex. masks
 - Sales not for market mechanism—in season or not
 - Sales exceed reasonable profit (gouging)

3. TFTC' s investigation I

- Concerted action-collusion
- Price-gouging prevention task force of TFTC
- Cases : LPG、soybean、dried bean curb (naïve cartel)
- Others : consumer goods investigated transferred from counties or district prosecutor offices

4. TFTC' s investigation II

- Case of hoarding and price-raising
 - 1. Petroleum product(2008)
 - Objective:Collusion investigation
 - Procedure: Spot investigation
 - Interviews-suppliers and others
 - Results—no direct evidences—TFTC transfers cases to Bureau of Energy
 - Bureau of Energy : “petroleum management act”、 “gas station management guideline”

5. TFTC' s investigation II

- 2. Case : Fertilizer (2008)
 - Procedure :Comparison between prices & quantities
 - Spot investigation : Documents of price & quantities
 - Comparisons
 - Results—no direct evidences—transfer
 - Council of Agriculture : “ Fertilizer management act”

6. competent authority : investigation of consumer goods

- Wheat、flour
 - Council of Agriculture : Food administration act
- soybean、vegetable oil
 - Ministry of economic affairs : enforcement rule
- Livestock & Avian、aquaculture product (fishery)、feedstuff (mash)
 - Council of Agriculture : Feed Control Act
- Medicine、Chinese herb
 - Department of Health : pharmacy law

7. keynotes for investigation

- Price raising messages from domestic products : warning? inflation
- International commodity price : up、down、awkward?
- Market mechanism : demand & supply
- Other factors : force majeure (earth quakes、typhoon)、festivals (special food—price raising)、purchase-sales inventory、importing price & quantity、production capacity
- Business strategy vs. manipulation (gouging)

8. Intergovernmental cooperation

- Tax reduction (import ex. wheat)
- Export prohibition (ex. Petroleum)
- S.O.E' s role (full capacity)
- Fixed price & price-raising delay mechanism
- Negotiation meeting (government to government—FTA#9)
- Establishment of “Customer purchasing parity zone” in supermarket、hypermarket—consumer protection commission—company compensation?)

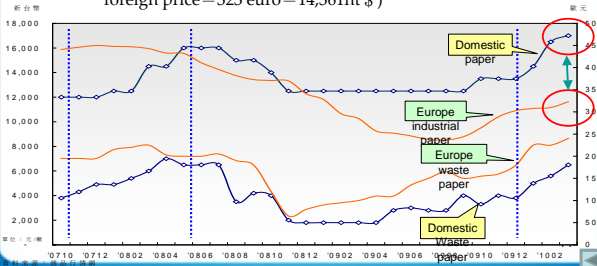
9. Resources

- Capital : budget
- Human resources- Competent authority— ministries、commissions、council、department、bureaus、offices
- TFTA—fair trade act(FTA)
- The time of price surveillance—demand & supply has changed—task force enforces

Awkward price raising-price of industrial paper

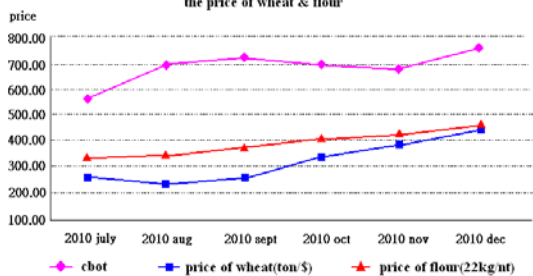
• Int'l mkt

- Domestic price > foreign price(DP=16,000~17,000NT \$, foreign price=323 euro=14,361nt \$)

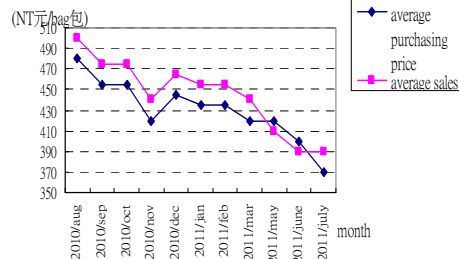


Rational fluctuation-price of wheat & flour

2010 from July to december
the price of wheat & flour



price of com starch



謝謝 *Thank You*



Measures Taken In Era of High Inflation

Hong Kong Consumer Council

Taiwan Fair Trade Commission Seminar
at Ho Chi Minh City
August 2011

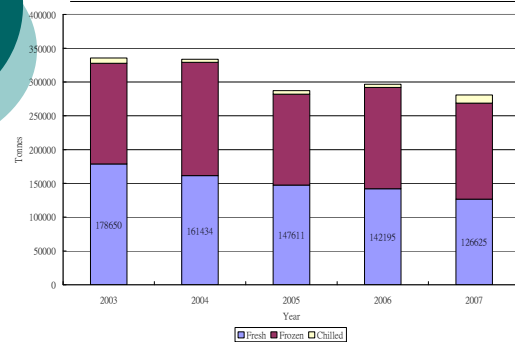
Content

- **INQUIRY INTO IMPORTED LIVE PIGS PRICING 2008**
- **MEASURES TO INCREASE PRICE TRANSPARENCY 2009-2011**

Price Study Examines

- the food and pork business environment;
- the supply chain of the pork market in Hong Kong;
- trade practices that occur in the auction market at the wholesale level;

Fresh Pork, Chilled Pork & Frozen Pork Consumption in Hong Kong



Food Consumption in China

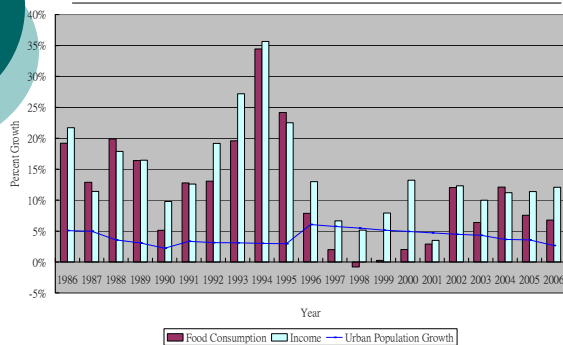
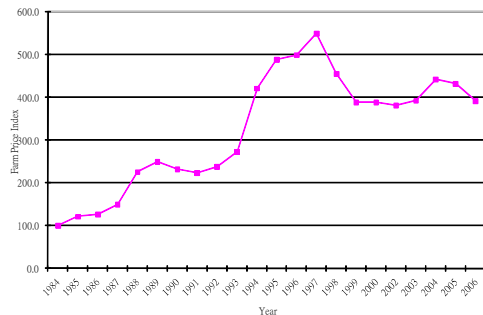


Table 2.1: China: Per Capita Annual Household Food Consumption

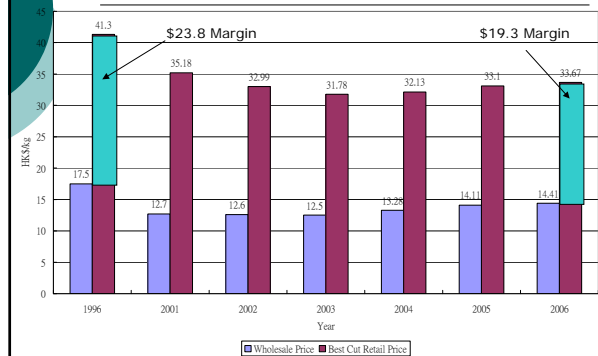
Product	Urban			Rural		
	1990 (kg)	2006 (kg)	2006/1990 ratio	1990 (kg)	2006 (kg)	2006/1990 ratio
Grain	131	76	0.6	262	206	0.8
Pork, beef & mutton	22	24	1.1	11	17	1.5
Poultry	3	8	2.4	1	4	2.8
Milk	5	1	4.0	1	3	2.9
Fish & aquatic products	8	13	1.7	2	5	2.4
Fruits	41	60	1.5	6	19	3.2

Substantially increase over last 15 years

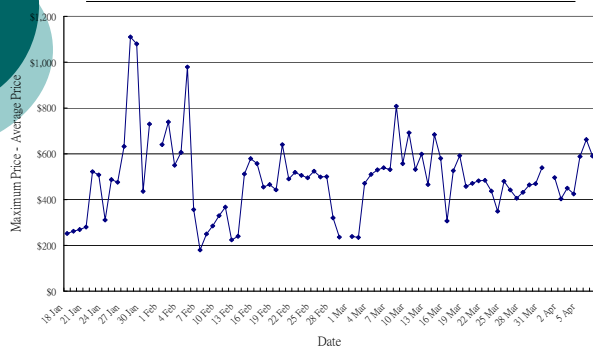
China Pig Farm Price



Wholesale and Retail Prices of the Hong Kong Fresh Pork Market



Range of the Price Fluctuations



Anti-competitive Conduct

Features of Auction Markets that can Facilitate Collusion

- Firms (Buyers) compete only on price in the auction;
- Publicly announcing bids and the identity of the bidders allows collusion members to detect "cheating" from the collusive agreement.
- Regular auctions and high frequency of auctions
- Firms (Buyers) face similar cost structures.
- Buyers can be a customer of another.
- The social or professional activities of trade associations provide a pretext for meeting of competitors.

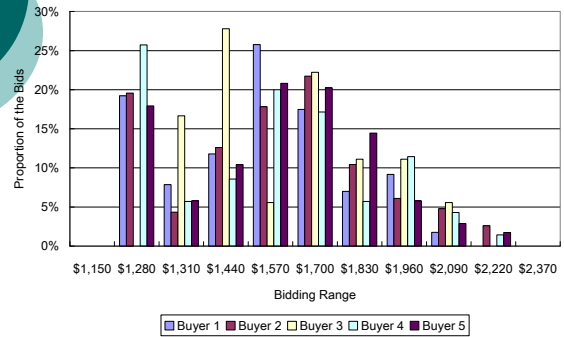
Evidence on Bid Rigging

- First, the total market share of the participating buyers involved in the alleged collusion should be sufficiently high to have a significant economic effect on the competitive environment.
- Second, bid rigging amongst buyers must have the result of lowering the purchase price (to lower costs) and increase the margin between buyer costs and the price paid to downstream purchasers, thereby resulting in 'cartel' profits.

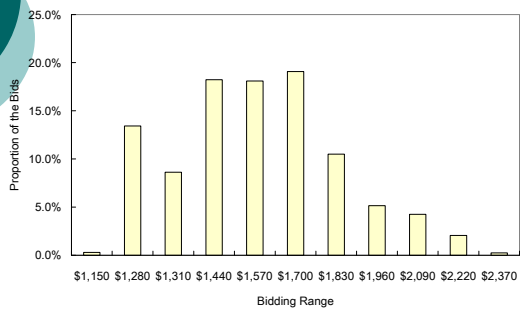
Top Five Active Buyers

Top 5 Active Buyers	SSSH			TWSH	% of the Market Turnovers	% of the Top 5
	NFH Share	GNH Share	ASZ Share	NFH		
1	47%	37%	16%	-	10.1%	
2	38%	38%	24%	-	9.3%	
3	0%	13%	5%	82%	8.5%	
4	48%	30%	22%	-	7.4%	
5	47%	-	-	53%	5.1%	
Total	14.2%	10.6%	5.9%	9.7%	40.4%	

Bidding Pattern of the Buyers

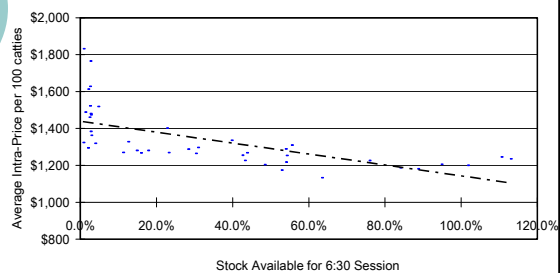


Bidding Pattern of the Average Buyer

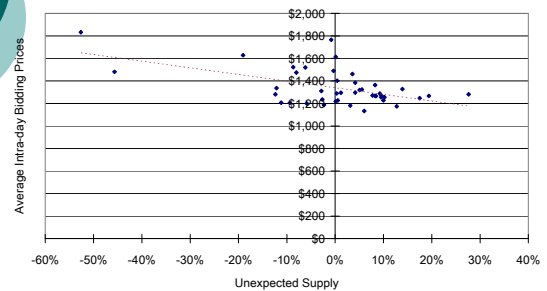


Price Increase Caused by Insufficient Supply ?

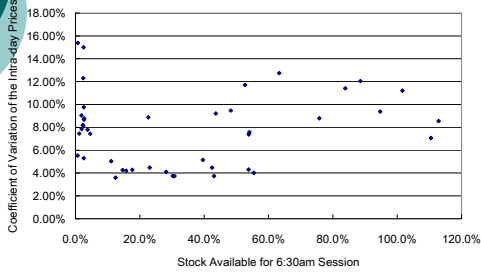
Prices versus Stock Available (% of the Intra-day Total Supply)



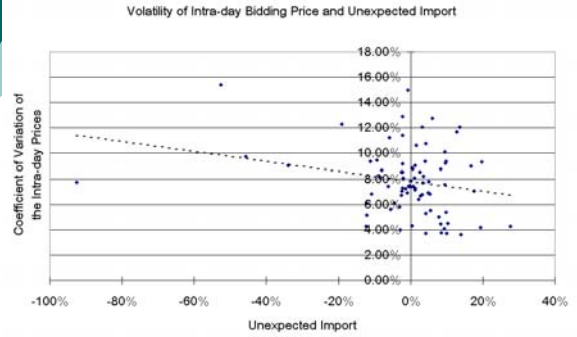
Prices versus Extra Supply (% of the Intra-day Total Supply)



Price Volatility and Stock Available (% of the Intra-day Total Supply)

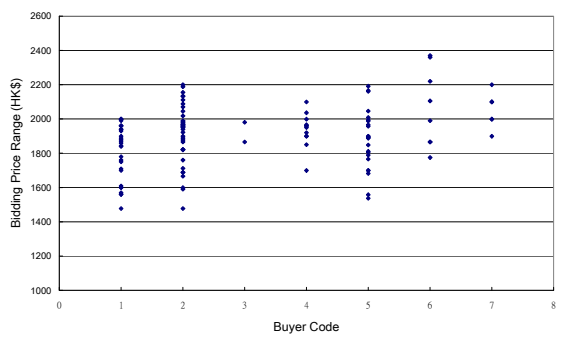


Price Volatility and Imports (% of the Intra-day Total Supply)

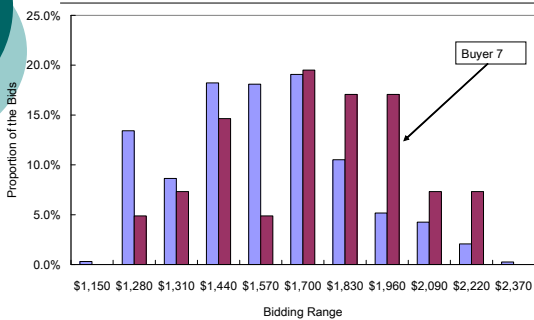


Aggressive Bidding

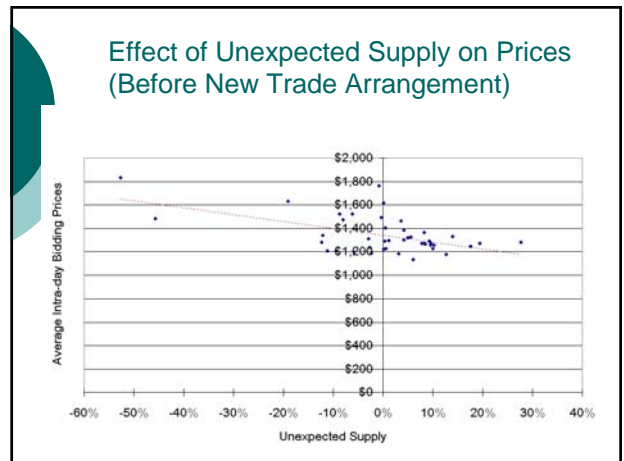
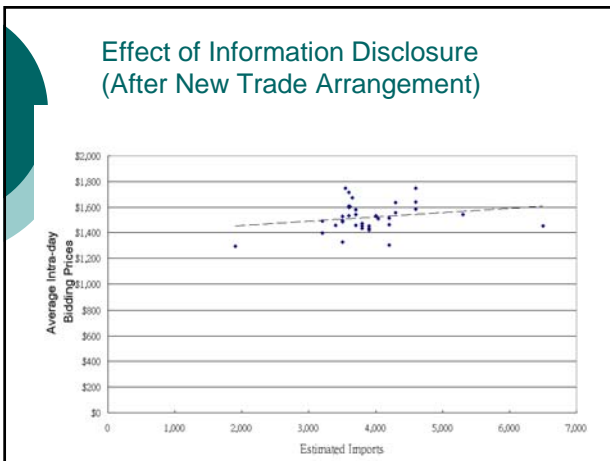
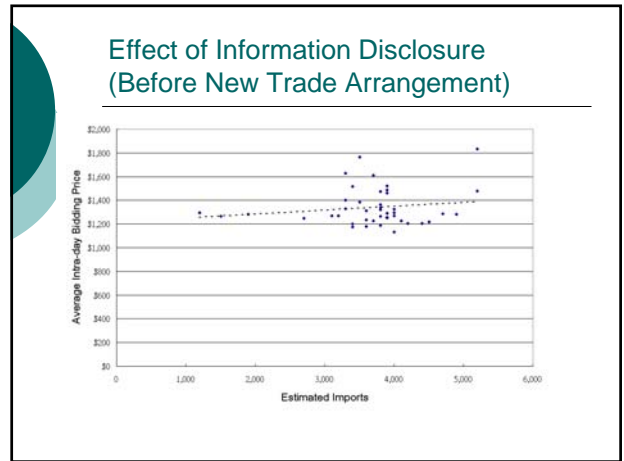
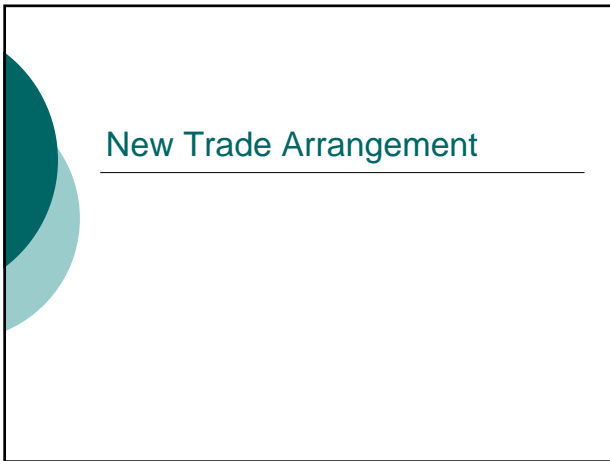
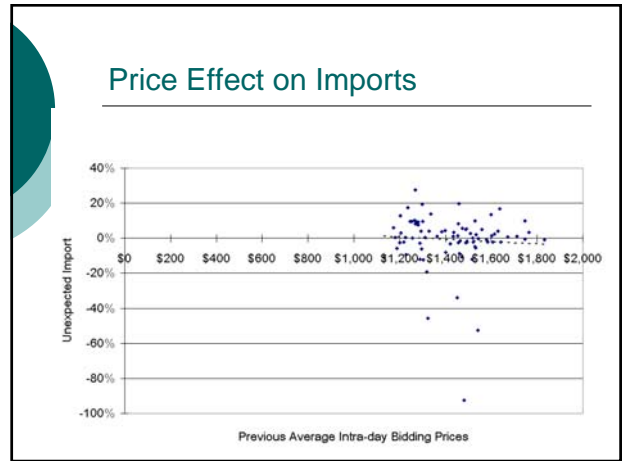
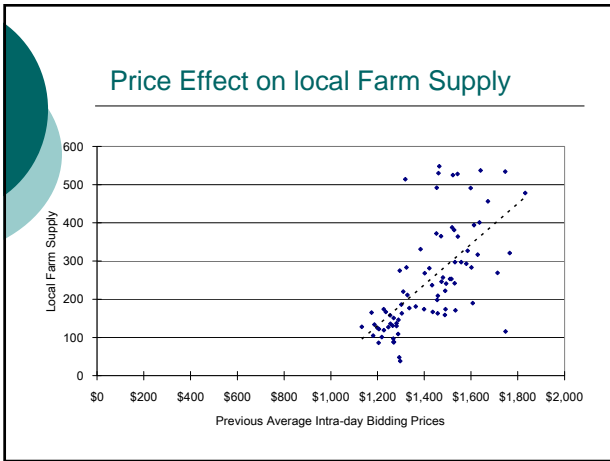
Selected Buyers' Winning Bids on the Most Volatile Day in SSSH



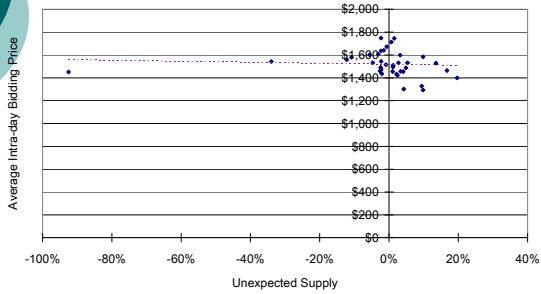
Winning Bid Pattern of Buyer 7 and Average Buyer in the Jan and Feb



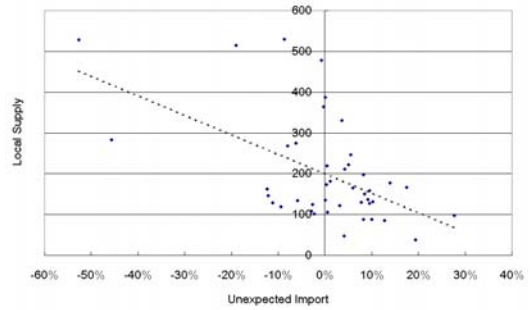
Role of Price to Allocate Market Supply



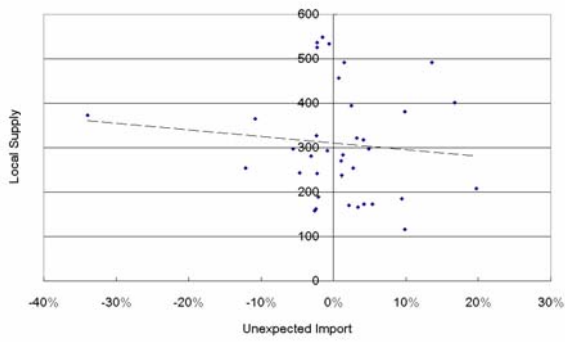
Effect of Unexpected Supply on Prices (After New Trade Arrangement)



Effect of Unexpected Supply on Local Supply (Before New Trade Arrangement)

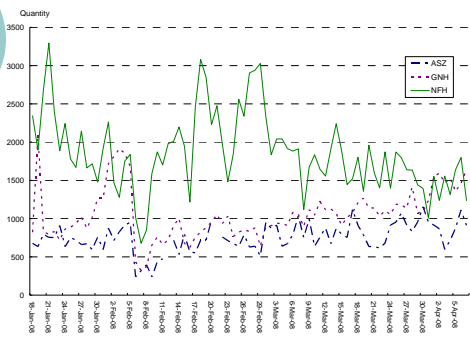


Effect of Unexpected Supply on Local Supply (After New Trade Arrangement)

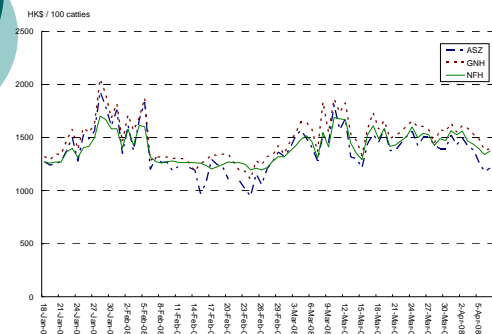


Effect of Market Liberalization

Market Development after More Suppliers



Selling Prices of Different Suppliers



Conclusions

- CC has not found any direct evidence of restrictive practices that hinder the competitive environment, in terms of the auction process for live pigs.
- Expected shortage of supply does not lead to large price movement or intra-day fluctuation
- Unexpected shortage of supply leads to large intra-day price fluctuation
- There was some evidence that aggressive bidding behaviour of some buyers could have caused the maximum price to have substantially deviated from the average price in the market

Conclusions (Cont.)

