

NLA Approved the Amendment to Trade Competition Act of Thailand

On 24th March 2017, the National Legislative Assembly (“NLA”) unanimously passed the final reading of the bill to amend the Trade Competition Act B.E. 2542 (A.D. 1991) (the “Bill”). The Bill will become effective 90 days after its publication in the Government Gazette.

Currently, the Office of Thai Trade Competition Commission (OTCC), a unit within the Department of Internal Trade at the Ministry of Commerce (MOC), is in charge of enforcing the Trade Competition Act (the “Act”). The independency of the OTCC is one of the major reasons that cause unenforceability of the Act. Under the Bill, an OTCC will be established independently from the MOC as one of government sectors but not a government agency or a state enterprise. The new OTCC will have its legal status as juristic person, having its own budget and workforce.

The Bill will introduce stricter provisions and higher penalties for violations.

The most controversial provision in the Bill is Section 51 which governs mergers and acquisitions. Section 51 as approved by the NLA in its final reading sets forth that mergers and acquisitions that fall within the criteria set out by the OTCC must be reported to the OTCC within seven days post-completion of the transaction and mergers and acquisitions which may cause a substantive reduction in competition prior to the merger cannot be done unless approved by the OTCC. This Section will not be applicable to SMEs or business enterprises which do not meet the criteria set out by the OTCC.

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