



## Unbundling Competition

# Episode 1: Competition law in Southeast Asia – Regional enforcement and Thailand

In this first episode, Adelaide Luke, who is a partner and Head of Competition Asia in the HSF Hong Kong office, and Joel Rheuben, who is a Senior Associate in the HSF Tokyo office, share their insights on recent developments in competition law in Southeast Asia, and in Thailand in particular.

Southeast Asia has a diverse landscape of competition law regimes. Several of these regimes were introduced in the aftermath of the Asian Financial Crisis 20 years ago, but in 2007 all ASEAN member states committed to enact competition laws under the ASEAN Economic Community Blueprint. Currently, all member states other than Cambodia have done so, while some countries with older regimes have substantially amended their existing laws.

The enforcement record of Southeast Asian regulators is also mixed, with some very active regulators on the one hand, and other jurisdictions in which regulators are still being set up on the other hand. There are, however, some key trends, with Southeast Asian regulators generally becoming more active, more sophisticated in their enforcement priorities, cooperating with one another to a greater degree, and enhancing their antitrust toolkits to keep pace with the economic dynamics in the region.

Thailand was one of the first jurisdictions in the region to introduce a competition law in 1999; however, the law remained

under-enforced due to political and business influence, and limited enforcement powers for the Thai regulator. In 2017, a new competition law, the Trade Competition Act (TCA) came into force and brought a number of positive changes. The TCA has strengthened the role of the Thai competition regulator, the Trade Competition Commission. It has also aligned Thai competition law rules more closely with competition laws in other countries on various key issues.

In addition, the TCA has introduced a merger control system in Thailand for the first time, which is already in effect. Businesses are now required to notify a transaction either pre-closing or post-closing, depending on factors like the parties' market shares. However, there is still some ambiguity as to what type of transactions must be notified.

Companies operating in Thailand and elsewhere in Southeast Asia will increasingly need to pay greater attention to competition law when carrying out deal and compliance planning.

