

# Competition Act of Thailand

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## Outlines :

Overview of the Competition Act

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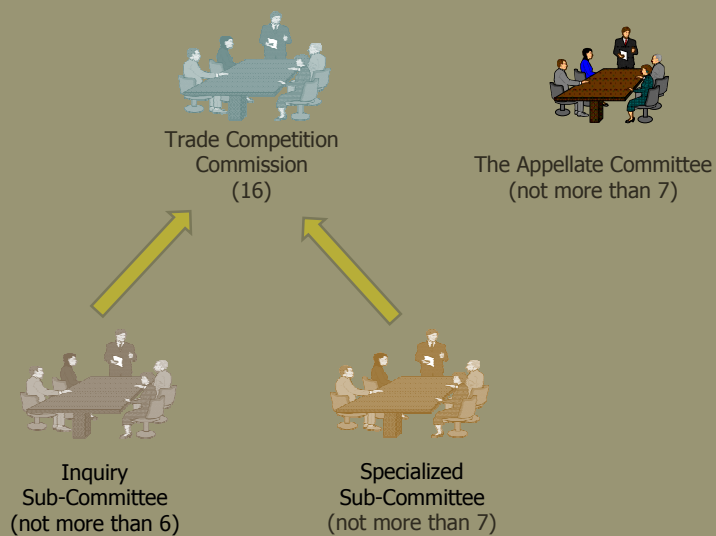
Statistic of complaints

## Overview of the Competition Act :

### Objectives of the law

- to protect competition but no protect competitors
- to protect consumers

## Competition Authorities :





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# Thai Trade Competition Commission

## Trade Competition Commission-TCC

### Ex-Officio Commissioners

(3 persons)

- **Chairman**  
Minister of Commerce
- **Vice Chairman**  
Permanent Secretary  
Ministry of Commerce
- **Secretary**  
Secretary-General  
Office of TCC  
(Director-General,  
Dept. of Internal Trade)

### Qualified Commissioners

Appointed by the Council of Minister  
(8-12 qualified persons)

#### Qualifications

- **With knowledge & experience**  
Laws, Economics, Commerce,  
Business administration,  
Public administration
- **Not a political officials,**  
Holder of a political position  
Executive members or holder of  
a position with the responsibilities in  
the administration of a political party



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## Main provisions :

### Part 1

Prevent Anti-monopoly/  
Anti-competitive  
Practices

Section 25 Abuse of dominant position

Section 26 Mergers and Acquisitions

Section 27 Restrictive agreements

### Part 2

Prevent Unfair Trade  
Practices

⇒ Section 29 Unfair trade competition

## Section 25 : Abuse of dominant position

- (1) Unreasonably fixing or maintaining purchasing or selling price
- (2) Unreasonably fixing compulsory condition
- (3) Suspending, reducing or restricting service, production, purchase, distribution, deliveries or importation without justifiable reasons, or destroying or causing damages to goods in order to reduce the quantity to be lower than the market demand
- (4) Intervening in the operation of other business without justifiable reasons

## Criteria for Market Domination

✓ A business operator with market share  $\geq 50\%$  & sales revenue  $\geq 1,000$  million baht

✓ Top 3 business operators with combined market share  $> 75\%$  & sales revenue  $\geq 1,000$  million baht

Except  
✓ Business operator with market share  $< 10\%$  or sales revenue  $< 1,000$  million baht

Current status :

Under the consideration of "the Specialized sub-committee to determine market dominance criteria"



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## Section 26 : Merger & Acquisition

A business operator shall not carry out a business merger which may result in monopoly or unfair competition.  
Unless the Commission's permission is obtained.



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### Merger Notification Threshold

1. Market shares of 30% or more and sales revenue or turnover in the previous year of 2,000 million baht or more in the market of goods or services, either before or after the merger.

2. The acquisition of the voting shares of another company, either separately or in combination with other voting shares, exceeds 25% in case of public company or exceed 50% in case of private company.

in addition to one or two business operators having combined market shares of 30% or more and sales revenue or turnover in the previous year of 2,000 million baht or more in the market of goods or services

Current status :

The merger notification threshold is not effective until it is published in the Government Gazette



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## Authorization of M&As by the Commission :

Criteria for granting permission :

1. Reasonable necessity of business and
2. Beneficial to business promotion and
3. No serious harm to economy and
4. No effect on significant due interests of general consumer

Commission may fix the time or any condition.