- Rise in price only leads to local supply increase in next day.
- New trading arrangement limits the effect of unexpected supply on the market prices
- Market liberalization encourages competition

CC Price Transparency Initiatives: introduction

- In 2008 Hong Kong Government Chief Executive Address, Hong Kong Government decides to enhance price transparency so the public can monitor their retail fuel prices.
- In EU, the Council Directive on Consumer Protection 79/591/EEC, it is argued that increased market transparency ensures greater protection for consumers.
 - European Competition Commission Bi-annually publishing lists of car prices to reduce price differentials by EU Competition Commission
 - In the Norwegian Competition Act, it is stated that as a duty of the competition authorities to "implement measures to increase the markets' transparency"

CC Price Transparency Initiatives

- Consumer Council has engaged several price transparency initiatives in 2008
 - Retail Price Watch
 - Supermarket Price Watch
 - Wet Market Price Watch

CC' Monitoring Price

- CC will provide information on promotional packages offered by oil companies to enable consumers to make informed choices and to enhance the price transparency in the marketplace.
- Retail Price of Gasoline and Diesel Fuel and Discount and Promotional Offers
- With the information updated at weekly intervals, CC has the full support from oil companies on the initiative
- The first phase of the initiative was launched 20 November.

Logistics of the Information Update

- Monday: CC will send out the update request to all oil companies for them to provide information in the coming week.
- Tuesday: Oil company send back the updated table to CC. A REPLY IS NEEDED even though there is no information to be updated.
- Wednesday: CC will HAVE staff to validate price information and other information in the market.
- Thursday: The updated information will be posted to the web to the public.
- Friday - Monday: ANY ESSENTIAL UPDATED INFORMATION CAN SEND TO CC. CC WILL UPDATE THEM IF IT FINDS NECESSARY.

CC Price Transparency Initiatives

- Concern facilitate tactical cooperation in the retail auto-fuel market.
- Cross section studies in US related to restrictions on posting gasoline prices by Maurizi and Kelly (1978) compared prices in cities with ordinances against posting large signs advertising price at gasoline stations and found that ordinances against the signs increased the variation in prices, but reduced the average prices initially. But later they found that posting signs reduced average prices

CC Price Transparency Initiatives

- CC is aware of the possible effect of price transparency on competition in the market place when designing the presentation of information.
- The proposed smartphone application to facilitate consumers to compare prices anywhere will be ready in coming quarter.



The Role of Competition Authority in This Era of High Inflation

Sarah Sheppard
 Director – Transport and General Prices Oversight, Australian Competition and Consumer Commission
 Presentation to Regional Capacity Building Conference



Inflation in Australia

Over the past 12 months in Australia:

- Food - up 6.1%, Electricity – up 10.7%, Petrol – up 11.3%

Grocery prices rise

CONSUMERS are likely to be digging deeper to fund their weekly grocery bill as inflation returns to supermarkets for the first time in more than 18 months. More than a dozen major food and grocery retailers have raised wholesale prices to recoup surging commodity costs and further rises are likely, fuelling food price inflation. "We are


Rising power prices

By **PETER MARTIN**
ECONOMICS CORRESPONDENT

THE Australian Energy Regulator has revealed what it says is the real reason for rising power prices: Queensland's coal mines are producing less than the range of 2 to 3 million tonnes per month, driven by steady increases in the cost of fruit, vegetables and electricity.

Fuel price rise to hit this week

Showing a 12.8% rise in Queensland.



Outline of presentation


Today's presentation covers:

- Background - the Australian Competition and Consumer Commission (the ACCC)
- Three examples of roles of the ACCC in relation to rising commodity prices:
 - Groceries – ACCC's 2008 price inquiry
 - Fuel – ACCC's price monitoring function
 - Electricity – ACCC's regulation of access to electricity transmission and distribution networks




The Australian Competition & Consumer Commission (ACCC)

- The ACCC is a federal independent statutory body responsible for enforcing Australia's competition laws
 - Established in 1995 through the merger of the Trade Practices Commission and the Prices Surveillance Authority
- Role is to promote competition and efficiency and protect consumers from anti-competitive and unlawful practices
 - Administers the Competition and Consumer Act 2010 (Cth) (formally the Trade Practices Act 1974 (Cth))
 - Australia's competition laws apply to nearly all sectors and industries and all forms of entities involved in trade or commerce, including government business enterprises and unincorporated entities as well as trading and foreign corporations



The Australian Competition & Consumer Commission (ACCC) (2)

- Australia's competition laws are based on the principle that competition/ markets generally improve economic efficiency
 - Part IV of the Competition and Consumer Act 2010 prohibits 'restrictive trade practices' and intends to protect and enhance competition
- Natural monopolies, network effects or associated 'market failures' can lead to need for economic regulation
 - Examples of industries subject to economic regulation administered by the ACCC include telecommunications, rail, ports, gas and electricity
- The competition laws administered by the ACCC generally do not seek to address social inequality – this is dealt with through taxation and welfare policies



Food

- Average Australian spends around 12 – 14 percent of its after tax income on groceries
- When food prices rise there is often pressure on the ACCC to get involved and find solutions
- But the ACCC does not set the price of food
- It has the same role in the food industry as in any other industry:
 - To promote competition and efficiency in markets
 - To protect consumers from unlawful anticompetitive conduct and unlawful market practices

2008 'Groceries Inquiry'

- 2007 – significant public concern about rising bread, fruit and vegetable prices
- 2008 - Government asked ACCC to conduct an inquiry into "competitiveness of retail prices for standard groceries"
- The ACCC's inquiry:
 - Focused on competition in the Australian grocery sector
 - Considered whether a lack of competition in the Australian grocery sector could explain rising food prices
 - Analysed the grocery supply chain and the level of bargaining power of the major grocery retailers and wholesalers
 - Scrutinised the competitive position of independent retailers

2008 'Groceries Inquiry' (2)

- Findings:
 - Supermarket retailing is workably competitive
 - A range of domestic and international factors have contributed to the increasing cost of groceries in Australia, including:
 - Australian weather conditions (drought and cyclones)
 - World commodities boom
 - A number of factors limit effectiveness of price competition:
 - Barriers to entry and expansion of competitors
 - Limited price competition from independents
 - To this end ACCC has opposed restrictive leases in shopping centres

2008 'Groceries Inquiry' (3)

- ACCC Recommendations:
 - Changes to planning laws – removing barriers to entry and expansion of competitors
 - Referred to Productivity Commission for consideration, who found:
 - There are competition restrictions in retail markets in all states and territories
 - They arise from excessive and complex zoning, through taking inappropriate account of impacts on established businesses when considering new competitor proposals and by enabling incumbent objectors to delay the operations of new developments
 - Introduction of 'unit pricing' to make it easier for consumers to compare prices
 - Now implemented

Fuel

- The Australian Government has been involved in petrol pricing issues since 1901
 - Government involvement has variously included imposition of customs duties, excise duties and price controls
- Today - fuel prices are no longer regulated, they are determined by the market
 - Neither the Government nor the ACCC sets fuel prices
- However, the price of fuel remains a big issue for consumers and Governments
- Fuel prices are under constant scrutiny by the public, the media and the politicians

Fuel (2)

- In 2007 the ACCC was directed under the Trade Practices Act (now the Competition and Consumer Act) by the Government to undertake an inquiry into the price of unleaded petrol. The inquiry's findings included:
 - The supply and wholesale fuel sectors had a relatively high degree of market concentration
 - There was a significant degree of price competition at the retail level
 - There was an imbalance in pricing transparency between buyers and sellers of petrol (allowing sellers to react more quickly to price movements than buyers)
- Following the fuel inquiry, the Government directed the ACCC under the Competition and Consumer Act to monitor prices, costs and profits of petroleum industry for a period of three years
 - Now extended until 2012

Fuel (3)

- ACCC's current role relating to fuel:
 - Like other sectors, ensure compliance with the Competition and Consumer Act
 - Formally monitor the petroleum industry and produce a report to the Government each December (extended until 2012)
 - ACCC has specific powers to compel companies to provide information however most companies comply voluntarily
- ACCC's latest petroleum industry monitoring report:
 - Explains that the major determinants of retail petrol prices in Australia are:
 - The international price of refined petrol
 - The exchange rate of the Australian dollar against the US dollar
 - The established weekly retail price cycles
 - Available on the ACCC website at acc.gov.au

Electricity

- Substantial increases in electricity prices in past 3 years
- The role of the Australian Energy Regulator (part of the ACCC) in relation to electricity prices:
 - regulates the electricity transmission and distribution network charges (which have natural monopoly characteristics)
 - Aims to ensure that consumers are not paying more than is efficient for the delivery of safe and reliable services

Electricity (2)

- Charges for use of the transmission and distribution electricity networks represent up to ½ of a typical customer's electricity bill
- Reasons prices have been increasing:
 - a need to spend money on the networks to meet strong growth in demand
 - to provide services to new connections
 - to replace ageing equipment to maintain reliability
 - increases in the cost of debt
 - Increases in labour and materials costs
- There is a question about whether the regime provides efficient expenditure allowances and investment

Lessons learnt

- Price monitoring/ price inquiries:
 - Can provide the public with information about pricing practices that would not otherwise be made available
 - Can reveal problems with the effectiveness of competition and price levels and movements
 - Can provide information about the impact of deregulation and other reforms (ie. have they worked)
- Access regulation:
 - Can be appropriate when an industry is characterised by services provided over monopoly infrastructure
 - Regulates the terms and conditions of access to services supplied over such infrastructure
 - Impacts on the prices consumers pay for delivery of services such as electricity, gas and telecommunications

Questions/ Discussion

Competition policy in Cambodia (in This Era of High Inflation)

30-31 August 2011

Ho Chi Minh, Viet Nam

Prices of Products in Cambodia (Ministry of Commerce)

Descriptions	1 st Week of May 2010	1 st Week of May 2011	1 st Week of Aug.2011
Rice No. 1 R/ kg	2550	2600	2640
Rice No. 2 R/kg	2030	2000	2000
Beef R /kg	25250	27600	27600
Pork R /kg	16700	24600	22400
Fish R /kg	16700	12700	17900
Chicken R /kg	18750	19500	21700
Regular R/L	Caltex	4600	5500
	TOTAL	4650	5500
	PTT	4550	5500
Super R/L	Caltex	4400	5200
	TOTAL	4400	5300
	PTT	4350	5250
OPEC(USD/Barrel)	84.36	118.75	113.57
USD 1.00	4199 Riel	4071 Riel	4235 Riel

International Relation

- ▶ Member of UN
- ▶ Member of ASEAN (1999)
- ▶ Member of WTO (2003)
- ▶ Others

Need for Competition Law

- ▶ ASEAN Requirement by 2015_“ASEAN Blue Print”
- ▶ We are drafting the competition law and it under the discussion and commit to pass the draft of law by the year 2015

Policy pertaining to competitiveness

Pro-business Government

❖ Government and Private Sector Working Groups

- | | |
|------------------|----------------------|
| ▶ Agriculture | ▶ SME |
| ▶ Tourism | ▶ Banking |
| ▶ Taxation | ▶ Trade & Export |
| ▶ Transportation | ▶ Related Industries |

Policy pertaining to competitiveness

- ▶ Cambodia also adopted many laws and regulations and establish the public preconditions such as:
 - Law on civil procedures and Civil code,
 - Law on Commercial Enterprises
 - Law on Intellectual Property Right
 - Law on commercial arbitration, bankruptcy, securities and negotiable instruments and Anti-Corruption Law...

Draft Law on Competition

- ▶ Draft shall apply within and outside Cambodia (Art. 4).
- ▶ Draft prohibited Control of Enterprise Concentration, and Entente and Superior Stand.
- ▶ Draft sets up only one authority called National Council for Competition shall be comprised of nine members and shall be classified into three groups
- ▶ Sanction: Fines

Possible Exemption

The draft of Law will not apply to the will not apply to the state sovereign activities or to activities of enterprises or natural persons required by the state and will not prejudice sector-specific regulation in the following sectors:

- 1-Energy
- 2-Telecom,
- 3-Audiovisual,
- 4-Bank,
- 5-Insurance, and
- 6-Agriculture.

Possible Challenges and Solutions

1- Challenges

- ▶ Appropriate advocacy activities
- ▶ Adequate capacities building (Regulator, Policies maker and expert)
- ▶ Consumer group and the media (So as to generate awareness and support among the wider public for the adoption and implementation of Competition Law and Policies

Challenges

- ▶ The business to ensure their compliance with the Law and Policy
- ▶ Lack of resources and training institution
- ▶ Lack of public and private participation
- ▶ Lack of information accessible
- ▶ Politic influence

Con't

Possible area of Challenges and Solution

2- Solutions

- ▶ Provide the training to the officers and businessmen
- ▶ Study visit to get experiences developed countries
- ▶ Request the technical and financial assistance from international organizations
- ▶ Build a closed cooperation between the Commission and other related institutions
- ▶ Strengthen local SMEs
- ▶ Sharing information and publicize
- ▶ Minimize the Political influence culture

Thank you



The Role of Competition Authority in this Era of High Inflation: An Indian Perspective

Presentation by
Mr. Sandeep Jain, Additional Director General
Ms. Sayanti Chakrabarti, Deputy Director
Competition Commission of India
Ho Chi Minh City, August 30, 2011



Scheme of the Presentation

1. Backdrop

- The India Growth Story
- Inflation Dynamics in India: Trends and Drivers
- Competition, Competition authority and price rise

2. Role of Competition Commission of India

- Mandate, Profile and Structure
- Approach towards price rise (price gouging and inflation): Enforcement, Advocacy and Market Watch
- Anti trust Enforcement: At a Glance

2



The India Growth Story

- The Indian economy recorded 9.5% average annual growth during 2005-06 to 2007-08
- The economy has emerged with remarkable rapidity from the slowdown caused by the global financial crisis
- The turnaround has been fast and strong with GDP growing at 8.0% and 8.6% in 2009-10 and 2010-11
- Growth in 2010-11 has been driven inter alia by a rebound in agriculture, continued momentum in manufacturing, a rise in savings and investment, pick up in private consumption;

3



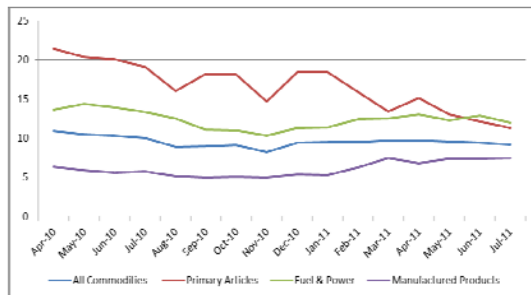
Reining in Inflation: The Key Challenge

- Wholesale Price Index (WPI) based Inflation rate stood at **9.5% in 2010-11**
- The average consumer price inflation, measured by the consumer price index for industrial workers (CPI-IW), was even higher at **10.4 %**
- As per latest available data, WPI inflation rate stood at **9.2% in July 2011**; it has remained above 9% since December 2010
- Prices of 'Primary articles' which include food items led the inflationary trend initially; contribution of the other two segments 'fuel & power' and 'manufactured goods' has gone up swiftly in 2011
- In response to inflationary pressures, the Reserve Bank has raised the policy repo rate 11 times bringing it up from 4.75 per cent in March 2010 to 8.00 per cent by July 2011

4



Trend in WPI Inflation

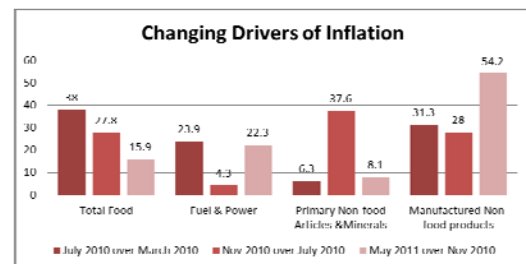


Data Source: Office of Economic Adviser, MOC&I, Govt. of India

5



Changing contribution of different drivers..



Source: Reserve Bank of India

6

Inflationary Dynamics: Some features..



- **Growing interconnectedness** of domestic and global commodity markets - increased pass-through from non-food international commodity prices to domestic raw material prices
- **Robust demand** - The average annual monthly per capita expenditure has increased at a faster pace in the second half of 2000s as compared with the first half, both in nominal and real terms
- **Cost pass through** - Sharp increase in non-food manufactured product inflation -producers are able to pass on the cost increases, given robust demand conditions
- **Inflation assuming a generalised character**- A near convergence between the headline inflation and core inflation is observed
- The current inflation process is a confluence of both supply side and demand side factors

7

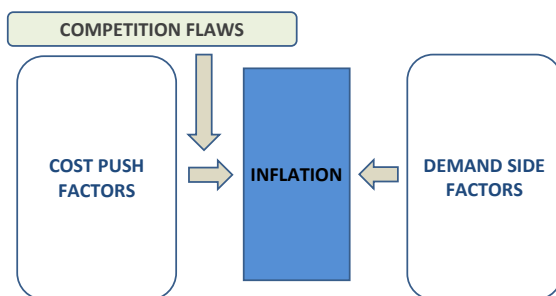
Competition, price rise and inflation: the linkages



- Remains a subject of macroeconomic research
- Vast and diverse theoretical and empirical literature
- Market structure and competition can have an impact on the supply side triggers/cost push factors for inflation
- Intensity of competition linked to downward adjustment in mark ups in short run in response to excess demand imbalances and productivity growth through innovation in the long run

8

Triggers for inflation



9

Supply side analysis: possible competition flaws



- **Structural problems** -
 - ✓ Entry Barriers
 - ✓ Lack of level playing field
- **Behavioural problems** -
 - ✓ Disproportionate cost pass through
 - ✓ Concerted supply restraint magnifying supply shock effects

10

Role of Competition Authority: Our View..



- Primary concern is to make individual goods and services market work well
- Any disturbances in the functioning of markets, be it lack of competition, abuse of dominance or cartels etc., can compound the cost-push effect on price developments in individual markets
- Competition regulators can contribute by way of identification of competition flaws in the markets and addressing the same through this **Two-Tier Approach**:
 - ✓ **Tier I: Ex ante measures** - Correction of long term structural competitive bottlenecks through regulatory reform by advocacy and also through merger control
 - ✓ **Tier II : Ex post measures** - Anti-cartel and anti abuse of dominance enforcement
- The competition authorities and competition policy measures thus have a relevance in correcting distortions in individual markets which could influence the path of general inflation in the economy

11

Competition Commission of India



- Competition Act, 2002 was enacted on 13 January 2003
- Modern law, based on economic principles
- Commission fully constituted on March 1, 2009
- Anti-trust enforcement provisions brought into force on May 20, 2009
- Merger control regime effective from June 1, 2011
- Extra territoriality, Independent investigation, cooperation with foreign competition authorities, concern for consumers

12

Mandate and Objective



- To prevent practices having adverse effect on competition
- To promote and sustain competition in markets
- To protect the interests of consumers
- To ensure freedom of trade carried on by other participants in markets in India and for matters connected therewith or incidental thereto

13

Scheme of the Act



- Prohibits Anti-Competitive agreements (S 3)
- Prohibits Abuse of Dominant Position (S 4)
- Regulates Combinations (S 6)
- Mandates Competition Advocacy (S 49)

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Anti-competitive Agreements: Section 3 of CA, 2002



- Two types: Horizontal (among competitors) and Vertical (among persons or enterprises at different stages/levels of production chain); prohibited if appreciable adverse effect on competition is established
- Horizontal Agreements :
Price-fixing, sharing of market, limiting production, supply, bid rigging, collusive bidding etc.
- Vertical agreements :
Tie-in arrangement, exclusive supply-distribution agreement, refusal to deal, resale price maintenance etc.
- Rule of Reason analysis
- 'Agreement' includes arrangement or understanding, oral or in writing, not necessarily enforceable by law

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Factors for AAEC



- Creation for barriers to new entrant
- Driving existing competitors out of market
- Foreclosure of competition by hindering entry
- Accrual of benefits to consumers
- Improvements in production or distribution of goods/services
- Promotion of technical, scientific and economic development by means of production or distribution of goods/services

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Abuse of Dominance



- Not dominance but its abuse is prohibited
- Dominance defined in Act, based on several listed factors
- Relevant market (product, geographic) to be determined as defined in Act
- Abuses listed in Act (exhaustive list)

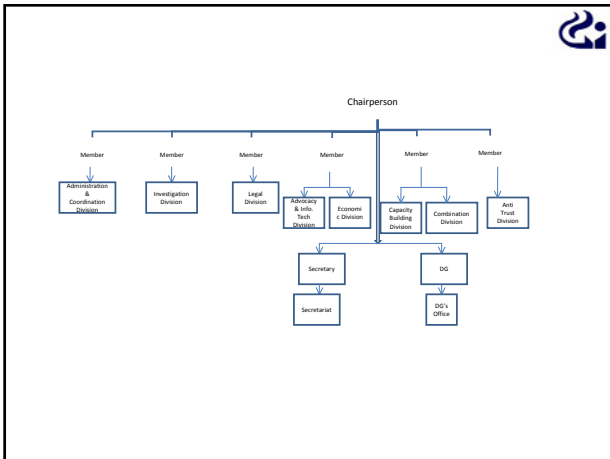
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Abusive Acts..



