

REMEDIES AND SETTLEMENT IN VIETNAM COMPETITION LAW

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*(Views expressed in this presentation do not necessarily
reflect the view of the VCAD)*

2013

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Points of Discussion

- Regulations on remedies and settlement
- Coverage of the Regulations
- Law Enforcing mechanism
- Reality cases

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Vietnam Competition law

- Promulgated on 3rd December 2004 - The Law No 27/2004/QH11 on Competition
- Took effect from 1st July 2005
- Regulations on handling of violations of competition legislation was stipulated on Section 8, Chapter 5, Competition Law



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DECREE ON DEALING WITH BREACHES IN THE COMPETITION SECTOR

- Promulgated on 30th, September 2005 - The Degree No 120/2005/ND-CP
- Took effect from 25th, October 2005
- Detail regulations each infringement in competition
- Guideline to implement regulations of Competition Law on handling of violations

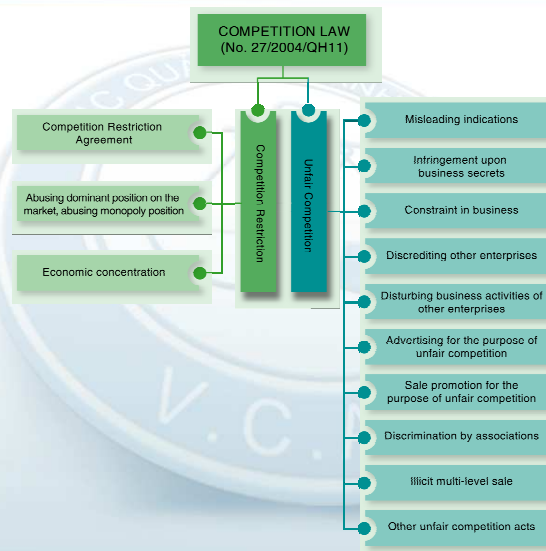
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Coverage of the Law



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Restrictive Acts

- **Definition**

“Acts performed by enterprises to reduce, distort and prevent competition on the market” (Art. 3.3 of the CL)
- **Typical acts**
 - Restrictive agreements
 - Abuse of dominance/monopoly
 - Economic concentration

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Sanctions against restrictive acts

- *Monetary fine*
 - Up to 10% of the total revenue of the violating enterprises in the fiscal year proceeding the year of violation
- *Additional sanctions*
 - Revocation of the business registration certificates
 - Deprivation of licenses and practicing certificates
 - Confiscation of exhibits and means used for committing violations
- *Consequence remedying measures*
 - Division, separation of merged/amalgamated enterprises
 - Compulsory resale of the acquired enterprise parts
 - Removal of illegal provisions from contracts, etc.

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Unfair competition acts

- **Definition**

“Acts performed by enterprises in the course of business, which run counter to common standards of business ethics and cause damage or can cause damage to the state’s interests, legitimate rights & interests of other enterprises or consumers” (Art 3.4 of the CL)
- **Typical acts**

Group 1	Group 2	Group 3
<ul style="list-style-type: none"> -Misleading indications -Infringement upon business secrets, -Constraint in business, -Discrediting others -Disturbing business activities of others 	<ul style="list-style-type: none"> - Advertising for the purpose of unfair competition -Sale promotion for the purpose of unfair competition -Discrimination by associations 	<ul style="list-style-type: none"> - Illicit multi-level sale

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Sanctions against unfair competition acts

- Group 1
 - Fines of VND 5 mil. to VND 20 mil.
- Group 2
 - Fines of VND 15 mil. to VND 50 mil.
- Group 3
 - Fines of VND 50 mil. to VND 100 mil.

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Law Enforcing mechanism

Case handling milestones	Restrictive competition	Unfair competition
Receives complaint dossiers	VCAD	VCAD
Dossiers evaluation	VCAD	VCAD
Preliminary investigation	VCAD	VCAD
Official investigation	VCAD	VCAD
Review of investigation result	VCC	VCAD
Organizes hearings	VCC	- not required -
Settlement of case	VCC	VCAD

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COMPETITION RESTRICTION AGREEMENT OF AUTOMOBILE INSURANCE

1. Background
2. Conclusions
3. Decision

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1. Background

- Time of happening: 18th September 2008
- Vietnam Insurance Association hosted the IV CEO conference in which 19 non-life insurance companies signed cooperation in Mui Ne (Phan Thiet city).
- Relevant market: Automobile insurance market in the territory of Vietnam
- Market: 19 insurance companies which signed cooperation agreements, altogether accounted for 99.79 of market share

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2. Conclusions

- **Relevant market:** Automobile insurance service in Vietnam.
- **Market power:** accounted for 99.79 of market share in the field of automobile physical insurance service.
- **Behaviors:** 19 insurance companies signed cooperation in the field of cargo insurance, vessel insurance, vehicle insurance and terms on insurance premium rates for physical damage to car.

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3. Decision

- On 29th July 2010, the case-handling panel, based on the conclusion of VCA, decided to fine the 19 companies total amounting to 1.7 billion VND.
- Besides, these 19 insurance companies had to pay the case fee of 100 million VND (which was then equally divided among them)
- Finally, contractual terms was removed.

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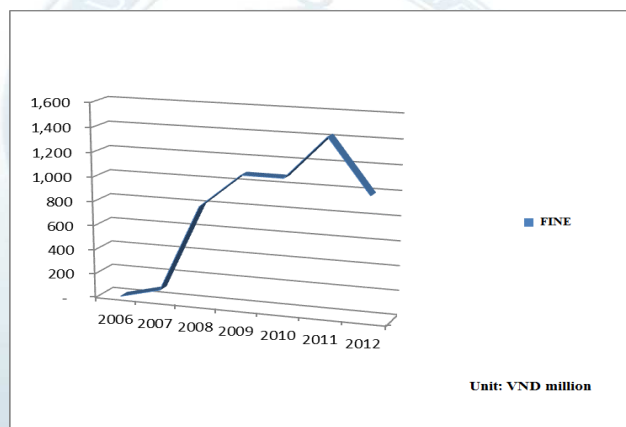
Statistics of unfair competition cases during 2006-2011

Types of unfair competition acts	06	07	08	09	10	11	12	Total
Advertising for unfair competition purpose	0	0	0	5	20	33	37	95
Sales promotion for unfair competition purpose	0	0	0	2	2	0	0	4
Discrediting other enterprises	0	1	0	4	1	2	0	8
Misleading indications	0	1	1	0	1	0	0	3
Illegal multi level sales	0	2	10	3	4	1	3	23
Disturbing business activities of other enterprises	0	0	1	0	0	0	1	2

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Statistics of unfair competition cases' fine and fee during 2006-2012

2006	2007	2008	2009	2010	2011	2012	Total
0	85	805	1081	1080	1425	990	5466



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For further information?



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THANK YOU!

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