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## Section 27 : Restrictive agreements

A business operator shall not enter into an agreement with another business operator to do any act amounting to monopoly, reduction of competition or restriction of competition in the market .



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## Section 27 : Restrictive agreements (cont.)

- (1) fixing selling prices of goods or services as a single price or as agreed or restricting the sale volume of goods or services;
- (2) fixing buying prices of goods or services as a single price or as agreed or restricting the purchase volume of goods or services;
- (3) entering into an agreement with a view to having market domination or market control;



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## Section 27 : Restrictive agreements (cont.)

- (4) fixing an agreement or condition in a collusive manner in order to enable one party to win a bid or a tender for the goods or services or in order to prevent one party from participating in a bid or a tender for the goods or services;
- (5) fixing geographical areas in which each business operator may distribute or restrict the distribution of goods or services, or fixing customers to whom each business operator may sell goods or provide services to the exclusion of other business operators from competing in the distribution of such goods or services;



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## Section 27 : Restrictive agreements (cont.)

- (6) fixing geographical areas in which each business operator may purchase goods or services or fixing persons from whom business operators may purchase goods or services;
- (7) fixing the quantity of goods or service in which each business operator may produce, purchase, distribute or provide with a view to restricting the quantity to be lower than the market demand



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## Section 27 : Restrictive agreements (cont.)

- (8) reducing the quality of goods or services to a level lower than that in the previous production, distribution or provision, whether the distribution is made at the same or at a higher price;
- (9) Appointing or entrusting any person as a sole distributor or provider of the same goods or services or the same kind of goods or services;
- (10) Fixing conditions or practice with regard to the purchase or distribution of goods or the provision of services in order to achieve the uniform or agreed practice



## Permission Procedure :

### Section 35

Apply for permission under sec.26 or 27 (5)-(10)



### Section 37

The commission may permission under 4 factors



### Section 39

Operation under the times, scope and conditions

## Section 29 : Unfair Trade Practice

Any business operator shall not carry out any act which is not free & fair competition and has the effect of destroying, impairing, obstructing , impeding or restricting business operation of other business operation or preventing other persons from carrying out business or causing their cessation of business.



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## Penalty :

- ✓ not more than 3 year imprisonment
- ✓ maximum fine of 6 million baht



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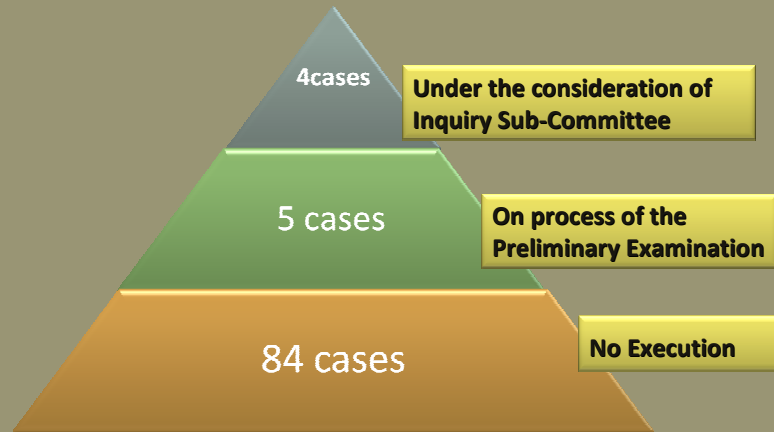
## Statistic of complaints :

Year	Abuse of Dominant Position	M&A	Restrictive Agreements	Unfair Trade Practice	Numbers
1999	1	-	-	1	2
2000	2	-	-	2	4
2001	3	-	1	3	7
2002	2	-	1	4	7
2003	3	-	8	2	13
2004	-	-	3	9	12
2005	-	-	2	7	9
2006	-	-	1	6	7
2007	3	-	1	5	9
2008	-	-	-	4	4
2009	1	-	-	-	1
2010	-	-	-	1	1
2011	-	-	-	3	3
2012	3	-	4	4	11
2013	-	-	1	2	3
Total	18	-	22	53	93



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## Result of complaints



## More about Trade Competition Commission

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