- Acts deemed to be abuse are (Sec 4):
- **Unfair or discriminatory pricing**
- **Limiting production** or technical development
- **Denial of market access**
- Conclusion of contracts subject to supplementary obligations
- Use of dominant position in one market used to enter into or protect the other market

18



Functioning

Regulator

- Inquiry on receipt of any information/ reference or on its own
- If CCI finds prima facie case, it refers it to Director General (DG) for investigation
- CCI considers report of DG, hears the concerned parties and then passes necessary orders
- Regulations of combinations - investigation-if needed

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Functioning

Advocacy

- Central or State Government can refer matters relating to policy on competition or any other matter to the Commission for opinion
- Commission may give opinion suo-motu to Government, regulators, other authorities
- Provision for mutual consultation between Commission and regulators

21

Position on issues of price, price rise

- Economic liberalization – shift in the overall policy stance from control based to market oriented approach
- *Commodities governed by Essential Commodities Act, 1955*
- *Regulated Sectors (electricity, gas, oil etc.)*
- *Public Distribution System*
- Government following principles of competition in regulated sectors
- Competition law can be invoked if *price rise or high price* could be attributed to collusive behaviour or abuse of dominant position
- Two Tier approach is followed – a) Antitrust enforcement and b) Advocacy & Merger Control
- The Economics Division at CCI undertakes market studies which may form the basis of suo moto action by the Commission or specific advocacy programmes
- The Competition Commission of India's mandate does not include price oversight, control or regulation

22

Market Watch

- CCI undertakes market studies focusing on different industry sectors based on information available from media and other secondary sources including various Government Ministries/Departments
- The analysis of competition indicators is undertaken with respect to structure, conduct and performance of the identified sectors
- A number of industries have been taken up by CCI recently for market studies:
 - Food inflation being a major driver of general inflation, the **agricultural supply chain** for select essential food items is being reviewed by the Commission from competition perspective
 - **Steel** industry is another area where a study has been commissioned to a reputed research institution
 - The Commission is also in the process of studying some manufacturing industries like **Paper, Drugs & Pharmaceuticals** etc.

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Enforcement: At a Glance

- Total number of cases received (as on 19.8.2011): 193
- Allegations in many cases have both Section 3 and Section 4 components
- In 2 cases, cartel has been proved
- Some suspected cartel cases pertaining to sectors which have an impact on the food inflation and/or affect the welfare of the common man have been taken up suo moto – these are currently sub judice

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Thank You

Indian Competition Act, Rules and Regulations are available at website www.cci.gov.in

Cartel Investigation in Crisis: Fuel Surcharge Case

The Commission for Supervision of Business Competition of Republic of Indonesia (KPPU)
Vietnam, 30-31 August 2011

Background

- In times of economic crisis, businesses face potential to go bankrupt and exit of the market. Declining demand, falling prices and excess capacity that may occur can make businesses experienced potential losses.
- To save themselves from the treat of crisis, businesses may be tempted to enter into an agreement or concerted practice that fixes prices, limits output, divides markets or otherwise restricts competition in order to prevent falling prices and profits.
- In this situation, the role of competition law is questionable. Many argue that the application of competition law should be relaxed to save businesses.
- On the other hand, the economic crisis is often make the price of basic needs (such as food and energy) become volatile and rise sharply. The economic situation like that, often used as an excuse by businesses to raise prices together or coordinate the price by reason to stabilize price fluctuations that disrupt.

Background

- In this context, what must be done by the competition agency to face cartel that occur in economic crisis?

Exemption from Competition Law

- Law Number.5/1999 make allowances in the form of exceptions in applying the prohibitions set forth in this law. In relation with cartel action there are at least two things that can be used as the basis of such exemptions.
- If the cartel is:
 1. An act and / or agreements that aims to implement the legislation in force (article 50 letter a)
 2. Agreement and / or act aimed to export that does not interfere with the needs and or supply the domestic market (article 50 letter g)

Exemption from Competition Law

- However, such exemptions would be applied by the commission based on a through and careful analysis.
- In addition, if the commission considers that an exception based on government policy (article 50 letter a), it provides a greater negative impact, the commission may submit suggestions and considerations to the government to revoke or improve the regulation and policy.
- This is in accordance with the authority and duty of the commission mandated by the law, to provide advice and advocacy to the government policies that affect competition.

Indonesian Experience In Cartel Investigation

- After experience expansion phase in 2004-2008, world economic crisis occurred again in 2008. Global inflation and high oil and food prices are believed to become some of reason that crisis occur. Economic crisis has also hit Indonesia, that Indonesia's annual average inflation in 2008 accelerating sharply to 11.1 % from 6.6 % in 2007.
- In the year 2009, the commission investigated two cartel cases that monitored from rising world oil and international crude palm oil (CPO) prices. Two commodities are related to cooking oil and air transportation services that apply to airline fuel surcharge. The commission observed that at the moment the world oil price increases, businesses raise the price together by the reason to adjust significant increase in production costs.
- But when world oil prices go down, business is not necessarily reduce prices as fast as when to raise prices due to rising world oil prices. The Commission considers that resulted in the phenomenon of Asymmetric Price Transmission. Based on this phenomenon, the commission conducted investigation to find out whether the slow response to falling prices of good and service when the cost of production decreased, was blocked by cartel action

Indonesian Experience In Cartel Investigation:

Fuel Surcharge Case

Fuel Surcharge Case

- In 2009 KPPU started investigation in the price fixing on fuel surcharge by aviation companies.
- Fuel surcharge is a new cost component in the aviation industry that is charged to the consumer as a result of rising prices of aviation fuel, airplane fuel. The size of each airline's fuel surcharge vary depending on the volume of aviation fuel used and owned passenger capacity. Imposition of fuel surcharge began in early 2006.
- There were written agreement on the determination of fuel surcharge price on 4 May 2006 signed by the Chairperson of Indonesia Aviation Company Association (INACA) and nine aviation companies. The agreement agreed upon the implementation of fuel surcharge from 10 May 2006 with certain amount (IDR 20,000/passenger) and impose by all flight schedule.
- The agreement is officially cancelled on 30 May 2006 and thus, provides the opportunity by all aviation companies to fix their own fuel surcharge. Notwithstanding that being withdrawn, the agreement is still implemented by each aviation companies.

Fuel Surcharge Case

- Department Transportation issued a fuel surcharge reference calculation in March 2008, but the aviation companies apply fuel surcharge larger than the reference calculation. The fuel surcharge change among companies showed the same tendency. Moreover, when jet fuel prices go down, fuel surcharge was remain high.
- Based on that fact, commission concluded that application of fuel surcharge not only intended as compensation for the increased aviation fuel costs as approved by the Department of Transportation and companies has benefited from fuel surcharge.
- Result of investigation in this case, the commission stated that airlines companies legally and convincingly guilty in price fixing cartel.

Thank You



“ The Role of the Competition Authorities on intervention of rice price in Lao PDR ”

Outline

- I. Introduction
- II. Purpose and expectation
- III. Administrative Organizations
- IV. Implements
- V. conclusion

Introduction

- MOIC established in 1978.
- Although there is only decree on competition was issued in 2004
- In 2010 the new division on consumer protection and competition has been set up and under Department of Domestic Trade of the MOIC.
- Regulations

Regulation

“Regulation on managing the price intervention and market control of the state rice stock”

Purpose and Expectation of the Regulation

- **Purpose:**
- **Expectation:**

Who implementing this regulation

These organizations are:

1. The domestic trade department
2. The provincial division of industry and commerce

Rights and Duties

1. Rights and Duties of the Domestic Trade
2. Rights and Duties of the Provincial of Industry and Commerce

Implementation

the implementation of the rice stock job so as to intervene the price and control the market.

Prohibition and Punishment

- **Prohibition:** not allow the amount of the state rice in stock to be lower than 80% in each period. In the normal situation, the transferring amount of rice in stock must not be higher than 20% of its total amount.
- **Punishment :** According to criminal law of Lao PDR

Conclusion

- This regulation is a tool for competition authority of the industry and commerce sector to prevent a high inflation rate...

Thank you for your attention



THE ROLE OF COMPETITION AUTHORITY IN THIS ERA OF HIGH INFLATION

Shagivarnam G.Ratnam
Head, Cartel Investigations
MyCC



ANTI PROFITEERING LEGISLATIONS

- Price Control Act 1946
(now Price Control and Anti Profiteering Act 2011)
- Control of Supplies Act 1961
- Competition Act 2010



PRICE CONTROL ACT 1946

- Introduced during the Emergency Era of 1940s
- Purpose of the law:
 - Declare goods as price control items
 - Control price of essential good for festivities
 - Control of price of goods during pandemic/natural disasters

Now Price Control and Anti-Profiteering Act 2011



PRICE CONTROL AND ANTI- PROFITEERING ACT 2011

- Introduced in April 2011 in view of implementing
 - Government Sales Tax (GST)
 - Emergency like floods, pandemics or other natural disasters
 - Subsidy rationalisation



PRICE CONTROL AND ANTI- PROFITEERING ACT 2011

- Controller with approval of Minister
 - May determine the maximum, minimum or fixed price of goods or any manufacturing, wholesale or retailing of any goods
 - May determine the maximum, minimum or fixed charges for services in relation to supply, packing, transport, storage and repair and maintenance of such goods



PRICE CONTROL AND ANTI- PROFITEERING ACT 2011

- Empowers Minister to prescribe mechanism to determine that the profit is unreasonably high taking into consideration:
 - Relevant market
 - Demand and Supply
 - Supplier's costs
 - Tax
 - Other relevant matters



CONTROL OF SUPPLY ACT 1961

- Essential goods are declared as controlled and scheduled goods
- Traders of scheduled goods are licensed and their supplies are controlled and monitored to ensure adequate supply in market
- Indirectly curtails profiteering



COMPETITION ACT 2010

- The Competition Act 2010 will indirectly control profiteering by prohibiting the following anti-competitive practices:
 - Anti Competitive Agreements
 - Abuse of Dominant Positions



COMPETITION ACT 2010

- Anti Competitive Agreements prohibitions to address profiteering:
 - Fixing of purchase or selling price
 - Limit market access
 - Limit production
 - Bid Rigging



COMPETITION ACT 2010

- Abuse of Dominant Position conduct provision to address profiteering:
 - Imposing unfair purchase or selling price
 - Limiting market access
 - Limiting technological development or investment
 - Predatory behavior towards competitors



THANK YOU



August 31, 2011 Ho Chi Minh City,
Vietnam

Osamu TANABE
Head of Division I
Investigation Bureau
Japan Fair Trade Commission



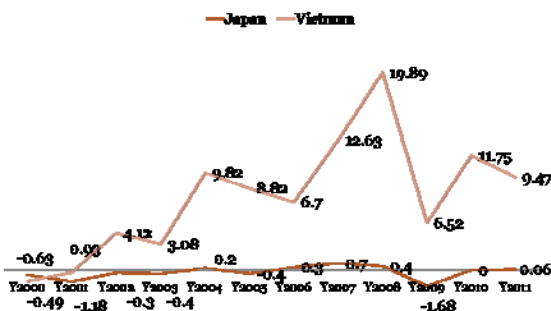
Summary of the Presentation

- Japanese experience of the Era of high inflation in 1970's and the role played by the JFTC as competition authority at that time
 - Amendment of the Antimonopoly Act (AMA) for strengthening competition policy
 - Strict enforcement of the AMA- criminal accusation
- Recent price-fixing case concerning "galvanized steel sheet"



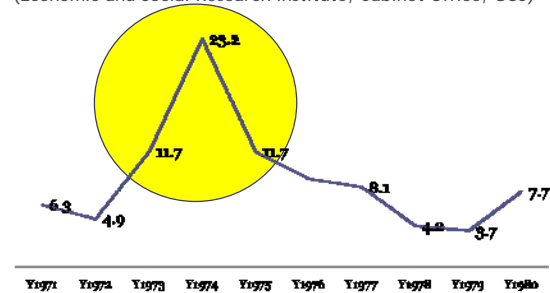
Inflation rate of Japan and Vietnam

(Y2000-Y2011, IMF-World Economic Outlook)



Inflation Rate of Japan in 1970's

(Economic and Social Research Institute, Cabinet Office, GOJ)



High inflation in Japan in 1970's

- Background : Fourth Middle East War
- Drastic price increase of petroleum products
- "Oil shock" caused so-called "skyrocketing price"
- Toilet papers, detergents,...cornered by consumers who were nervous and anxious about getting such daily necessities



Higher expectation of active competition policy in this era

- Drastic inflation affected the industrial organization of Japan
 - Concentration in markets
 - Weak competitive behaviors by competitors
 - Vertical integration and differentiation
- Expectation of vigorous competition policy getting higher and higher



Draft of amendment of the AMA for strengthening competition policy

- Consideration by the “Study group of the AMA”
- Draft of amendment of the AMA (September, 1974)
 - (i) Divestiture of a company (structural measure)
 - (ii) Making original cost public
 - (iii) Order to change the price to previous level
 - (iv) Surcharge payment order
 - (v) Strengthen the restriction of stockholding

Amendment of the AMA in 1977

- Business circles objected the draft
 - Long term discussion in the diet
- ↓
- Amendment of the AMA (1977)
 - (i) Measures for recovering competition in monopolistic situation
 - (ii) Report to the JFTC of the reason of price increase
 - (iii) Surcharge payment order
 - (iv) Restriction of stockholdings

Strict enforcement of the AMA - criminal accusation

- Criminal accusation against the price fixing by manufactures of petroleum products
- They colluded in order to cope with price increase of crude oil, taking advantage of “chance in a million” of price increase for this tight supply and demand situation
- Many of the accused companies and their employees found guilty

Relationship between price cartels and administrative guidance

- Can administrative guidance by Ministry of Industry and Trade (MITI) in 1971 justify cartel?
- “Relationship between price cartels and administrative guidance” (statement of the Japanese government, 12 of March, 1974)

Recent case of price cartel trying to impute increase of cost

- Products : galvanized steel sheet
- Background : price increase of materials such as iron ores or zinc
- Argument by accused companies
- Criminal accusation (December, 2008)
- Administrative measures – cease and desist orders and surcharge payment orders (August, 2009)



Thank you very much for your attention !

COMPETITION LAW AND REGULATION OF THE PRICE

Seminar on The Role of Competition Authority
in This Era of High Inflation
August 30, 2011
Ho Chi Minh, Vietnam

Battsetseg Tumur
Inspector, AFCCP, Mongolia
www.afccp.gov.mn

1

Contents

- ❖ Introduction of The Competition Law
- ❖ Regulation of the Price
 - Regulation on change in the price of product of the Business entity with the Natural Monopoly
 - Regulation of the Excessive price

2

Introduction of The Competition Law

❖ Propose of the Law

The purpose of this law is to establish conditions of fair competition on the market by corporate entities, prevent and prohibit any activities of market monopolization or hostility to competition and defining the legal basis of the institution regulating the competition.

3

Introduction of The Competition Law

❖ Scope of the Law

- Business entities
- State administrative institutions
- local administrative institutions
- local self-governance institutions

4

Introduction of The Competition Law

❖ Regulation of competition

- Regulating the activities of the business entities with the natural monopoly.
- Regulating the activities of the dominant business entities.
- Regulating the merger, consolidation and purchase of shares of other companies.
- Regulating the cartel activities.
- Regulating the activities aimed at restriction of competition.
- Regulating the activities of the state administrative institutions.

5

Introduction of The Competition Law

❖ Administrative penalties

- Business entities which have not reported to the Agency for Fair Competition and Consumers and obtained permission on changes to the quantity, amount and price of products abusing the monopoly position shall be subject to the fine equivalent to up to 3 percent of the income from the sale of the products in the previous year and confiscation of the illegally obtained income and items

6

Introduction of The Competition Law



- Business entities which have abused the dominant position shall be subject to the fine equivalent to up to four percent of the income from the sale of the products in the previous year and confiscation of the illegally obtained income and items
- Business entities which have purchased the corporate shares and have not reported to the Agency for Fair Competition and Consumers shall be subject to the fine of up to twenty million MNT

7

Introduction of The Competition Law



- Business entities conducted cartel shall be subject to the fine equivalent to up to six percent of the income from the sale of the products in the previous year and confiscation of the illegally obtained income and items
- Business entities which restricted the competition shall be subject to the fine of up to ten million MNT and confiscation of the illegally obtained income and items
- Officials of State, local administrative institution to restrict the competition shall be subject to the fine equivalent to the minimum labor wage increased by two-five times

8

Regulation of the Price 1



Article 6.1.

The Agency for Fair Competition and Consumer Protection shall administer the following regulating in activities of the business entity with natural monopoly:

- Granting the permission on change in the price of the product being sold depending on the actual cost;

9

Regulation of the Price 1



The permission on change in the price of the product

No	Date	Permission
1	2009	9
2	2010	10
3	2011	9

10

Regulation of the Price 2



Article 7.1.

Dominant business entities shall not engage in the following monopolizing activities:

- Setting an unjustifiably high price for the product;

11

Regulation of the Price 2



Article 7.2.

The Government shall adopt the regulation based on international best practices, related to establishment of high price of products by the dominant business entities.

12



Regulation of the Price 2

Recently, AFCCP is drafting regulation of high price.

Problems:

- ❖ What price is the high price?
- ❖ How confirm the high price?

13



Thank you for your attention

14

Competition Policy and Law in the Philippines

Seminar on
*The Role of Competition Authority
In This Era of High Inflation*

29-30 August 2011
Ho Chi Minh City, Vietnam

Competition Policy Framework

- Trade liberalization
- Deregulation
- Privatization

*These reforms aimed to encourage
competition in the economy.*

Competition Laws

- 1987 Constitution (February 1987) - *monopolies*
- The Act to Prohibit Monopolies and Combinations in Restraint of Trade (December 1, 1925) – *monopolies and combinations in restraint of trade*
- Revised Penal Code (December 8, 1930) - *machinations in public auctions and monopolies and combinations in restraint of trade*
- New Civil Code (June 18, 1949) - *unfair competition*
- Corporation Code (May 1, 1980) - *mergers and acquisitions*
- Price Act (May 27, 1992) - *price manipulation and cartels*

Competition Laws

- Consumer Act of the Philippines (July 15, 1992) - *unfair trade practices and consumer protection*
- Intellectual Property Code of the Philippines (June 6, 1997) - *anti-competitive practices*
- Downstream Oil Deregulation Act (February 10, 1998) - *cartels and unfair trade practices in the downstream oil industry*
- Electric Power Industry Reform Act (June 8, 2001) - *abuse of market position and anti-competitive practices*
- Government Procurement Reform Act (January 10, 2003) - *bid-rigging*
- Philippine Cooperative Code (February 17, 2009) - *monopolies and combinations in restraint of trade*

Sectoral Regulators

1. Bangko Sentral ng Pilipinas
2. Civil Aeronautics Board
3. Civil Aviation Authority of the Philippines
4. Department of Energy
5. Department of Justice
6. Department of Trade and Industry
7. Energy Regulatory Commission
8. Food and Drug Administration
9. Housing and Land Use Regulatory Board
10. Insurance Commission
11. Land Transportation and Franchising Regulatory Board
12. Land Transportation Office
13. Maritime Industry Authority

Sectoral Regulators

14. Metropolitan Waterworks and Sewerage System
15. National Food Authority
16. National Telecommunications Commission
17. Philippine Coconut Authority
18. Philippine Nuclear Research Institute
19. Philippine Ports Authority
20. Professional Regulation Commission
21. Securities and Exchange Commission
22. Sugar Regulatory Administration
23. Tariff Commission
24. Toll Regulatory Board
25. Tourism Infrastructure and Enterprise Zone Authority

Priority Measure

“... it is the government’s duty to ensure that the market is **fair for all**.
No monopolies, no cartels that kill competition.
We need an **Antitrust Law** that will give life to these principles ...”

1st State of the Nation Address of the President in July 2010

Competition Bills Pending in Congress

- General intent is to consolidate all existing anti-trust laws and to provide a **unified framework** to address monopolies, unfair competition, and anti-competitive and unfair trade practices.

Common Themes

Application

- All firms and all their commercial agreements, actions or transactions involving goods, services or intellectual property
- All natural persons, who acting in their capacity as owner, manager or employee of a firm, shall authorize, engage or aid in the commission of restrictive practices prohibited under the Act

Common Themes

Prohibited Acts

- Cartelization
- Monopolization
- Abuse of monopoly power or dominant position
- Anti-competitive mergers
- Other unfair competition/restrictive trade practices

Major Issues

Enforcement Framework

- Is there a need to create a **separate and independent body** specially tasked to implement the Competition Law, **or** is it enough to just increase the powers, duties, and functions of **existing government agencies**?
- What powers should be vested in the responsible government agency – fact-finding, administrative, criminal?

Major Issues

Penalties to be imposed - administrative fines, criminal fines, imprisonment

Leniency Program

Prima facie evidence rule in the prohibited acts

Notification procedures for mergers and acquisitions

Executive Order No. 45

“Designating the Department of Justice as the Competition Authority”

- DOJ is the principal law agency of the government and its legal counsel and prosecution arm
- Mandates the establishment of an Office for Competition
- Took effect on June 29, 2011

DOJ as Competition Authority

Functions

1. Investigate and prosecute all violations of competition laws;
2. Enforce competition policies and laws to protect consumers;
3. Supervise competition in markets and ensure competition laws are adhered to;
4. Monitor and implement measures to promote transparency and accountability in markets;
5. Prepare, publish and disseminate studies and reports on competition; and
6. Promote international cooperation and strengthen Philippine trade relations.

DOJ as Competition Authority

- The duties and responsibilities shall be carried out by the Office for Competition under the Office of the Secretary of Justice.
- The Office shall be manned by such number of staff including legal and technical experts, consultants and resource persons.
- Initial budget allocation of Php12.5 million for 2012

Priorities

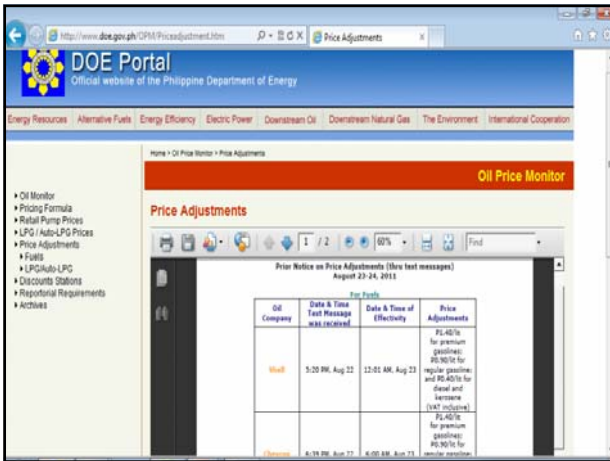
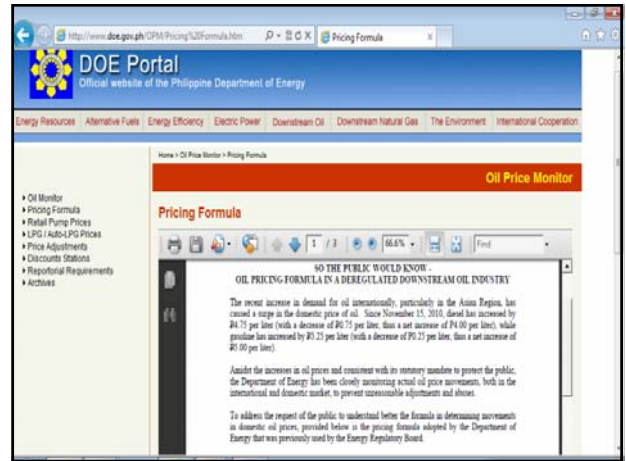
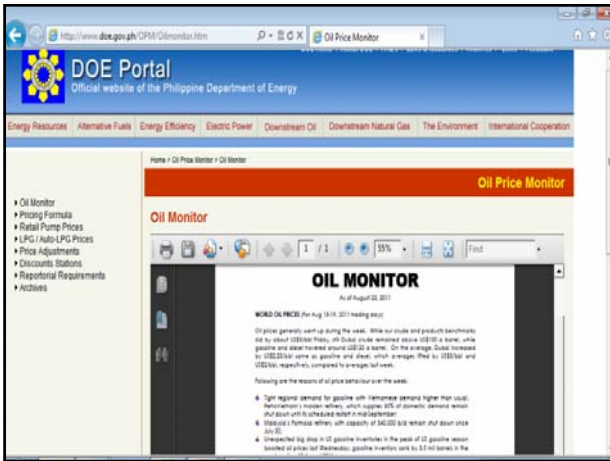
- Capacity building
- Enforcement
- Advocacy

Downstream Oil Deregulation Act of 1998

- **Objective** – ensure a truly competitive market under a regime of fair prices
- **Prohibited Acts** – cartelization and predatory pricing
- **Penalties** – imprisonment of 3 to 7 years and a fine (Php1M to Php2M)
- **Monitoring** – DOE to monitor and publish daily international crude oil and domestic oil prices

Downstream Oil Deregulation Act of 1998

- **DOJ - DOE Task Force**
 - Determine, within 30 days, the existence of threatened or imminent or actual cartelization and predatory pricing, and direct the provincial or city prosecutors to institute an action as applicable.
 - Investigate private complaints/reports, and prepare its findings and recommendations as basis for court action.
 - Immediately act upon any report of unreasonable rise in the prices of petroleum products.
- **Automatic Oil Pricing Mechanism**
 - To enable the domestic price of petroleum products to approximate international market prices.
 - Market-oriented formula for determining wholesale posted price (WPP) adopted in consultation with affected stakeholders; WPP adjusted through appropriate orders.



The Price Act of 1992

“An Act Providing Protection to Consumers by Stabilizing the Prices of Basic Necessities and Prime Commodities and by Prescribing Measures Against Undue Price Increases During Emergency Situations and Like Occasions”

Signed into Law: 27 May 1992

Effectivity: 07 June 1992

The Price Act (R.A. 7581)

Basic Policy

- Adequate supply and reasonable prices all times without denying legitimate business a fair return on investment
- Protection to consumers against hoarding, profiteering and cartel

The Price Act (R.A. 7581)

To implement the basic policy...

- Promote productivity
- Develop an improved and efficient transport & distribution system
- Institute appropriate penalties for price manipulators

Illegal acts of manipulation

- Hoarding
- Profiteering
- Cartel

The Price Act (R.A. 7581)

Provides protection to consumers by:



- Stabilizing the price and supply of basic necessities and prime commodities
- Prescribing measures against undue price increases especially during emergency situations and like occasions



The Price Act (R.A. 7581)

Implementing Rules and Regulations (IRR)

(DTI, DA, DOH, DENR Joint Administrative Order No. 1 Series of 1992)

Signed : 15 February 1993
Effectivity: 20 March 1993

Implementing Agencies (IAs)

- Dept. of Trade and Industry (DTI)
- Dept. of Agriculture (DA)
- Dept. of Health (DOH)
- Dept. of Environmental and Natural Resources (DENR)

The Price Act (R.A. 7581)

Powers of the Secretary

- Cause the immediate dissemination of any mandated price ceiling through print or broadcast media
- Conduct investigation and, after due notice and hearing, impose administrative fines
- Initiate action and cause the prosecution of violators
- Deputize and enlist the assistance of any government official or agency

DEPARTMENT OF TRADE AND INDUSTRY

• Basic Necessities



Canned Fish



Processed Milk



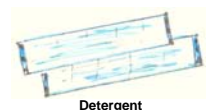
Coffee



Salt



Laundry Soap



Detergent



Candle



Bread

• Prime Commodities



Flour



Cement



Vinegar



Processed & Canned beef



Noodles



Processed & Canned pork



Patis



Toyo



Toilet Soap



Paper



School Supplies



Hollow Blocks



Construction Nails



Poultry Meat



Batteries



Light Bulbs

DEPARTMENT OF AGRICULTURE

• Basic Commodities



Rice



Corn



Cooking Oil



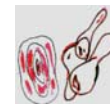
Sugar



Fish



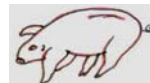
Egg



Beef & Poultry Meat (Fresh)



Fresh Milk



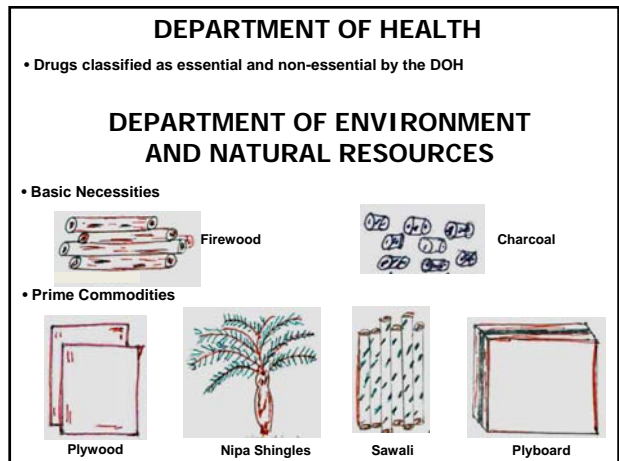
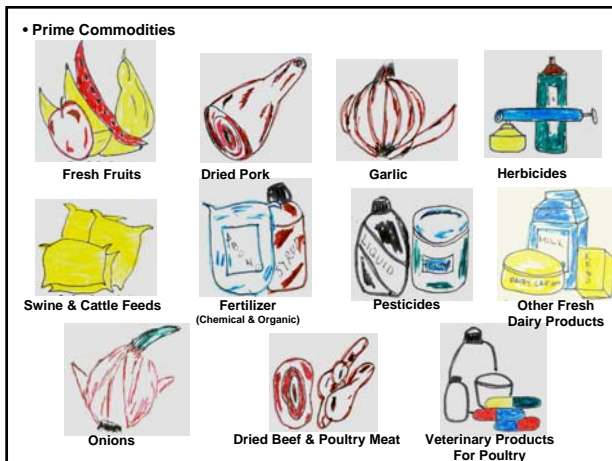
Fresh Pork



Fresh Vegetables



Root Crops



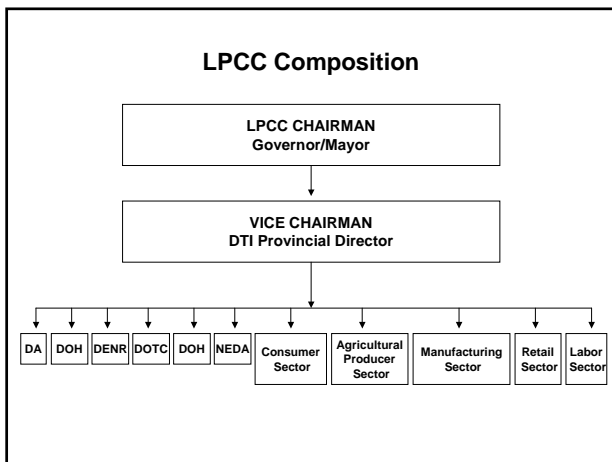
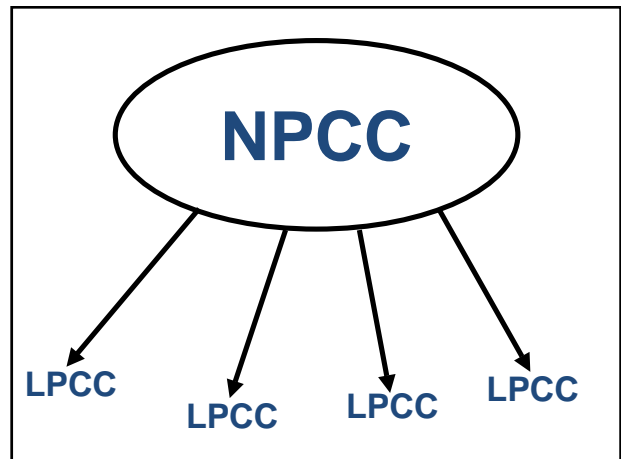
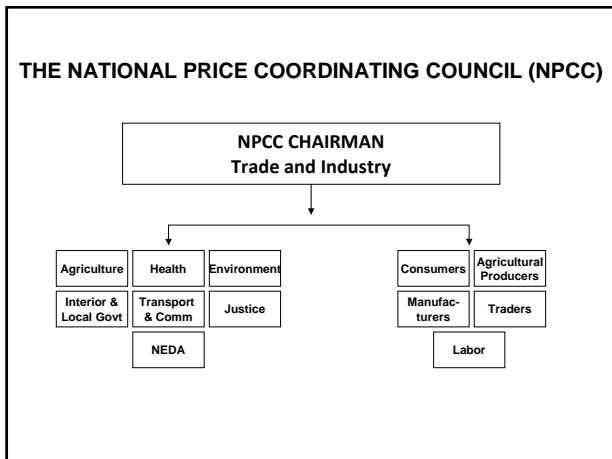
Powers and Functions of IAs

- May issue Suggested Retail Price (SRP) whenever necessary
- May determine, recommend and enforce price ceiling/ control whenever necessary
- May require producers, manufacturers, distributors and retailers of basic necessities and prime commodities to submit production and inventory reports
- Exclusion of a particular class or type of commodity upon petition of concerned parties and after conducting public hearing and with approval of the President
- Creation of Monitoring Task Force

dti DEPARTMENT OF TRADE AND INDUSTRY

SUGGESTED RETAIL PRICES (SRP) FOR SELECTED BASIC NECESSITIES AND PRIME COMMODITIES (AS OF AUGUST 2011)

BASIC NECESSITIES		SRP	PRIME COMMODITIES		SRP
CONDIMENT (Sardines & Tuna)					
Condiment (Sardines)	150g	12.00	Condiment (Tuna)	150g	12.00
Condiment (Sardines)	300g	24.00	Condiment (Tuna)	300g	24.00
Condiment (Sardines)	450g	36.00	Condiment (Tuna)	450g	36.00
Condiment (Sardines)	600g	48.00	Condiment (Tuna)	600g	48.00
Condiment (Sardines)	750g	60.00	Condiment (Tuna)	750g	60.00
Condiment (Sardines)	900g	72.00	Condiment (Tuna)	900g	72.00
Condiment (Sardines)	1050g	84.00	Condiment (Tuna)	1050g	84.00
Condiment (Sardines)	1200g	96.00	Condiment (Tuna)	1200g	96.00
Condiment (Sardines)	1350g	108.00	Condiment (Tuna)	1350g	108.00
Condiment (Sardines)	1500g	120.00	Condiment (Tuna)	1500g	120.00
Condiment (Sardines)	1650g	132.00	Condiment (Tuna)	1650g	132.00
Condiment (Sardines)	1800g	144.00	Condiment (Tuna)	1800g	144.00
Condiment (Sardines)	1950g	156.00	Condiment (Tuna)	1950g	156.00
Condiment (Sardines)	2100g	168.00	Condiment (Tuna)	2100g	168.00
Condiment (Sardines)	2250g	180.00	Condiment (Tuna)	2250g	180.00
Condiment (Sardines)	2400g	192.00	Condiment (Tuna)	2400g	192.00
Condiment (Sardines)	2550g	204.00	Condiment (Tuna)	2550g	204.00
Condiment (Sardines)	2700g	216.00	Condiment (Tuna)	2700g	216.00
Condiment (Sardines)	2850g	228.00	Condiment (Tuna)	2850g	228.00
Condiment (Sardines)	3000g	240.00	Condiment (Tuna)	3000g	240.00
Condiment (Sardines)	3150g	252.00	Condiment (Tuna)	3150g	252.00
Condiment (Sardines)	3300g	264.00	Condiment (Tuna)	3300g	264.00
Condiment (Sardines)	3450g	276.00	Condiment (Tuna)	3450g	276.00
Condiment (Sardines)	3600g	288.00	Condiment (Tuna)	3600g	288.00
Condiment (Sardines)	3750g	300.00	Condiment (Tuna)	3750g	300.00
Condiment (Sardines)	3900g	312.00	Condiment (Tuna)	3900g	312.00
Condiment (Sardines)	4050g	324.00	Condiment (Tuna)	4050g	324.00
Condiment (Sardines)	4200g	336.00	Condiment (Tuna)	4200g	336.00
Condiment (Sardines)	4350g	348.00	Condiment (Tuna)	4350g	348.00
Condiment (Sardines)	4500g	360.00	Condiment (Tuna)	4500g	360.00
Condiment (Sardines)	4650g	372.00	Condiment (Tuna)	4650g	372.00
Condiment (Sardines)	4800g	384.00	Condiment (Tuna)	4800g	384.00
Condiment (Sardines)	4950g	396.00	Condiment (Tuna)	4950g	396.00
Condiment (Sardines)	5100g	408.00	Condiment (Tuna)	5100g	408.00
Condiment (Sardines)	5250g	420.00	Condiment (Tuna)	5250g	420.00
Condiment (Sardines)	5400g	432.00	Condiment (Tuna)	5400g	432.00
Condiment (Sardines)	5550g	444.00	Condiment (Tuna)	5550g	444.00
Condiment (Sardines)	5700g	456.00	Condiment (Tuna)	5700g	456.00
Condiment (Sardines)	5850g	468.00	Condiment (Tuna)	5850g	468.00
Condiment (Sardines)	6000g	480.00	Condiment (Tuna)	6000g	480.00
Condiment (Sardines)	6150g	492.00	Condiment (Tuna)	6150g	492.00
Condiment (Sardines)	6300g	504.00	Condiment (Tuna)	6300g	504.00
Condiment (Sardines)	6450g	516.00	Condiment (Tuna)	6450g	516.00
Condiment (Sardines)	6600g	528.00	Condiment (Tuna)	6600g	528.00
Condiment (Sardines)	6750g	540.00	Condiment (Tuna)	6750g	540.00
Condiment (Sardines)	6900g	552.00	Condiment (Tuna)	6900g	552.00
Condiment (Sardines)	7050g	564.00	Condiment (Tuna)	7050g	564.00
Condiment (Sardines)	7200g	576.00	Condiment (Tuna)	7200g	576.00
Condiment (Sardines)	7350g	588.00	Condiment (Tuna)	7350g	588.00
Condiment (Sardines)	7500g	600.00	Condiment (Tuna)	7500g	600.00
Condiment (Sardines)	7650g	612.00	Condiment (Tuna)	7650g	612.00
Condiment (Sardines)	7800g	624.00	Condiment (Tuna)	7800g	624.00
Condiment (Sardines)	7950g	636.00	Condiment (Tuna)	7950g	636.00
Condiment (Sardines)	8100g	648.00	Condiment (Tuna)	8100g	648.00
Condiment (Sardines)	8250g	660.00	Condiment (Tuna)	8250g	660.00
Condiment (Sardines)	8400g	672.00	Condiment (Tuna)	8400g	672.00
Condiment (Sardines)	8550g	684.00	Condiment (Tuna)	8550g	684.00
Condiment (Sardines)	8700g	696.00	Condiment (Tuna)	8700g	696.00
Condiment (Sardines)	8850g	708.00	Condiment (Tuna)	8850g	708.00
Condiment (Sardines)	9000g	720.00	Condiment (Tuna)	9000g	720.00
Condiment (Sardines)	9150g	732.00	Condiment (Tuna)	9150g	732.00
Condiment (Sardines)	9300g	744.00	Condiment (Tuna)	9300g	744.00
Condiment (Sardines)	9450g	756.00	Condiment (Tuna)	9450g	756.00
Condiment (Sardines)	9600g	768.00	Condiment (Tuna)	9600g	768.00
Condiment (Sardines)	9750g	780.00	Condiment (Tuna)	9750g	780.00
Condiment (Sardines)	9900g	792.00	Condiment (Tuna)	9900g	792.00
Condiment (Sardines)	10050g	804.00	Condiment (Tuna)	10050g	804.00
Condiment (Sardines)	10200g	816.00	Condiment (Tuna)	10200g	816.00
Condiment (Sardines)	10350g	828.00	Condiment (Tuna)	10350g	828.00
Condiment (Sardines)	10500g	840.00	Condiment (Tuna)	10500g	840.00
Condiment (Sardines)	10650g	852.00	Condiment (Tuna)	10650g	852.00
Condiment (Sardines)	10800g	864.00	Condiment (Tuna)	10800g	864.00
Condiment (Sardines)	10950g	876.00	Condiment (Tuna)	10950g	876.00
Condiment (Sardines)	11100g	888.00	Condiment (Tuna)	11100g	888.00
Condiment (Sardines)	11250g	900.00	Condiment (Tuna)	11250g	900.00
Condiment (Sardines)	11400g	912.00	Condiment (Tuna)	11400g	912.00
Condiment (Sardines)	11550g	924.00	Condiment (Tuna)	11550g	924.00
Condiment (Sardines)	11700g	936.00	Condiment (Tuna)	11700g	936.00
Condiment (Sardines)	11850g	948.00	Condiment (Tuna)	11850g	948.00
Condiment (Sardines)	12000g	960.00	Condiment (Tuna)	12000g	960.00
Condiment (Sardines)	12150g	972.00	Condiment (Tuna)	12150g	972.00
Condiment (Sardines)	12300g	984.00	Condiment (Tuna)	12300g	984.00
Condiment (Sardines)	12450g	996.00	Condiment (Tuna)	12450g	996.00
Condiment (Sardines)	12600g	1008.00	Condiment (Tuna)	12600g	1008.00
Condiment (Sardines)	12750g	1020.00	Condiment (Tuna)	12750g	1020.00
Condiment (Sardines)	12900g	1032.00	Condiment (Tuna)	12900g	1032.00
Condiment (Sardines)	13050g	1044.00	Condiment (Tuna)	13050g	1044.00
Condiment (Sardines)	13200g	1056.00	Condiment (Tuna)	13200g	1056.00
Condiment (Sardines)	13350g	1068.00	Condiment (Tuna)	13350g	1068.00
Condiment (Sardines)	13500g	1080.00	Condiment (Tuna)	13500g	1080.00
Condiment (Sardines)	13650g	1092.00	Condiment (Tuna)	13650g	1092.00
Condiment (Sardines)	13800g	1104.00	Condiment (Tuna)	13800g	1104.00
Condiment (Sardines)	13950g	1116.00	Condiment (Tuna)	13950g	1116.00
Condiment (Sardines)	14100g	1128.00	Condiment (Tuna)	14100g	1128.00
Condiment (Sardines)	14250g	1140.00	Condiment (Tuna)	14250g	1140.00
Condiment (Sardines)	14400g	1152.00	Condiment (Tuna)	14400g	1152.00
Condiment (Sardines)	14550g	1164.00	Condiment (Tuna)	14550g	1164.00
Condiment (Sardines)	14700g	1176.00	Condiment (Tuna)	14700g	1176.00
Condiment (Sardines)	14850g	1188.00	Condiment (Tuna)	14850g	1188.00
Condiment (Sardines)	15000g	1200.00	Condiment (Tuna)	15000g	1200.00
Condiment (Sardines)	15150g	1212.00	Condiment (Tuna)	15150g	1212.00
Condiment (Sardines)	15300g	1224.00	Condiment (Tuna)	15300g	1224.00
Condiment (Sardines)	15450g	1236.00	Condiment (Tuna)	15450g	1236.00
Condiment (Sardines)	15600g	1248.00	Condiment (Tuna)	15600g	1248.00
Condiment (Sardines)	15750g	1260.00	Condiment (Tuna)	15750g	1260.00
Condiment (Sardines)	15900g	1272.00	Condiment (Tuna)	15900g	1272.00
Condiment (Sardines)	16050g	1284.00	Condiment (Tuna)	16050g	1284.00
Condiment (Sardines)	16200g	1296.00	Condiment (Tuna)	16200g	1296.00
Condiment (Sardines)	16350g	1308.00	Condiment (Tuna)	16350g	1308.00
Condiment (Sardines)	16500g	1320.00	Condiment (Tuna)	16500g	1320.00
Condiment (Sardines)	16650g	1332.00	Condiment (Tuna)	16650g	1332.00
Condiment (Sardines)	16800g	1344.00	Condiment (Tuna)	16800g	1344.00
Condiment (Sardines)	16950g	1356.00	Condiment (Tuna)	16950g	1356.00
Condiment (Sardines)	17100g	1368.00	Condiment (Tuna)	17100g	1368.00
Condiment (Sardines)	17250g	1380.00	Condiment (Tuna)	17250g	1380.00
Condiment (Sardines)	17400g	1392.00	Condiment (Tuna)	17400g	1392.00
Condiment (Sardines)	17550g	1404.00	Condiment (Tuna)	17550g	1404.00
Condiment (Sardines)	17700g	1416.00	Condiment (Tuna)	17700g	1416.00
Condiment (Sardines)	17850g	1428.00	Condiment (Tuna)	17850g	1428.00
Condiment (Sardines)	18000g	1440.00	Condiment (Tuna)	18000g	1440.00
Condiment (Sardines)	18150g	1452.00	Condiment (Tuna)	18150g	1452.00
Condiment (Sardines)	18300g	1464.00	Condiment (Tuna)	18300g	1464.00
Condiment (Sardines)	18450g	1476.00	Condiment (Tuna)	18450g	1476.00
Condiment (Sardines)	18600g	1488.00	Condiment (Tuna)	18600g	1488.00
Condiment (Sardines)	18750g	1500.00	Condiment (Tuna)	18750g	1500.00
Condiment (Sardines)	18900g	1512.00	Condiment (Tuna)	18900g	1512.00
Condiment (Sardines)	19050g	1524.00	Condiment (Tuna)	19050g	1524.00
Condiment (Sardines)	19200g	1536.00	Condiment (Tuna)	19200g	1536.00
Condiment (Sardines)	19350g	1548.00	Condiment (Tuna)	19350g	1548.00
Condiment (Sardines)	19500g	1560.00	Condiment (Tuna)	19500g	1560.00
Condiment (Sardines)	19650g	1572.00	Condiment (Tuna)	19650g	1572.00
Condiment (Sardines)	19800g	1584.00	Condiment (Tuna)	19800g	1584.00
Condiment (Sardines)	19950g	1596.00	Condiment (Tuna)	19950g	1596.00
Condiment (Sardines)	20100g	1608.00	Condiment (Tuna)	20100g	1608.00
Condiment (Sardines)	20250g	1620.00	Condiment (Tuna)	20250g	1620.00
Condiment (Sardines)	20400g	1632.00	Condiment (Tuna)	20400g	1632.00
Condiment (Sardines)	20550g	1644.00	Condiment (Tuna)	20550g	1644.00
Condiment (Sardines)	20700g	1656.00	Condiment (Tuna)	20700g	1656.00
Condiment (Sardines)	20850g	1668.00	Condiment (Tuna)	20850g	1668.00
Condiment (Sardines)	21000g	1680.00	Condiment (Tuna)	21000g	1680.00
Condiment (Sardines)	21150g	1692.00	Condiment (Tuna)	21150g	1692.00
Condiment (Sardines)	21300g	1704.00	Condiment (Tuna)	21300g	1704.00
Condiment (Sardines)	21450g	1716.00	Condiment (Tuna)	21450g	1716.00
Condiment (Sardines)	21600g	1728.00	Condiment (Tuna)	21600g	1728.00
Condiment (Sardines)	21750g	1740.00	Condiment (Tuna)	21750g	1740.00
Condiment (Sardines)	21900g	1752.00	Condiment (Tuna)	21900g	1752.00
Condiment (Sardines)	22050g	1764.00	Condiment (Tuna)	22050g	1764.00
Condiment (Sardines)	22200g	1776.00	Condiment (Tuna)	22200g	1776.00
Condiment (Sardines)	22350g	1788.00	Condiment (Tuna)	22350g	1788.00
Condiment (Sardines)	22500g	1800.00	Condiment (Tuna)	22500g	1800.00
Condiment (Sardines)	22650g	1812.00	Condiment (Tuna)		



- Powers and Functions of the Local Price Coordinating Councils (LPCCs)**
- Coordinate and rationalize the program to stabilize prices and supply
 - Recommend to the NPCC or to the implementing agencies SRP, and/or price ceilings for certain basic or prime commodities in their respective areas.
 - Conduct in-depth analysis on causes of price fluctuations.
 - Recommend action steps to correct unwarranted price increase and supply shortage

- Measures to Undertake During Emergencies**
- Convene NPCC/ LPCC immediately after the occurrence of emergency, crisis or state of emergency
 - Intensify price monitoring
 - Activate consumer hotlines
 - Deputize other government agencies and private sector, if necessary

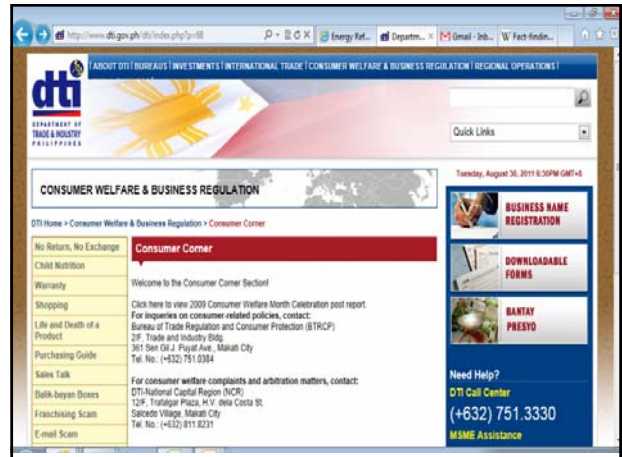
- Other Measures**
- Accredited Retail Outlets*
- Sell reasonably-priced commodities particularly to depressed areas
- Bulk Buying*
- Lowers prices by enabling retailers to purchase directly from suppliers
- Bagsakan*
- Serves as alternate trade centers for commodities originating from different points of the country

Types of Price Control

Whenever the President declares an area under a state of calamity, disaster, emergency, rebellion, war, martial law, or when the privilege of the writ of habeas corpus have been suspended



- **Automatic Price Control**
 - If prevailing price is excessive or unreasonable, price ceiling may be imposed at price other than prevailing price; prices of basic necessities are automatically placed under price control
- **Mandated Price Ceiling**
 - Whenever the prevailing prices have risen to unreasonable levels, MPC may be imposed by the President upon recommendation of implementing agency



Juan dela Cruz



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ALL

ECONOMIC
JUSTICE
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ALL

THANK YOU.

An Inquiry Into the Retail Petrol Market Study in Singapore

19 MAY 2011

This article is contributed by staff members of the Competition Commission of Singapore, and reflects their personal views.

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AN INQUIRY INTO THE RETAIL PETROL MARKET IN SINGAPORE

Synopsis

This inquiry examines whether the retail petrol market in Singapore is competitive. In particular, it examines whether the petrol companies' retail petrol prices are the same and move in tandem ('price parallelism'), whether prices increase more or faster than they decrease ('rocket and feather' effect), and whether there is evidence of collusion between the players. Although the market structure and conditions of retail petrol in Singapore suggest a material risk of collusive or coordinated practices among the market players, based on current facts and data there is no evidence that the petrol players are engaged in anti-competitive collusive behaviour. The Competition Commission of Singapore (CCS) continues to monitor developments in the sector.

This article is contributed by staff members of CCS, and reflects their personal views. An abridged version was first published in the Ministry of Trade & Industry's 'Economic Survey of Singapore First Quarter 2011'.

Introduction

1. There is a common public perception that the retail petrol market in Singapore, being an oligopoly among a few large, international and vertically-integrated petroleum enterprises, is uncompetitive or even collusive. In particular, many consumers are under the impression that retail petrol prices are similar among competitors, move in tandem across companies (known as 'price parallelism'), and rise more/faster than they fall (known as the 'rocket-and-feather' phenomenon).
2. On the other hand, petrol market players have suggested that the shortage of land allocated for petrol stations is the main obstacle to making the retail petrol market more competitive in Singapore.
3. We have recently completed a market inquiry into the retail petrol market in Singapore to better understand the dynamics of this market. Using information obtained from market players¹, relevant government agencies and industry experts,

¹ CCS obtained commercially sensitive and confidential information from the petrol retailers, pursuant to section 61A of the Competition Act.

we performed an assessment of the petrol market to address the following questions:

- a. Is the current market structure conducive to competition?
- b. Does the available evidence suggest an uncompetitive market?
- c. Is there evidence of collusion between competitors in this market?
- d. Are there regulatory obstacles to competition in this market?

Industry Background

4. The petroleum industry is a supply chain of fossil fuel for various industrial and household consumption purposes. It consists of exploration and extraction of crude oil from the earth, refinery of crude oil into distillate products (such as petrol), as well as the logistics and retailing of the distillate products. The retail petrol market refers to the sale of petrol to motorists via fuel pumps at petrol stations². It is at the downstream end of the petroleum supply chain³.

5. There are four players in the petroleum industry in Singapore⁴. Each of them is vertically integrated, with a refinery plant⁵ and an islandwide network of petrol stations. Only about 20% of petrol produced by their refineries is sold domestically. The four players do not cross-sell each other's petrol. The remaining 80% of petrol is exported through open-market trading⁶.

6. There is no dedicated sectoral regulator for retail petrol in Singapore. Petrol station operators are nonetheless subject to urban planning by the Urban Redevelopment Authority (URA) and Singapore Land Authority (SLA), competitive bidding of petrol station sites conducted by Housing Development Board (HDB), safety rules by Singapore Civil Defence Force (SCDF), excise duty on petrol imposed by the Singapore Customs (Customs), and indirectly, differential road taxes

² Otherwise known as the 'pump' petrol market, so as to draw a distinction with bottled petrol, which is available for retail sales in many countries but prohibited in Singapore for safety reasons.

³ For the avoidance of doubt, the terms 'upstream' and 'downstream' markets in this paper refer to their antitrust meanings, based on the relative positions of two markets along a supply chain, as opposed to their meanings in the petroleum industry, based on the direction of oil flow. For instance, refinery is a 'downstream' business in the industry context, but it is an 'upstream' market to retail petrol in the antitrust context.

⁴ These are Chevron Corporation (Chevron), ExxonMobil Asia Pacific Pte Ltd. (ExxonMobil), Shell Eastern Petroleum Pte Ltd. (Shell), and Singapore Petroleum Company (SPC).

⁵ Chevron and SPC co-own Singapore Refinery Company (SRC), a joint-venture refinery plant.

⁶ Refined petrol is priced based on the Means of Platts Singapore (MOPS), which is an average daily transacted price in Singapore as per Platts, a leading global provider of commodity market information.

on petrol and diesel vehicles imposed by the Land Transport Authority (LTA)⁷. Lastly, business practices of the petrol players are subject to antitrust scrutiny by CCS.

The Retail Petrol Market in Singapore

7. We have observed the following features of the retail petrol market structure in Singapore:

Homogeneous product

8. Petrol is largely a homogenous commodity, which means that it is relatively easy for competitors to monitor each other's prices. Although petrol companies use additives to differentiate their products, the differences are not easily observable. In practice, consumers switch readily and quickly between competitors in response to price changes, suggesting high price elasticity of demand.

Lack of substitutes

9. There are different grades of petrol (e.g. RON 92, 95, 98 and Premium), as well as alternative vehicle fuels such as diesel. Due to vehicle engine specifications, petrol and diesel are generally not substitutable, and even the different grades of petrol may not be fully interchangeable⁸. These fuels are refined and sold by the same four players in Singapore. Of the different grades, RON 95 accounts for the largest portion of petrol sales at [50%-70%] of the market.

High market concentration

10. As of December 2010, there were 199 petrol stations in Singapore, with the breakdown outlined in [Exhibit 1](#):

Exhibit 1: No. of Petrol Stations per Company

Player	Number of Petrol Stations
ExxonMobil (Esso)	65
Shell	63
SPC	38
Chevron (Caltex)	33
Total	199

⁷ As diesel is not subject to excise duty in Singapore (for commercial purposes), a special lump-sum road tax is imposed on diesel private vehicles to neutralize any unintended fuel cost advantage.

⁸ Technically, motorists can switch to a higher grade of petrol than the engine specifies, but in practice, many motorists do not do so.

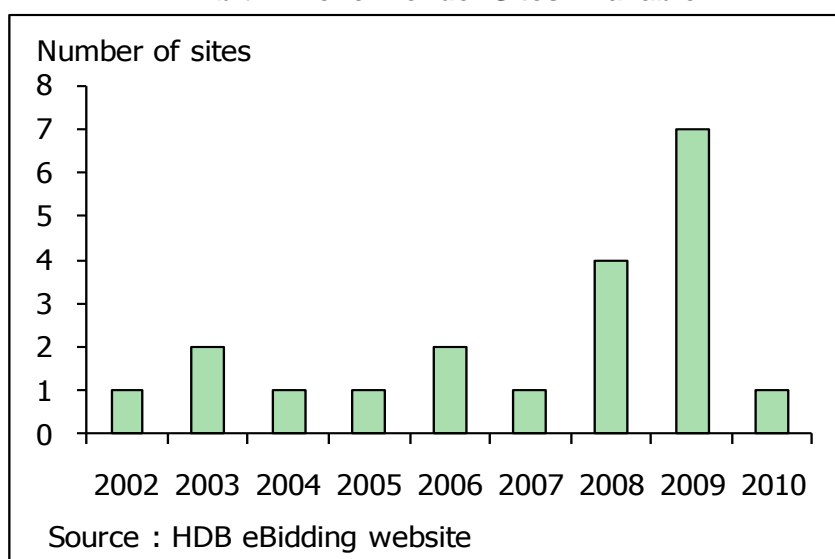
11. We have also studied the market shares of the four players by sales value⁹, and found that market concentration¹⁰ is high in Singapore. This is partly due to a lack of independent players which are not affiliated to the refineries.

High barriers to entry

12. Land premiums paid for retail petrol sites are generally high because of site scarcity. Depending on location and traffic volume, some sites can cost more than others¹¹. Players with better financial capabilities are more able to seek out premium sites with high car traffic.

13. The number of sites planned for petrol station use, and the location of these sites are set out in the national land use Master Plan, drawn up by URA. The planning considerations include ensuring that there are sufficient petrol station sites to meet the demand from motorists within the area, based on the number of residential units in the area. The sites are tendered out by HDB, in tandem with the development of the area. From 2001 to 2009, the number of new petrol station sites tendered averaged 2.4 per annum (Exhibit 2).

Exhibit 2: No. of Tender Sites Available



14. Given the mobility of vehicle traffic, a petrol retailer needs a critical number of petrol stations located throughout Singapore to be viable. If the history of SPC's acquisition of the sites of British Petroleum (BP)¹² is any indication, the minimum

⁹ Based on confidential information submitted by the petrol companies.

¹⁰ The Herfindhal-Hirshman Index (HHI) index value is 3,104 for the retail petrol market in Singapore, which the United States Department of Justice classifies as highly concentrated (Horizontal Merger Guideline: http://www.usdoj.gov/aatr/public/guidelines/horiz_book/15.html). HHI is calculated by summing the squared market shares of all individual players.

¹¹ Based on confidential information obtained from HDB.

¹² In 2004, BP decided to pull out of its operations in Singapore. Its 29 petrol stations were then sold to SPC, which had 10 stations prior to the acquisition.

efficient scale (MES) for a viable retail petrol operation in Singapore should be about 30 stations. As shown in Exhibit 1, all four incumbents have more than 30 sites. It would be difficult for new players to enter the market and achieve MES today, given the small number of new sites available each year, in planned locations only.

Vertically integrated players

15. All four players are vertically integrated with their refineries. This brings about efficiency benefits such as savings in transportation costs. At the global level, however, the prices at which they purchase crude oil are still subject to the bargaining power of oil exporting countries.

16. At the refinery level, every distillate product, including petrol, is a ‘by-product’ of a refinery operation. Depending on demand conditions of various distillate products from time to time, an individual refinery player may need to manage its inventory of petrol within a short period of time so as to avoid high storage costs due to high space rental costs in Singapore. In such circumstances, coordination of petrol prices or output levels may be difficult to sustain between the refinery players.

Weak buyer power

17. The petrol market is characterized by a large number of motorists purchasing small amounts of petrol each time. Individual buyers do not have the bargaining power to negotiate prices with the sellers.

Obscure effective prices

18. It is commonplace for the petrol market players to display their listed prices prominently at the entrance to their petrol stations. From time to time, they also announce impending changes to their listed prices through the public media. While this may appear to indicate good price transparency, in practice, all four players offer a wide variety of targeted promotion schemes such as loyalty rebates and credit card discounts. These promotions make it difficult for buyers to compare effective prices between competitors. Although some consumer self-help initiatives have emerged in recent years¹³, the information gap has not been fully bridged¹⁴.

19. In any case, pricing transparency can be a double-edged sword. Transparent prices may be used by competitors as a means of exchanging price information, and such price signals can make it easier for competitors to move into price coordination, which is anti-competitive. If a cartel exists in the market, it is easier for cartel members to monitor one another’s compliance, if prices are openly broadcasted.

¹³ For example, Petrolwatch (www.petrolwatch.com.sg) is a free service for motorists. It updates petrol prices promptly, sends SMS alerts to members on impending price changes, and attempts to monitor various discounts and promotion schemes. It has since become a popular website due to the fluctuations in petrol prices in recent years.

¹⁴ For example, Petrolwatch provides a “price board before and after house discounts”, which does not capture the full range of discounts and promotions.

When a seller knows that its competitors are able to observe and respond quickly to any price reductions, the incentive to cut prices in the first instance is weakened, as the ability to gain market share through such a move is short-lived.

Conclusion

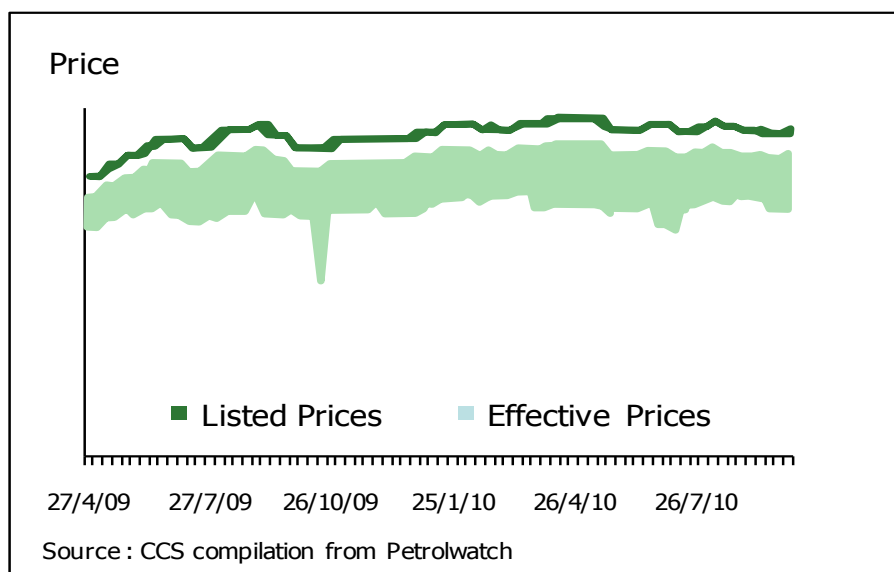
20. On balance, the market structure and conditions of retail petrol in Singapore suggest a material risk of collusive or coordinated practices between the market players. We next examine whether there is evidence that such anti-competitive behaviour is actually taking place, or is likely to be taking place.

Assessment of the Evidence

Listed prices are similar between competitors, but effective prices are not

21. We have adopted two different methodologies to compare the listed and effective prices of the petrol players¹⁵. Exhibits 3 & 4 compare the degree to which listed and effective petrol prices are similar between competitors. The dark green band depicts the range of listed prices between the four players across time¹⁶, while the light green band depicts the range of their effective prices¹⁷.

Exhibit 3: Listed Prices vs Effective Prices

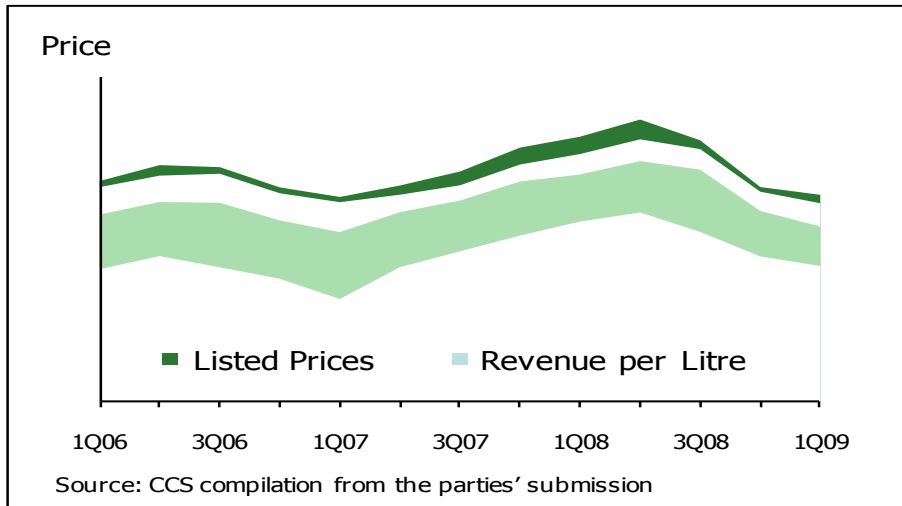


¹⁵ The first methodology compares the displayed prices of RON 95 petrol against the discounted prices after various promotions. For example, if a loyalty card holder receives a 5% discount on the spot, plus a further 3% in bonus points, then the effective price is 8% lower than the listed price. The second methodology compares the displayed prices of all grades of petrol against the actual revenue per litre of the petrol players. The first methodology is sensitive to the *eligibility* of individual consumers to various targeted discount schemes, while the second methodology is sensitive to the *product mix* of individual petrol players. However, the *consistency* of results between the two methodologies reinforces the conclusion.

¹⁶ The time periods covered under the two methodologies are different due to availability of data. See the respective charts for details.

¹⁷ The downward spike in discounted price around October 2009 was Shell's one-day promotion of \$1 per litre for the launch of its new petrol formula.

Exhibit 4: Listed Prices vs Effective Prices

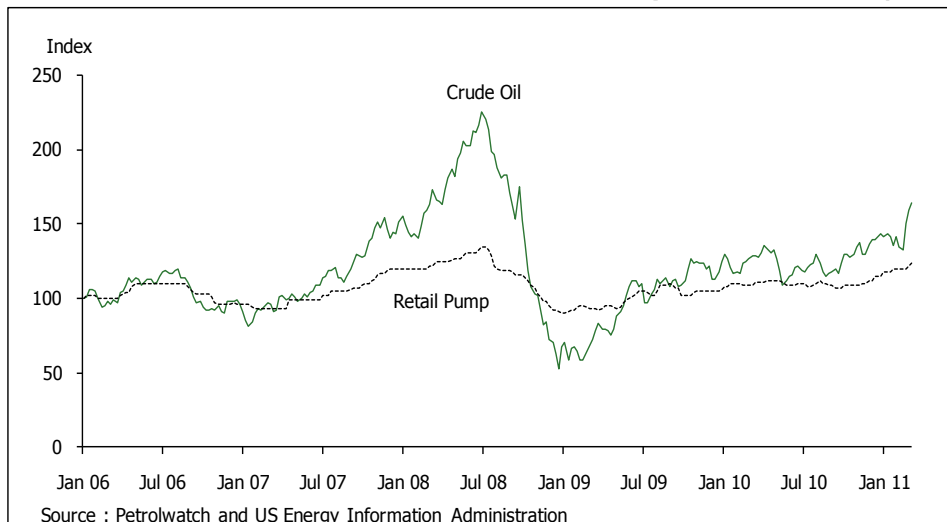


22. The fact that the light green band is much wider than the dark green band under both methodologies demonstrates that, while listed prices may be similar and move in tandem between the four players, the same is not true for effective prices. In other words, while listed petrol prices in Singapore are highly transparent and parallel, effective prices are quite varied between competitors. Price competition appears to take place at the effective price level, as buyers take advantage of the various promotion and loyalty schemes.

Pricing data does not exhibit a 'rocket-and-feather' pattern

23. Here, we examine the pricing data to see if the 'rocket-and-feather' phenomenon (i.e. petrol prices increase steeper than they decrease) exists. Exhibit 5 plots retail and crude oil prices in SGD terms from 2006 to 2011, indexed for ease of comparison. In general, crude prices were more volatile than pump prices, but over a full cycle (e.g. 2006-07, 2007-09), pump prices did not outpace crude prices, as would have been predicted by the 'rocket-and-feather' hypothesis.

Exhibit 5: Movements of Crude Oil and Retail Pump Prices in SGD (Indexed)



24. We have also reviewed the incidents of petrol price movements over the 12-month period from April 2010 to March 2011. As shown in Exhibit 6, there were 11 incidents of price increase (in red), 6 incidents of decrease (in green), and 4 incidents of full or partial reversal¹⁸ (in blue). During this period, crude oil price increased by 13.3% in SGD terms, while retail petrol prices increased by 12.7% on average.

Exhibit 6: Petrol Price Movements

Start date	No. of players involved	Direction	Magnitude	Time span
5 Apr 2010	4	Increase	2~3 cents	48 hours
17 May 2010	4	Decrease	-4~5 cents	2.5 hours
24 May 2010	4	Decrease	-2 cents	2.5 hours
17 Jun 2010	4	Increase	3 cents	26 hours
6 Jul 2010	4	Decrease	-3~4 cents	20.5 hours
26 Jul 2010	4	Increase	3 cents	24.5 hours
5 Aug 2010	4	Increase	2~3 cents	28 hours
13 Aug 2010	4	Decrease	-3 cents	3.5 hours
25 Aug 2010	4	Decrease	-2 cents	1 hour
8 Sep 2010	4	Decrease	-2 cents	1.5 hours
14 Sep 2010	2	Full reversal	3 cents	49 hours
1 Oct 2010	2	Full reversal	3 cents	99.5 hours
7 Oct 2010	4	Increase	3 cents	5 hours
10 Nov 2010	4	Increase	2 cents	17 hours
29 Nov 2010	4	Increase	3 cents	21 hours
7 Dec 2010	4	Increase	5 cents	8 hours
24 Dec 2010	4	Increase	3~4 cents	23 hours
18 Jan 2011	1	Increase	3~4 cents	22.5 hours
23 Feb 2011	4 (1 reversed)	Partial Reversal	3 cents	72 hours
3 Mar 2011	4	Increase	2~4 cents	21 hours
21 Mar 2011	4 (2 reversed)	Partial Reversal	-1~+2.3 cents	51 hours

Source: *Petrol Watch*

¹⁸ Full (or partial) reversal means that some players increased prices first, and subsequently reduced them back to the original level (or to somewhere still above the original level), because other players did not match (or did not increase prices by the same magnitude).

25. We observe that it took 5 to 48 hours to complete a round of price increase (i.e. between the first and last players to increase price), compared to 1 to 20.5 hours for price decrease, and 49 to 99.5 hours for price reversal. There is no clear evidence from these observations that petrol prices increased faster than they decreased.

26. Zooming into the price movements of a particular incident – during the 50 hours 45 minutes from 21 to 23 March 2011 – provides further insights into the market dynamics. As shown in Exhibit 7, one player increased its prices by 3 cents uniformly across all grades. The three other players reacted, but the magnitudes of their price increases were lower and regressive (i.e. less increase for higher grades). Later, the first two players who raised prices adjusted their prices downwards to match their competitors'. In the end, Grade 92 and 95 prices were increased by 2.3 and 1.3 cents respectively. For Grade 98 and Premium grade petrol, one player had reduced prices by 1 cent. These price movements did not appear to be highly coordinated among the players.

Exhibit 7: Price Movements of a Particular Incident

Date	Time	Player	Grade	Old Price	New Price	Change	Remarks	
21 Mar 2011	1500h	I	92	2.017	2.047	+0.030	Uniform price increase for all grades by one player	
			95	2.077	2.107	+0.030		
			Premium	2.215	2.245	+0.030		
	1800h	II	95	2.077	2.097	+0.020	Lower and regressive price increases across different grades by the three other players	
			98	2.150	2.160	+0.010		
			Premium	2.359	2.369	+0.010		
22 Mar 2011	1000h	III	92	2.017	2.040	+0.023		Lower and regressive price increases across different grades by the three other players
			95	2.077	2.090	+0.013		
			98	2.150	2.140	-0.010		
	1200h	IV	92	2.017	2.040	+0.023		
			95	2.077	2.090	+0.013		
			98	2.130	2.140	+0.010		
1300h	I	92	2.047	2.047	0.000	Partial reversal of price increases by two players		
		95	2.107	2.097	-0.010			
		Premium	2.245	2.225	-0.020			
23 Mar 2011	n.a.	I	92	2.047	2.040		-0.007	Partial reversal of price increases by two players
			95	2.097	2.090		-0.007	
			Premium	2.225	2.225		0.000	
	1745h	II	95	2.097	2.090	-0.007		
			98	2.160	2.140	-0.020		
			Premium	2.369	2.349	-0.020		

Source: *Petrol Watch*

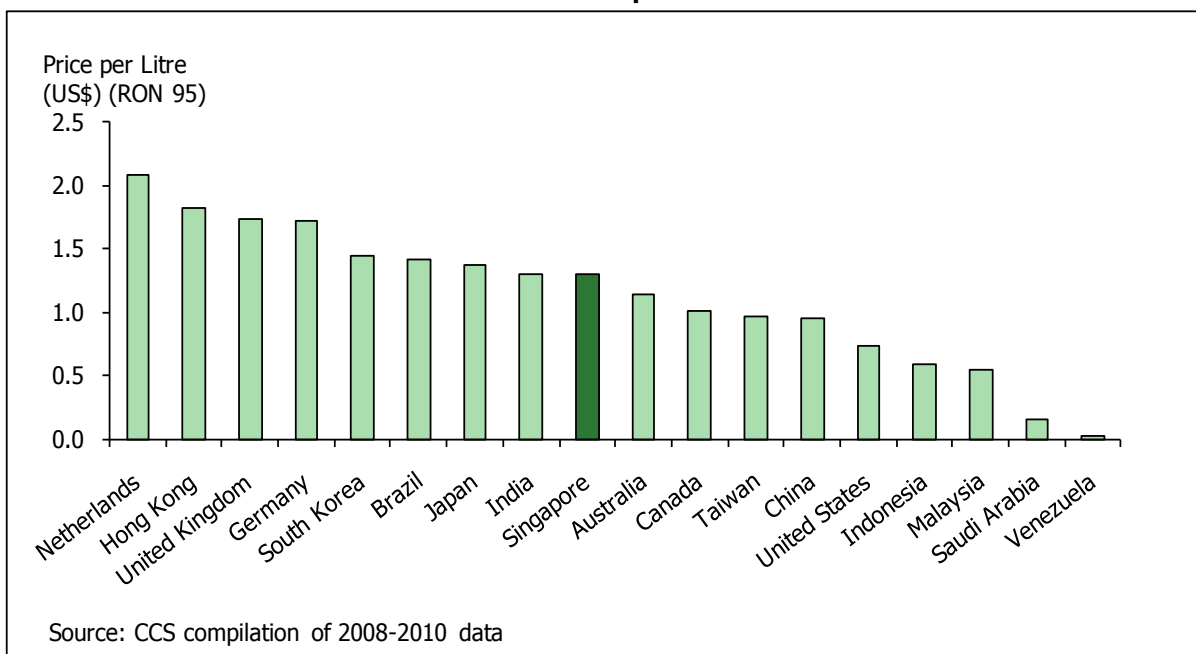
27. In addition, we have conducted an econometric analysis on the retail petrol prices to test if the ‘rocket-and-feather’ phenomenon exists (see Appendix 2). The results do not support the existence of such a phenomenon¹⁹:

- a. Overall, crude oil price movement was a good leading indicator of pump petrol price movement;
- b. The correlation between crude oil prices and petrol prices was not stronger when they rose than when they fell;
- c. Petrol prices did not rise more (in magnitude) in response to crude oil price increases than they fell in response to crude oil price decreases; and
- d. Petrol prices did not rise faster (i.e. shorter time lag) in response to crude oil price increases than they fell in response to crude oil price decreases.

Petrol prices in Singapore are competitive by international comparison

28. Exhibit 8 compares Singapore’s petrol prices with a sample of countries around the world.

Exhibit 8: International Comparison of Petrol Prices

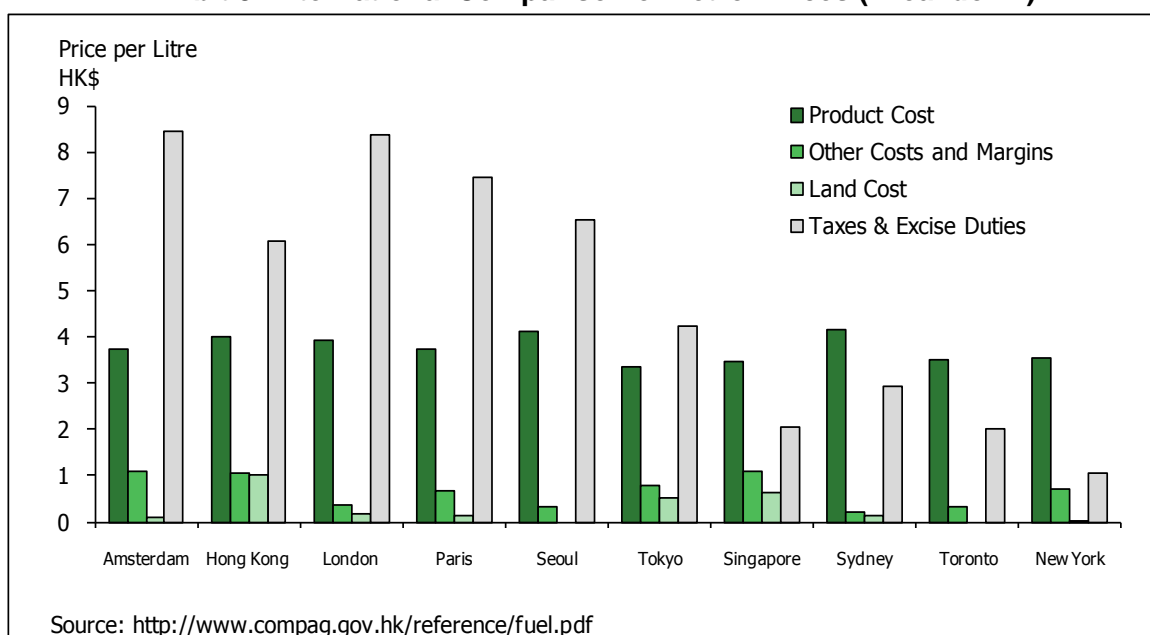


¹⁹ This finding is consistent with economic theory, which predicts that retail petrol prices track crude oil prices closely and symmetrically, in both competitive and cartelistic markets. The presence of ‘rocket-and-feather’ phenomenon would indicate that the cartelists, if any, were not maximizing their profits.

29. Singapore's petrol prices compare favourably with many developed economies such as UK, Germany, Japan and Korea; large developing economies such as India and Brazil; as well as similar sized economies such as Hong Kong. Places with cheaper petrol prices than Singapore are either oil exporting countries such as Saudi Arabia and Venezuela; those whose governments subsidizes petrol consumption such as Indonesia, Malaysia and Taiwan; those with low taxes such as the US; and those where input prices are regulated, such as China.

30. Exhibit 9 shows the breakdown of petrol prices in various countries into their cost components, namely product cost, land cost, duty and taxes, as well as other costs and margins.

Exhibit 9: International Comparison of Petrol Prices (Breakdown)



31. Amongst the 13 cities sampled, Singapore ranks 7th and 8th highest in terms of listed and effective petrol prices respectively. Its effective discount rate of 11.4% on listed petrol prices is the widest of all. The swing factor for petrol prices is taxation, which Singapore ranks the 8th highest. Product cost is the 2nd lowest, largely due to transport cost savings, as all the petrol companies have refineries located in Singapore. Land cost in Singapore ranks the 2nd highest, but land cost itself is not a significant component of total petrol cost.

Operating profit margins are in single-digits

32. Based on the financial information submitted by the petrol companies, the pre-tax operating profit margins²⁰ of their retail petrol businesses in Singapore ranged [0-10]% during the period from 2006 to 2009.

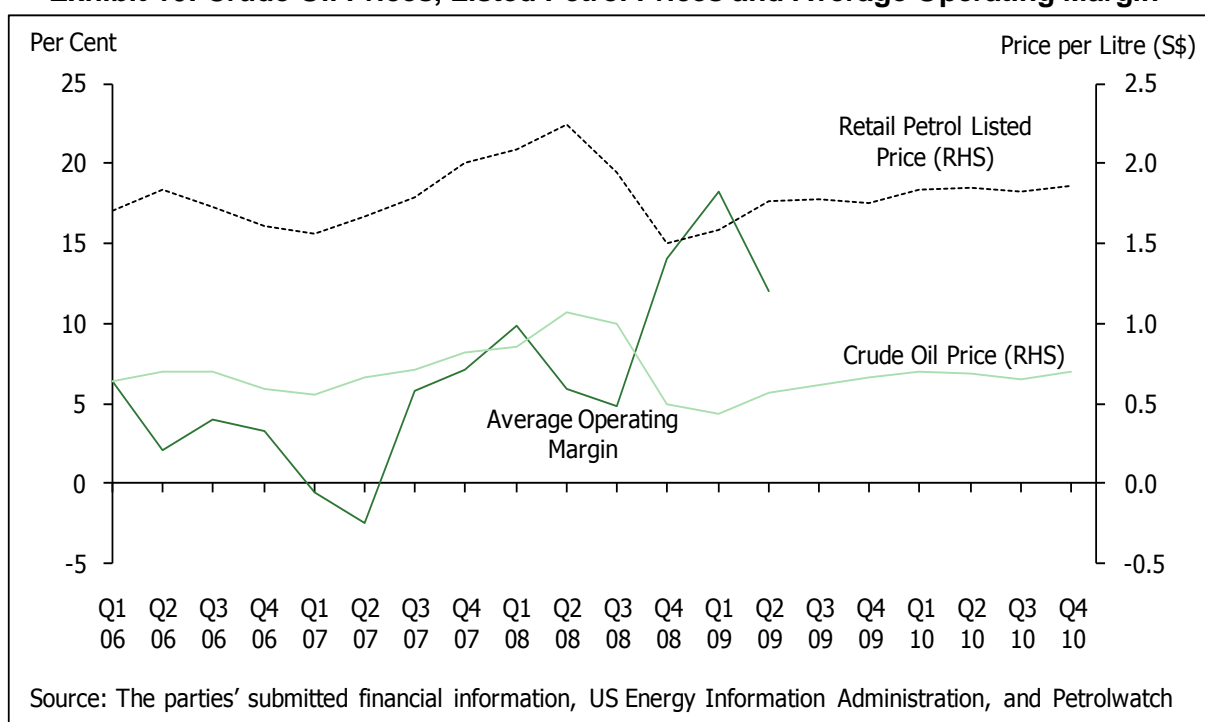
²⁰ Operating Margin is defined as total revenues less cost of goods sold, selling, general and administrative (SG&A) expenses as well as depreciation and amortization (i.e. both variable and fixed cost), divided by total revenues.

33. One potential gap is whether the vertically-integrated players have been channelling their profits upwards to the refinery level, so that the effects of collusive activities at the retail level cannot be detected. In this regard, we note that all four players use the MOPS price to account for their internal sales of petrol between their refinery and retail arms. Given that MOPS prices are based on open trading records, of which 80% are international transactions, there does not appear to be much room for manipulating profits between the refinery and retail levels.

Profit margins fluctuate counter-cyclically

34. Exhibit 10 plots the average operating profit margins of the petrol companies against crude oil prices across time. The profit margins exhibit a counter-cyclical pattern²¹, suggesting that the market players have not been able to take advantage of input cost fluctuations to increase their profits.

Exhibit 10: Crude Oil Prices, Listed Petrol Prices and Average Operating Margin



35. Counter-cyclicity alone is not sufficient to demonstrate that the market is competitive. However, the existence of a cartel would likely lead to the time trend of profit margins being maintained at relatively stable levels, rather than exhibiting the volatility as shown by data. This does not seem to suggest (successful) price coordination in the market.

²¹ A counter cyclical pattern in this context means that the profit margins of retail petrol companies increase when crude oil price falls, and vice versa.

Conclusion

36. Overall, the data does not indicate that the retail petrol market is uncompetitive, notwithstanding that the market structure suggests a material risk of anti-competitive practices. A conjecture that there has been collusion or coordination of prices among competitors is therefore not supported by available data.

Assessment of Regulatory Impact on Competition

37. This section explores whether the three main aspects of regulation on retail petrol operations in Singapore – namely urban planning, bidding process and tax structure – may amount to obstacles for the market becoming more competitive.

Urban planning is necessary

38. The problem of land scarcity is inherent to Singapore. Therefore, careful urban planning is necessary. As discussed above, only a few new petrol station sites are available every year, this makes it more difficult for new players to enter the market, with a critical scale of operations. However, it should be noted that land cost is not a significant cost driver, as it accounts for only [5-10]% of total petrol price.

The site allocation mechanism is competitive

39. HDB operates an eBidding mechanism for the allocation of petrol station sites. There is no pre-screening process to restrict the eligibility of bidders based on subjective criteria. The only substantial requirement is an upfront deposit²². The bidding process is an open, anonymous and ascending auction. Such a bidding process generally produces smaller increments between bids than, say, sealed-bid tenders²³. In particular, anonymity helps prevent bid-rigging between competitors. Sites are awarded to the highest bidder. HDB has informed us that the petrol companies do compete aggressively for new sites.

40. We considered whether the lease term of 30-years for new petrol station sites have contributed to the limited availability of new sites. However, we note that, in the context of land lease, 30 years is not long, compared to typical residential land leases of 99 to 999 years, and commercial ones of 99 years. In any case, the potential benefits of shorter lease terms are unclear, as each dollar invested would have to be amortized faster, leading to a tighter payback period which may affect investment incentives.

²² 10% of site valuation, fully refundable.

²³ In the Study of the Auto-Fuel Retail Market in 2005, the Economic Development and Labour Bureau of the Government of Hong Kong Special Administrative Region made a recommendation, for “Enhancing Competition”, by replacing a “single-shot sealed tender”, which “arguably can result in higher land premiums”, with an “open, multi-round ascending auction”.

Singapore's petrol tax structure is internationally competitive

41. As noted above, taxation is the swing factor for total petrol prices across different countries. Although petrol and diesel are subject to different tax treatments at the moment, a special tax on owners of diesel private vehicles (a lump sum tax) is designed to offset the excise duty on petrol sales (a variable tax). It is unclear if a revamp of diesel tax structure would necessarily subject petrol to more competitive constraint²⁴. After all, petrol and diesel are sold by the same four companies in Singapore, who would internalize their profits across different product lines.

Conclusion

42. It would appear that the overall regulation regime overseeing the retail petrol market in Singapore is generally pro-competitive. Land scarcity is a *natural* barrier to entry that cannot be overcome by regulation or deregulation. Our view is that regulation has not resulted in *incremental* impediment to competition.

Conclusion

43. Our analysis shows that the structure of the retail petrol market in Singapore contains a risk of collusive or coordinated practices between competitors. However, based on current facts and data, there is no evidence that the petrol players are engaged in anti-competitive collusive behaviour.

44. This study also finds that the regulatory regime is generally pro-competitive. The natural barrier of land scarcity cannot be overcome by regulation or deregulation. Over the period of the market inquiry, petrol prices in Singapore appear to be competitive by international comparison.

45. Based on current information, there does not appear to be a case for CCS to intervene. CCS continues to monitor developments in the sector. If there is material new information suggesting that petrol players have breached the Competition Act, CCS will initiate an investigation.

Prepared by:

Herbert Fung, Director

Terence Seah, Competition Analyst

Ng Ming Jie, Assistant Director

COMPETITION COMMISSION OF SINGAPORE

²⁴ In theory, if petrol and diesel are subject to the same tax treatment, motorists can choose between buying a petrol or diesel private car in the first instance, taking into account the relative costs of pumping petrol and diesel.

**APPENDIX 1:
Summary of Arguments**

Perceptions	Assessment
<p>Petrol prices are the same between the companies, and they move in tandem</p>	<ul style="list-style-type: none"> ▪ After accounting for various discounts and promotions, petrol prices (effective prices) are not the same or moving in tandem (paragraph 21)
<p>Petrol prices exhibit “rocket and feather”:</p> <ul style="list-style-type: none"> ▪ They increase by a larger magnitude than they decrease ▪ They increase faster than they decrease 	<ul style="list-style-type: none"> ▪ Petrol prices are subject to fluctuations in crude oil price ▪ Data analysis concludes that petrol prices did not increase by a larger magnitude or faster than they decrease, relative to crude oil price movements (paragraph 27)
<p>Petrol is expensive in Singapore</p>	<ul style="list-style-type: none"> ▪ Petrol prices in Singapore are competitive internationally, discounting those countries which export crude oil or subsidise petrol (paragraph 29)
<p>Land cost is an entry barrier for petrol stations in Singapore</p>	<ul style="list-style-type: none"> ▪ Land scarcity is inherent to Singapore ▪ However, land cost is not a significant component of total petrol cost (paragraph 31)
<p>Petrol companies are profitable</p>	<ul style="list-style-type: none"> ▪ Operating profit margins of the petrol companies are in single-digits (paragraph 32) ▪ Profit margins of the petrol companies have fluctuated significantly over time (paragraph 35)
<p>Petrol companies are colluding</p>	<ul style="list-style-type: none"> ▪ Current evidence does not demonstrate collusion between the petrol companies (paragraph 43) ▪ CCS will continue to monitor and will take action if there is evidence of anti-competitive conduct (paragraph 45)

APPENDIX 2: Econometric Analysis on the ‘Rocket-and-Feather’ Hypothesis

We have performed an econometric analysis to test whether the ‘rocket-and-feather’ phenomenon exists, i.e. whether retail petrol prices in Singapore increase faster and larger in magnitude than they decrease, relative to fluctuations in crude oil prices.

In the analysis, we used a panel of data comprising 9 time series of retail petrol prices in Singapore, weekly between January 2006 and June 2009. The 9 series are based on the respective RON 92, 95 and 98 prices of three petrol companies. Crude oil prices were based on WTI spot prices, adjusted for SGD:USD exchange rates obtained from US Federal Reserve.

Using the panel data above, we performed a pooled regression, based on a fixed effects model as follows:

$$\Delta R_{it} = \alpha + \alpha_a D_a + \alpha_b D_b + \alpha_c D_c + \gamma TIME_t + \sum_{i=0}^4 \beta_i^+ \Delta C_{t-1}^+ + \sum_{i=0}^4 \beta_i^- \Delta C_{t-1}^- + u_{it}$$

Where:

ΔR_{it}	= changes in retail oil prices, where i denotes the different companies
D	= dummies for each petrol company denoted as a, b and c
ΔC_{t-1}^-	= decrease in crude price, zero if increase
ΔC_{t-1}^+	= increase in crude price, zero if decrease
$TIME_t$	= time trend to adjust for nominal price changes
α	= constant
u_{it}	= error term

The regression results are displayed at [Table 1](#). The overall equation is F -significant at a 1% confidence level. When crude oil prices increase, a two-week lag (the variable DCrude_up2) yielded the highest t -significance in explaining pump price movements. When crude oil prices decrease, a one-week lag (DCrude_dn1) yielded the highest t -significance.

Table 1: Econometric Analysis

Results of Models ron98 95 and 92 using 4 lags			
	Ron98	Ron95	Ron92
Dcrude_up	0.022 (0.165)	0.04 (0.303)	0.031 (0.228)
Dcrude_up1	0.045 (0.411)	0.039 (0.355)	0.05 (0.455)
Dcrude_up2	0.649*** (4.458)	0.632*** (4.310)	0.633*** (4.279)
Dcrude_up3	0.259 (1.968)	0.247 (1.868)	0.257 (1.914)
Dcrude_up4	0.028 (0.235)	0.012 (0.096)	0.005 (0.044)
Dcrude_dn	0.195* (2.017)	0.186 (1.903)	0.191 (1.936)
Dcrude_dn1	0.454***	0.454***	0.441***

Results of Models ron98 95 and 92 using 4 lags			
	Ron98	Ron95	Ron92
	(5.848)	(5.807)	(5.601)
Dcrude_dn2	-0.089 (-0.894)	-0.085 (-0.845)	-0.109 (-1.069)
Dcrude_dn3	-0.031 (-0.388)	-0.025 (-0.312)	-0.022 (-0.276)
Dcrude_dn4	0.018 (0.189)	0.030 (0.301)	0.019 (0.195)
time	0.000 (0.820)	0.000 (0.928)	0.000 (0.894)
_cons	-0.004 (-1.068)	-0.004 (-0.987)	-0.004 (-1.087)
N	243	243	241
R-sq	0.302	0.294	0.285
adj. R-sq	0.262	0.254	0.244
F	8.996	8.682	8.220
T statistics in parentheses * p<0.05, ** p<0.01, *** p<0.001			

Based on the above results, we tested the rocket-and-feather hypothesis, based on a null hypothesis that the sum of exponentially discounted coefficients of lagged increases in crude oil prices is equal to that of decreases, i.e.:

$$H_0: \sum_{i=0}^4 \left(\frac{1}{e^{i\rho}}\right) \beta_i^+ = \sum_{i=0}^4 \left(\frac{1}{e^{i\rho}}\right) \beta_i^-$$

The results – F-values with a sensitivity analysis of various discount factors – are at Table 2. Given the low F-values, the null hypothesis cannot be rejected at a 10% confidence level.

Table 2: F-Value

F-value	$e^{-\rho} = 1.00$	$e^{-\rho} = 0.99$	$e^{-\rho} = 0.95$	$e^{-\rho} = 0.90$
RON 98	0.17	0.18	0.22	0.31
RON 95	0.22	0.23	0.27	0.36
RON 92	0.17	0.18	0.22	0.30

As such, we conclude that, based on an econometric analysis on crude oil and retail petrol prices, the ‘rocket-and-feather’ phenomenon did not exist at a statistically significant level.



Report by Singapore

Terence Seah, Competition Analyst
Joshua Wong, Competition Analyst

31 August 2011

Roles of CCS

- 3 prohibitions
- Efficiency first, consumers next
- Not consumer protection role
- Not price regulator role

Key prohibitions

- S34 – Anti-competitive agreements which appreciably prevent, restrict or distort competition in Singapore;
- S47 – Abuse of a dominant position; and
- S54 – Mergers & acquisitions that substantially lessen competition in Singapore

Efficiency first, consumers next

- Neelie Kroes, DG Comp, EC (2005):
- “**Consumer welfare** is now well established as the standard the Commission applies when assessing mergers and infringements of the Treaty rules on cartels and monopolies. Our aim is simple: to protect competition in the market as a means of **enhancing consumer welfare** and ensuring an **efficient** allocation of resources.”
- Dr Vivian Balakrishnan, SMOs, MTI (2004):
- “With the enactment of the Competition Bill, we will create an even **more conducive environment for businesses**, foster greater dynamic **competition, and promote more efficient and innovative markets**. This will benefit both enterprises and **consumers**, as well as ultimately strengthen Singapore's **overall economic competitiveness**.”

CASE and CCS

- Consumers Association of Singapore
 - Non-government
- Competition Commission of Singapore
 - Statutory body under MTI
 - Administers and enforces the Competition Act

NEB

- Efficiency gains
- Indispensability of the restrictions
- No elimination of competition
- *Fair share for consumers*

Excessive pricing

- Excessive pricing is not an abuse under s47
- Unlike caselaw in EC, UK

CCS' position on price regulation

- “CCS [as a competition authority] does not regulate prices of goods and services. In a free market, prices are best determined by market forces. Suppliers should set their prices independently, taking into account their own costs.”

<http://on.fb.me/r3Hc7y>

Price regulation principles

- Market structure of industry
- Formula based regulation
- Not intended to suppress prices

Price regulation in some industries

- Gas and electricity (EMA)
- Public Transport (PTC)
- These markets are excluded from the purview of the Competition Act

Case studies

- RPWG
- Retail petrol market inquiry
- Maid agency cases

RPWG



Set up in Feb
2011

Purpose

- “The Retail Price Watch Group (RPWG) was set up to keep a close watch on any excessive price increases of daily necessities and anti-competitive behaviour from businesses in Singapore.”

<http://www.pricewatch.gov.sg/about.html>

Members

- Led by Minister of State for Trade and Industry, Mr Lee Yi Shyan
- Mayors
- Business leaders
- Consumer Association of Singapore (CASE)
- Competition Commission of Singapore (CCS)

Initiatives

- RPWG website
- Hotline number
- RPWG sticker logo

Achievements

- Supermarket house brand products
- Hawker food
- Food courts

Not price control!

“RPWG does not believe in price control or price guidance. Artificial and arbitrary interventions will only distort market, lead to wastage and inefficiency.

On the contrary, the RPWG sees free competition as the best way to check excessive pricing and one indispensable way to keep inflation low. ”

Retail petrol market inquiry

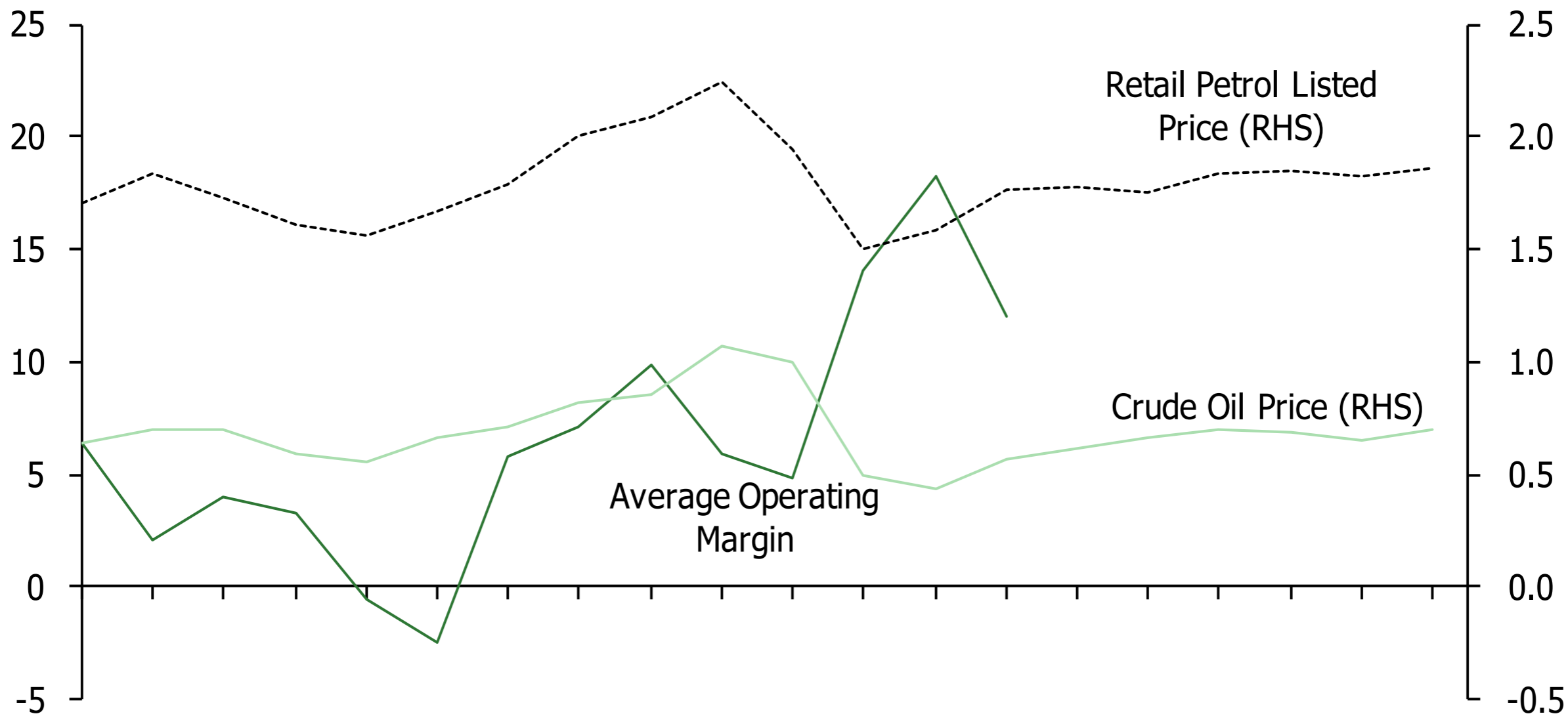
- Frequent complaints on retail petrol prices
- Objective of market inquiry is to investigate possibility of anti-competitive behavior
- No intention to regulate retail petrol prices

Results

- No evidence to suggest anti-competitive practices among retail petrol companies in Singapore
- However, CCS will continue to monitor the market, and will take action if material new evidence surfaces suggesting a breach of the Competition Act
- Public copy of market inquiry available on CCS' website (<http://tinyurl.com/4yff5lg>)

Per Cent

Price per Litre (S\$)



Source: The parties' submitted financial information, US Energy Information Administration, and Petrolwatch

The maid agencies case

- 16 employment agencies met and discussed collectively raising the monthly salary of new Indonesian maids
- CCS issued a proposed infringement decision
- Agencies should determine the salaries of new Indonesian maids independently

Thank you

COUNTRY REPORT

VIETNAM FIGHTING AGAINST INFLATION – THE ROLE OF A COMPETITION AUTHORITY

Presented by: Mr. Trinh Anh Tuan
Head of International Cooperation Board
Vietnam Competition Authority

1

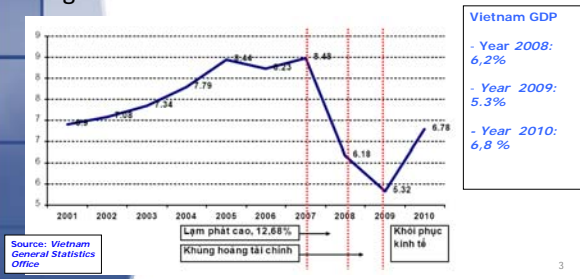
Content

- I. Vietnam Economy during the past 10 years: significant economic growth but high inflation rate
- II. How the government control the inflation: A Resolution Package
- III. The effective role of Vietnam Competition Authority: a long-term solution for the inflation

2

I. Vietnam Economy (2001 – 2010)

- Significant Economic Growth



3

Vietnam Economy (2001 – 2010)

The quality of economic growth remains low and unsustainable

- Widening trade deficit

Social problems: inequality in income distribution; limited employment and effectiveness; environmental pollution

- **High inflation rate:** 9.19% (average monthly Consumer Price Index of 2010, year-on-year); 12.79% (average monthly CPI through first quarter 2011, year-on-year)

4

II. Government solution package for a sustainable economic development

Government Resolution No11: Measures to curb inflation, stabilize the economy and ensure social welfare

1. Implement a tight monetary policy
2. Reduce public spending and investment
3. Accelerate manufacture activities; promote export, and save energy
4. Price control: monitor the collusive (anti-competitive) acts to set the price → [price inflation](#)

5

III. The effective role of Vietnam Competition Authority: a long-term solution for the inflation

“Competition policy can only develop its positive impact on innovation, growth and employment in the medium and long term. In the short term, its effectiveness in the fight against inflation is quite limited”

Source: *“The Role of Competition Policy in the Fight against Inflation”*, Michael Böheim, economist at WIFO

6

III. The effective role of Vietnam Competition Authority: a long-term solution for the inflation

- In Vietnam: [Electricity, Gas and Drugs](#) – groups of product accounting for price inflation
- Strengthen competition in these markets is likely to make a short-term anti-inflationary effect

7

III. The effective role of Vietnam Competition Authority: a long-term solution for the inflation

- Stricter control over economic concentration: avoid the abuse of market power (Ref: [VCA report on Economic concentration 2010](#))
- Monitor effectively competition activities in specific sectors → ensure fair competition environment and no barriers for market access
 - + [Building Reports of competition assessment on such specific markets as Gas& Petrol, Medicine, Powder Milk](#)
- Cooperate closely with regulatory bodies
 - + [Signing MOUs with Electricity Regulatory Authority of Vietnam, etc](#)

8

III. The effective role of Vietnam Competition Authority: a long-term solution for the inflation

One of three strategies for socio-economic development period 2011-2020 stated by Vietnam's Prime Minister Nguyen Tan Dung:

"Consolidating the market economy institution following direction of socialism, focusing on [creating fair competition environment](#) and administrative reform".

- The new Government put priority on competition policy in order to create incentives for elevating economic growth in next period of time

Thank you for your attention!

Contact: Vietnam Competition Authority
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Fax: 84 4 22205003

10

High gasoline prices and competition policy : the KFTC's experience

Sangmin Song
CCPB, UNCTAD

7

I. Introduction

- Very often, high gasoline prices triggered by a surge in crude oil prices spark off a heated debate over excessive prices or price gouging.
- Especially, the general public feels that gasoline prices respond in an asymmetric way to crude oil price changes.
- For this reason, people demand for various policy initiatives to address this "unfair pricing" by oil refiners.

2

II. Analysis of alleged asymmetry

- Perception of the general public on changes in gasoline prices : "rockets and feathers"
 - When crude oil prices rise, retail gasoline prices rise even faster than crude oil prices. On the other hand, when crude oil prices decline, retail gasoline prices fall more slowly.
 - This perceived asymmetry is believed to be largely due to the exercise of market power, i.e., monopolistic pricing or cartels.

3

II. Analysis of alleged asymmetry (cont'd)

- The KFTC attempted to determine if the observed asymmetry is statistically significant.
 - It assessed a number of possible upstream-downstream pairings of prices, including the following price pairings, crude oil-wholesale gasoline and wholesale gasoline-retail gasoline
- The KFTC employed an asymmetric error correction model (Borenstein et al, 1997)

$$\Delta R_t^i = \sum_{i=0}^n (\beta_i^+ \Delta C_{t-i}^+ + \beta_i^- \Delta C_{t-i}^-) + \sum_{i=1}^n (\gamma_i^+ \Delta R_{t-i}^+ + \gamma_i^- \Delta R_{t-i}^-) + \theta(R - \varphi_0 - \varphi_1 C)$$

4

Asymmetry between crude oil & wholesale gasoline prices

Coefficient	1997.1-2005.7	1997.1-2008.8	1997.1-2008.11
β_0^+	0.44 (0.20) **	0.64 (0.13) ***	0.63 (0.13) ***
β_1^+	-	-0.10 (0.16)	-0.16 (0.17)
β_0^-	0.64 (0.22) ***	0.85 (0.15) ***	0.81 (0.13) ***
β_1^-	-	0.40 (0.21) *	0.41 (0.17) **
γ_1^+	0.97 (0.12) ***	0.82 (0.12) ***	0.87 (0.13) ***
γ_2^+	-0.20 (0.14)	-0.34 (0.11) ***	-0.33 (0.12) ***
γ_1^-	-0.18 (0.09) **	-0.20 (0.10) **	-0.22 (0.10) **
γ_2^-	0.47 (0.09) ***	0.40 (0.09) ***	0.27 (0.09) ***
θ	-0.44 (0.07) ***	-0.27 (0.06) ***	-0.31 (0.06) ***
adjusted R ²	0.61	0.60	0.64

() standard errors
***, **, * significant at 1%, 5% 10% level

5

Asymmetry between crude oil & wholesale gasoline prices

	1997.1-2005.7		1997.1-2008.8		1997.1-2008.11	
	$\Delta C^+ = 1$	$\Delta C^- = 1$	$\Delta C^+ = 1$	$\Delta C^- = 1$	$\Delta C^+ = 1$	$\Delta C^- = 1$
T=0 (short run)	0.44	0.64	0.64	0.85	0.63	0.81
Wald-test	0.40		0.94		0.70	
Cumulated (long run)	1.93	1.28	1.32	1.36	1.30	1.21
Wald-test	5.53**		0.00		0.19	

- Instant response : Symmetry for all periods
- Cumulated response : Asymmetry only for period 1

6

Asymmetry between wholesale & retail gasoline prices

Coefficient	1997.1~2005.7	1997.1~2008.8	1997.1~2008.11
β_0^+	0.93 (0.04) ***	0.84 (0.06) ***	0.84 (0.06) ***
β_1^+	0.07 (0.04) *	0.20 (0.06) ***	0.17 (0.07) ***
β_0^-	0.94 (0.03) ***	0.88 (0.04) ***	0.77 (0.04) ***
β_1^-	-0.01 (0.03)	0.03 (0.05)	0.12 (0.05) **
θ	-0.23 (0.10) **	-0.08 (0.07)	-0.16 (0.08)**
adjustedR ²	0.94	0.86	0.84

() standard errors
 ***, **, * significant at 1%, 5% 10% level

7

Asymmetry between wholesale & retail gasoline prices

	1997.1~2005.7		1997.1~2008.8		1997.1~2008.11	
	$\Delta C^+ = 1$	$\Delta C^- = 1$	$\Delta C^+ = 1$	$\Delta C^- = 1$	$\Delta C^+ = 1$	$\Delta C^- = 1$
T=0 (short run)	0.93	0.94	0.84	0.88	0.84	0.77
Wald-test	0.05		0.38		0.87	
Cumulated (long run)	0.99	0.94	1.06	0.94	1.06	0.97
Wald-test	1.87		2.63		2.28	

- Instant and cumulated responses : symmetry for all periods

8

II. Analysis of alleged asymmetry (cont'd)

- Analysis results appear to be sensitive to many factors, including the choice of price pairings and the time period analyzed.
- For the pairing of crude oil & wholesale gasoline prices, the result shows that the instantaneous response is symmetric, but the cumulated response is asymmetric for period 1.
- For the pairing of wholesale & retail gasoline prices, the result reveals consistent symmetry.

9

III. Competitive effect of independent gasoline retailers

- Types of gas stations

Branded gasoline			Unbranded gasoline
Company-operated	Wholesaler-operated	Dealer-owned	Dealer-owned

- Potential price effects of independent gas stations(=stations selling unbranded gasoline)
 - Independent gas stations can shop for the lowest wholesale price and separately determine retail margins
 - While, at the branded stations, the retail price is directly set or indirectly influenced by branded refiners through wholesale prices and contract terms.

10

III. Competitive effect of independent gasoline retailers (cont'd)

- The KFTC tested the effects of independent gasoline stations on retail gasoline prices,
 - using cross-sectional data of gas stations in Seoul
- $\text{Log}(P_j) = b_0 + b_1 X_j + b_2 Z_j + b_3 B_j + b_4 G + e_j$
 - P_j : retail gasoline prices at gas station j
 - X_j : characteristics of gas station j, such as number of pumps, price of land, car wash service
 - Z_j : competitive circumstances around gas station j, such as number of nearby competing gas stations, the distance to the nearest competitor
 - B_j : dummies for ownership types and brands
 - G : dummies for districts

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Prices by types of gas stations (Seoul)

	Types of gas stations		
	Dealer-owned	Company-operated	Wholesaler-operated
Brand A	1,517.6	1,530.6	1,506.5
Brand B	1,514.2	1,510.9	1,510.8
Brand C	1,498.9	1,494.2	1,516.0
Brand D	1,493.3	-	-
Unbranded	1,452.0	-	-

Price comparison between two groups (Seoul)

Gas stations competing with unbranded ones nearby (Dummy = 1)	Gas stations not competing with unbranded ones (Dummy = 0)
1423.4	1465.5

III. Competitive effect of independent gasoline retailers : regression result (Seoul)

Variable	Coefficient	t-statistics
C	6.98	133
Log(Landprice)	0.017362	5.42**
Comp	0.007741	0.70
Comp*(ADJ-1)	-0.001662	-2.74**
Comp*adj_DIST	0.000015	2.36**
NO_POLE	-0.014911	-2.28**
BRAND_1	0.045466	2.55**
BRAND_2	0.041940	2.35**
BRAND_3	0.028833	1.60
BRAND_4	0.03111	1.72*
:	:	:
Adjusted R ²	0.37	
No of observation	593	

IV. Recent cartel investigation

- In May 2011, the KFTC investigated a **market sharing cartel** among 4 oil refiners and imposed a heavy fine of 400 million USD against them.
- Background : Following the lift of the distance restriction on gas stations in 1993, oil refiners had been engaged in fierce competition to secure gas stations exclusively distributing their products until the mid 1990s.
- Given the significant drop in their profits caused by this competition, they came to a collusive agreement to divide the oil distribution market among them in 2000.

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IV. Recent cartel investigation (cont'd)

- The cartel was a kind of "a nonaggression pact".
 - When there is a request for supply from a gas station intending to switch its supplier,
 - the refiner that receives the offer should require a waiver that its original supplier will give up its right to the gas station in question, or unilaterally refuse to trade with it.
- The case may contribute to restoring competitive process in the gasoline market.
 - Without the cartel scheme, gas stations are now able to choose refiners with better prices, which will help them cut retail prices for end-users.

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V. Concluding remarks

- The oil industry is highly concentrated and vertically integrated, which raises competitive concerns.
- The industry structure provides refiners with incentives and capabilities to effectively organize cartels.
- A finding of asymmetric price response is not clear cut, and appears to be very sensitive to a number of factors.
- Independent gas stations can increase price competition in the retail gasoline market.

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The Role of FTC during the Era of High Inflation

Mei-Hua Lai

Fair Trade Commission, Taiwan

Introduction

In economics, inflation is a rise in the general level of prices of goods and services in an economy over a period of time. A chief measure of price inflation is the inflation rate, the annualized percentage change in a general price index (normally the **consumer price index**) over time.

Controlling Inflation

A variety of policies have been used to control inflation. Today the primary tool for controlling inflation is monetary policy. Another method attempted in the past have been wage and price controls (“income policies”). Price controls have been successful in wartime environments in combination with rationing. In general **price controls are regard as a temporary and exceptional measure**, only effective when coupled with policies designed to reduce the underlying causes of inflation during the price control regime, for example, winning the war being fought.

Taiwan’s Economic Situation

Taiwan is a small and open economy. Taiwan’s economy has relatively limited natural resources and market hinterland; domestic firms are mostly international price takers, and international trade greatly affects domestic national income and the growth rate. In May 2011, Taiwan’s exports and imported soared by 9.5% and 19.3% year on year, lifted by the steady improvement of global economic conditions. Consumer prices (as measured by the CPI) increased by 1.66%, **but up to 3.53% in 2008** and the unemployment rate fell to 4.27%. On the financial side, monetary aggregate (M2) grew by 6.14%. The overall light signal of the monitoring indicators remained “green” through May, in continuing indication of stable economic recovery.

Taiwan's Controlling Measures to Stabilize Price

In first half of 2008, Taiwan's government established the Price Stability Group to ease impact of rising prices and sustained attention to the price. **The role of the FTC was driving up the joint investigation of illegal and hoarding behavior.** Annual growth rate of consumer price index (CPI) slowed down in August 2008. Now Part of the project is still ongoing .

Introduction of the Fair Trade Act and the FTC

The Fair Trade Act was enacted in 1991 with the establishment of the Taiwan Fair Trade Commission (FTC) a year later on February 4, 1992 as the implementing agency of this law.

The duties of the FTC, as provided for under the Fair Trade Law, include the following:(1) preparation and formulation of fair trade policy, laws and regulations; (2) review of any fair trade matters related to this Law; (3) investigation of activities of enterprises and economic conditions;(4) investigation and disposition of any case violating this Law; and (5) any other matters related to fair trade.

The FTC is the central competent authority in charge of competition policy and Fair Trade Law. **It is charged with drafting fair trade policy, laws, regulations, and investigating and handling various activities impeding competition, such as monopolies, mergers, concerted actions, and other restraints on competition or unfair trade practices on the part of enterprises.** As for any matters provided for in this Law that concern other ministries and commissions, the FTC may consult with such ministries and commissions to deal with them.

The FTC shall have the responsibility to direct and supervise competent metropolitan and county authorities in administering their matters arising under the Fair Trade Law. According to Article 26 of the Fair Trade Law, "The Fair Trade Commission may investigate and handle, upon **complaints or ex officio**, any violation of the provisions of this Law that harms the public interest".

Price Problem

According to Article 7 of the Fair Trade Act, This law is enacted for the purpose of maintaining trading order, protecting consumer's interests, ensuring fair competition, and promoting economic stability and prosperity. In practice, **the FTC normally will initiate a special investigation on price and business practice with regards to “price gouging” practices** in a situation of natural disaster, such as typhoon, floods, and earthquake and in situation of some unexpected severe damage. Such an anti-price gouging investigation and decision serves as a legal mechanism for price control, and has significant effects on stabilizing market price at a substantial level. However, it is argued that the FTC’s role in interfering the market price, the amounts of supply and demand, and relevant command and control is questionable, in particular in whether this control is conflict to the basic principle of the FTC’s mission in promotion of effective competition, market-oriented regulatory mechanism, and least intervention principle.

Basic Legislative Arrangement to Price Monopoly

According to Article 5 of the Fair Trade Act, two or more enterprise shall be deemed monopolistic enterprise if they do not in fact engage in price competition with each other and them as a whole has the same status as the enterprise defined in the provision of the preceding paragraph.

According to Article 10 of the Fair Trade Act, no monopolistic enterprises shall...maintain or change the **price** for goods or the remuneration for services.

Concerted Actions

According to Article 7 of the Fair Trade Act, the term "concerted action" as used in this Law means the conduct of any enterprise, by means of contract, agreement or any other form of mutual understanding, with any other competing enterprise, to jointly determine the **price** of goods or services,and thereby to restrict each other's business activities.

According to Article 14 of the Fair Trade Act, no enterprise shall

have any concerted action.

Resale Price Maintenance

According to Article 18 of the Fair Trade Act, where an enterprise supplies goods to its trading counterpart for resale to a third party or such third party makes further resale, the trading counterpart and the third party shall be allowed to decide their resale **prices** freely; any agreement contrary to this provision shall be void.

Other Deceptive or Obviously Unfair Conducts

According to Article 24 of the Fair Trade Act, in addition to what is provided for in this Law, no enterprise shall otherwise have any deceptive or obviously unfair conduct that is able to affect trading order.

For example, an enterprise holding market power or advantageous market information takes advantage of the information asymmetry or other relative trading disadvantage on the side of its trading counterpart to engage in unfair trade including an enterprise provides imperfect substitutes for basic necessities or services or does business in a manner contrary to business ethics or public order and good morals during a time when market mechanisms failed and market supply and demand are not in equilibrium.

Exception applies

According to Article 46 of the Fair Trade Act, where there is any other law governing the conducts of enterprises in respect of competition, such other law shall govern; provided that it does not conflict with the legislative purposes of this Law.

For example, according to Article 6 of the Agricultural Products Market Transaction Act, the transaction of agricultural products would not be monopolized, restrained prices or purposely to change quality quantity, to obtain unjust advantage, competent authority of the Law is the Council of Agriculture. So the jurisdiction of the Fair Trade Act shall not be exercised

Now other laws governing any enterprise's activities should avoid conflicting with the legislative purpose of the Fair Trade Act.

Key Aspects of Current Work and Future Outlook

The FTC's main mission is to regulate fair trade policy and enforce the Fair Trade Law. Therefore, we review and investigate different types of violations of the Fair Trade Law. To continue the outstanding law enforcement traditions and effectively enforce the Fair Trade Law, the FTC will enhance the capacity of law enforcement officials, improve law enforcement quality, and promote administrative efficacy. We will take the initiative to scrutinize any potential violations of the Fair Trade Law, such as concerted actions and monopolies.

Case study

Let us introduce two cases related to the role of FTC during the era of high inflation. The Commission was informed that the Taoyuan County Trade Union of Personnel Engaging in Land Transaction (hereinafter referred to as "Taoyuan County Trade Union of Land Personnel") formulated a reference table of collection of fees of members' practicing and issued it to its members. The FTC hence conducted an ex officio investigation of the case. The other case is complaints from farmers about Yichang Foods Co., Ltd. (hereinafter referred to as Yichang Co.) monopolizing the slaughterhouse market.

Case 1 : Concerted Action

In 1996, the Taoyuan County Trade Union of Land Personnel referred to the "Professional Practitioners' Revenue Standards Adjusted by Tax Authorities" stipulated by the Ministry of Finance and formulated approximately 30 items, such as handling charges, charges for registration of land or building ownership transfer (exchange), and building tax transfer, that were differentiated in detail on the basis of the characteristics of cases handled by land transaction engaging personnel, and stipulated the reference standards of collection of fees. However, due to the charges of "Professional Practitioners' Revenue Standards Adjusted by Tax Authorities" stipulated by the Ministry of Finance were higher

than the standards set by the reference table of collection of fees formulated by the trade union and recent inflation. The 6th meeting of the 7th board of directors of the Taoyuan County Trade Union of Land Personnel passed the amendment of the reference table of collection of fees for members' practices in July 2007. The reference standards of collection of fees for 13 items were raised by NT\$ 1,000 approximately, and the item of conversation fee for NT\$ 2,000 per hour was added.

As members of the Taoyuan County Trade Union of Land Personnel are agents who help register, transfer, or apply for transcriptions for a land or building. The trade union is an organization established in terms of the Labor Union Law. That is, the organization is a union consists of laborers who provide services independently, and it provides services. Therefore, members of such a trade union or the union itself have fallen under the definition of the term "enterprise" as provided by Article 2 of the Fair Trade Law.

The Taoyuan County Trade Union of Land Personnel has considerable market power, as the percentage of its members who are actually registered and practicing land administration personnel among the total registered and practicing personnel in Taoyuan was approximately 29%. In the same way, after the trade union resolved to modify the reference table of collection of fees of members' practices in the board of directors meeting, it published in the Journal of Real Estate Legal Writers Issue No. 227 on August 1, 2007 the content that "the union has modified 'the reference table of collection of fees of members' practices,' and members can access to it in the union." Furthermore, the FTC sent out investigators to visit the business places of the union's members and found out that the reference table of collection of fees of members' practices stipulated by the union was hung or displayed on the wall of the business places of some of the members, and some other members collected fees by referring to the said reference table and then negotiated fees with consumers. These findings showed that the reference table formulated by the Taoyuan County Trade Union of Land Personnel had been referred to by the union's members, and these facts were sufficient to affect the function of the land transaction brokerage services

market in Taoyuan. As a result, the trade union violated Article 14 of the Fair Trade Law, which prohibits of concerted actions. Accordingly, the FTC ordered the Taoyuan County Trade Union of Land Personnel to cease such an unlawful act immediately and imposed an administrative fine of NT\$ 200,000.

Case 2 : Monopoly

In 2010, the Council of Agriculture forwarded to the FTC a petition from goose farmers in Tainan County complaining that there was only one legal meat goose slaughterhouse in the south of Yunlin County and the slaughterhouse demanded that all contracted meat goose farmers use only feed of a specific brand. They thought it was market monopoly and was in violation of the Fair Trade Law.

The FTC visited and interviewed the petitioners and Yichang Co., as well as sent a written request to the concerned feed manufacture for explanation. According to Article 5 of the Fair Trade Law, if the market share of an enterprise does not exceed one half of the market in concern or if it does but the total sales of the enterprise in the previous fiscal year did not exceed NT\$100,000,000, the said enterprise is not considered a monopolistic enterprise. Regarding the petitioner's accusation that Yichang Co. is a monopolistic enterprise, the FTC's findings showed that there were 18 legal slaughterhouses conducting slaughter of meat geese in this particular market and three of them were located around Tainan County. There was not only one slaughterhouse in southern Yunlin County as the petitioners had stated. Therefore, the meat goose farmers could decide which slaughterhouse they wanted to do business with. The investigation also revealed that the slaughter Yichang was accounted for about 14% of the slaughter among local legal slaughterhouses. After calculation, the percentage constituted the sales volume of Yichang Co. is about NT\$24,660,000 per year.

In accordance with the aforesaid regulations, Yichang was not considered a monopolistic enterprise and no regulations against monopolistic enterprises could apply. Therefore, the FTC decided that Yichang Co. had not violated the Fair Trade Law.

Conclusion

The FTC has already started control group active price manipulation investigation, and price stability with the livelihood of the working group and the fight against crime steering group points into the punch. The key projects include inspections of oil, dairy, bulk materials and agricultural products. The FTC initiates precaution mechanism at first moment when the price reached the unreasonable high level. In addition ,it actively release news to the public, which has the precaution function to both the suppliers and the consumers. The FTC sent official appointee to the market to express its determination. In order to attain the policy goal of promoting market competition, the competition advocacy and the extent of collaboration from the competent authority of the targeted enterprises become the keys of success.

The Role of FTC During The Era of High Inflation



Mei-Hua Lai
Fair Trade Commission, Taiwan

August 30-31, 2011

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Taiwan is a small and open economy .
Taiwan's economy has relatively limited natural resources and market hinterland

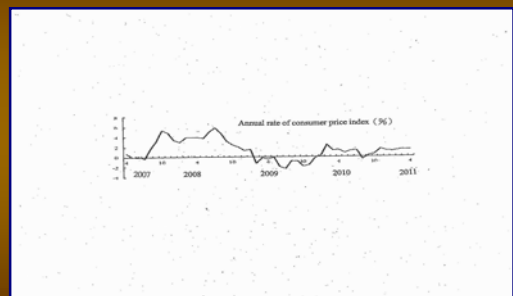
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Economic Situation

% change on previous year	Historical Data				Current Data (2011)			
	2007	2008	2009	2010	Feb.	Mar.	Apr.	May.
GDP	5.70	0.12	-1.93	10.88	-	6.55	-	-
☛ CPI	1.80	3.53	-0.87	0.96	1.33	1.41	1.32	1.66
unemployment rate	3.91	4.14	5.85	5.21	4.69	4.48	4.29	4.27
Exports	10.1	3.6	-20.3	34.8	27.2	16.7	24.6	9.5
Imports	8.2	9.7	-27.5	44.2	28.7	16.7	25.7	19.3
Export Orders	15.5	1.7	-8.33	20.56	-3.7	4.99	1.27	11.5
Industrial production	7.8	-1.8	-8.1	26.9	12.9	13.7	6.9	7.8
Monetary aggregate (M2)	4.3	2.7	7.2	4.59	6.12	5.97	5.88	6.14
stock market	8,510	7,024	6,460	7,950	8,743	8,575	8,861	8,911

3

Price Inflation

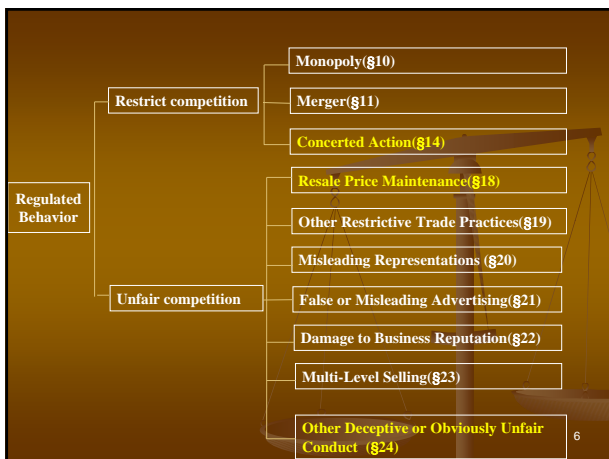


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Price Stability

Measures to stabilize price	Organizer
1. Pick up price increases	
State-owned enterprise to absorb oil prices	Ministry of Economic Affairs
Public transportation enough to purchase the oil price	Ministry of Transportation and Communication Council Agriculture
2. Reduce taxes and freeze up fees	Ministry of Finance
Cut the important tariff of material goods and other raw materials	
Cut excise tax	
Lowered import inspection fees	
Fuel tax relief	
3. Establish parity Area	Consumer Protection Commission
4. Drive up the joint investigation of illegal and hoarding behavior	Ministry of Justice Ministry of the Interior Fair Trade Commission

5



6

Duties

1. preparation and formulation of fair trade policy, laws and regulations;
2. review of any fair trade matters related to this Law;
3. investigation of activities of enterprises and economic conditions;
4. investigation and disposition of any case violating this Law; and
5. any other matters related to fair trade.



7

Enforcement

Article 9

The term "competent authority" as used in this Law means the FTC, at the central government level;...

For any matter provided for in this law that concerns the authorities of any other ministries or commissions, the FTC may consult with such other ministries or commissions to deal therewith.



Article 26

The FTC may investigate and handle, upon complaints or ex officio, any violation of the provisions.

8

Legislative purpose

Article 1

This law is enacted for the purpose of maintaining trading order, protecting consumer's interests, ensuring fair competition, and promoting economic stability and prosperity.

But price control \neq fair competition
So price controls conflict with
the legislative purposes of this Law.



9

Monopoly

Article 5

Two or more enterprise shall be deemed monopolistic enterprise if they do not in fact engage in price competition with each other and they as a whole has the same status as the enterprise defined in the provision of the preceding paragraph.

Article 10

No monopolistic enterprises shall:...maintain or change the price for goods or the remuneration for services;...



10

Concerted Actions

Article 7

The term "concerted action" as used in this Law means the conduct of any enterprise, by means of contract, agreement or any other form of mutual understanding, with any other competing enterprise, to jointly determine the price of goods or service,.....and thereby to restrict each other's business activities.

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Where an enterprise supplies goods to its trading counterpart for resale to a third party or such third part makes further resale, the trading counterpart and the third party shall be allowed to decide their resale prices freely; any agreement contrary to this provision shall be void.



12

Other Deceptive or Obviously Unfair Conducts

Article 24

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An enterprise holding market power or advantageous market information takes advantage of the information asymmetry or other relative trading disadvantage on the side of its trading counterpart to engage in unfair trade.

Where an enterprise provides imperfect substitutes for basic necessities or services or does business in a manner contrary to business ethics or public order and good morals during a time when market supply and demand are not in equilibrium.

13

Exception Applies

Article 46

Where there is any other law governing the conducts of enterprises in respect of competition, such other law shall govern; provided that it does not conflict with the legislative purposes of this Law.



14

Key Aspects of Current Work and Future Outlook

- The FTC's main mission is to regulate fair trade policy and enforce the Fair Trade Law.
- The FTC will take the initiative to scrutinize any potential violations of the Fair Trade Law, such as concerted actions and monopolies.

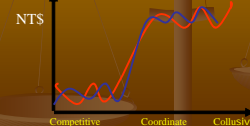


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Case Study

■ Case 1 : (Concerted Action)

The 6th meeting of the 7th board of directors of the Taoyuan County Trade Union of Land Personnel passed the amendment of the reference table of collection of fees for members' practices . The reference standards of collection of fees for 13 items were raised by NT\$ 1,000 approximately, and the item of conversation fee for NT\$ 2,000 per hour was added.



16

Case Study

Grounds for Disposition:

1.As members of the Taoyuan County Trade Union of Land Personnel are agents who help register, transfer, or apply for transcriptions for a land or building. The trade union is an organization established in terms of the Labor Union Law. The organization is a union consists of laborers who provide services independently, and itself provides services. Therefore, members of such a trade union or the union itself has fallen under the definition of the term "enterprise" .

17

Case Study

2.The Taoyuan County Trade Union of Land Personnel has considerable market power.

- After the trade union resolved to modify the reference table of collection of fees of members' practices in the board of directors meeting, it published in the Journal of Real Estate Legal Writers Issue.
- The reference table of collection of fees of members' practices stipulated by the union was hung or displayed on the wall of the business places of some of the members, and some other members collected fees by referring to the said reference table and then negotiated fees with consumers.

18

Case Study

- These facts were sufficient to affect the function of the land transaction brokerage services market in Tao Yuan.

Accordingly, the FTC ordered the Taoyuan County Trade Union of Land Personnel to cease such an unlawful act and imposed an administrative fine of NT\$ 200,000.



19

Case Study

Case 2 : Monopoly

The Council of Agriculture forwarded to the FTC a petition from goose farmers in Tainan County complaining that there was only one legal meat goose slaughterhouse in the south of Yunlin County and the slaughterhouse demanded that all contracted meat goose farmers use only feed of a specific brand. They thought it was market monopoly and was in violation of the Fair Trade Law.



20

Case Study

Grounds for Disposition:

1. There were 18 legal slaughterhouses conducting slaughter of meat geese in this particular market and three of them were located around Tainan County.
2. The slaughter Yichang was accounted for about 14% of the slaughter among local legal slaughterhouses.
3. The sales volume of Yichang Co. is about NT\$24,660,000 per year.

Accordingly, Yichang was not considered a monopolistic enterprise and no regulations against monopolistic enterprises could apply.

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Conclusion

In order to attain the policy goal of promoting market competition, the competition advocacy and the extent of collaboration from the competent authority of the targeted enterprises become keys of success.



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