

The Announcements of Trade Competition Commission
Subject: Guidelines for considering the market definition and market share
B.E. 2561

By section 5 of the Trade Competition Act, B.E. 2560, Define the definition of the word "market" and in determining the status of the business operator and other misconduct behavior under the competition laws. There is necessary to determine the relevant market definition for consideration in each case. Therefore, in order to allow the process of determining the definition of the market under the Trade Competition Act BE 2560 is clear and as national process.

By virtue of Section 17 (3) of the Trade Competition Act, B.E. 2560, the trade competition commission issued regulations which are as follows:

1. This announcement is called “The Announcements of Trade Competition Commission Subject: Guidelines for considering market definition and market share B.E. 2561”

2. This announcement shall be effective from the next day of the recent announcement in the Royal Thai Gazette's date hereafter.

3. In this announcement
“Relevant Market” means the market that related to products or services as well as geographic markets

“Relevant Product Market” means a market that consists of products or services that can be substituted by consumers. When considering the attribute, price or usage objectives of that products or services.

“Relevant Geographic Market” means the market that consists of areas where selling products or services that can be substituted by consumers and have the same competitive conditions.

“Market Definition” means an analyzing the facts about products or services that can be substituted by considering the market of related products or services and related geographic markets In order to obtain a summary of the market definition for enforcement under the Competition Act B.E.2560.

4. The Chairperson of the Trade Competition shall be in charge of this regulation.

Category 1
Principles of Market Definition

5. For the market definition shall consider that limited competition of products or services in demand substitutability, supply substitutability and potential competition to combine together.

6. For demand substitutability of products and services shall consider the opinions and perspective of consumer about the market definition of that can be substituted either from reasons, attributes, prices or the usage objectives of such products, services and geographic reasons.

7. For supply substitutability of products and services shall consider manufacturer's abilities or the product supplier or one of product or service change to be produced and relevant products or service market without having significant burden cost or increased risks due to the price is changed.

8. The potential competition may occur in the future which is considered by factors and situations in each case that may affect the market entry conditions of related products or services which will affect the competitive level of such market.

9. In the event that the board of directors have considered that the market definition is complicated, the board of directors may appoint a sub-committee under section 20 of the Competition Act B.E. 2560 to consider the market definition consisting of representatives from the government, the academic department, the private and public sectors that amount of five to eight people by the competent official of the office being as a sub-committee and secretary and to be considered within thirty days which can be extended within thirty days.

Category 2

Considering the demand substitutability

10. Consideration of demand substitution in determining the market definition based on the principle of markets, products or related services that are allowed to consider one or more of the information which are as follows:

(1) Previous information within five years that represents the substitution of products or services such as significant economic events that represent a shift to consuming a substitute product or service due to the reasons for the attributes, prices or the usage objectives of the products or services.

(2) Quantitative and Qualitative Tests in various way such as Price Elasticity of Demand, Cross Elasticity of Demand, Price Series, Price Levels or Price Convergence.

(3) Data collection or interviewing partners, consumers and competitors about the opinions and perspectives of the attributes, prices or usage objectives of the product or service by sampling as statistical or economic principles that are accepted worldwide.

(4) Information or documents of business operators, educational institutions and specialists that have analyzed the consumer preferences such as Market Studies, a survey of consumers, the selective of products or services information and the retailer's opinions.

(5) The rules or regulations of the state that are a limitation in the replacement of products or services relating to the attributes, prices or the usage objectives of products or services.

(6) other obstacles or limitations in the use of products or services that can be substituted in terms of the attributes, prices or usage objectives of products or services such as downstream markets, uncertain quality and reputation of other manufacturers or vendors

(7) Different customer groups

11. Considering the demand substitutability in market definition based on geographic markets that consider one or more of the following information:

(1) Previous information within five years that represents the substitution of products or services of the partners or consumers from any area to another area due to the higher price of products or services in that area.

(2) Information about the demand characteristics of the type of product or service such as the popularity of consumers in products or services that are branded or manufactured locally or manufactured from abroad, communicative language, Culture and lifestyle of consumers.

(3) Data collection or interviewing partners, consumers and competitors about the opinions and perspectives of areas for selling products or providing services.

(4) The form of purchasing products or services of partners or consumers related to the geographic pattern of purchasing products or services.

(5) Trade flow, distribution channels or pattern of Shipments.

(6) The rules or regulations of the state that are a limitation in the replacement of products or services relating to reasons for selling products or services areas.

(7) other obstacles or limitations in the use of products or services that can be substituted in terms of the attributes, prices or usage objectives of products or services such as downstream markets and locations.

12. If it is unable to consider the demand substitution for market definition clearly by using the information in article 10 or article 11, analyzing the demand substitution in accordance with the economics of testing for the purchase of other products or services, when a particular product or service has a small price increase but significant in SSNIP Test: Small but Non-transitory which are as follows:

(1) starting Consideration from the type of product or service of the same type and areas where business operators are selling the same products or services.

(2) After that, to expand the type of product or service and geographic area to be wider and consider that if increasing the price of a product or service in an area that has been expanded about 10 percent of the current price. Consumers in significant numbers will change to use products or services in the scope that has already been expanded or not.

(3) To expand the scope of products or services in terms of types of products or services and the geographic area continues until it is found that consumers will not change to use products or services to expand that scope.

Category 3 **Considering the supply substitutability**

13. For supply substitutability of products and services shall consider manufacturer's abilities or the product supplier or one of product or service change to be produced and relevant products or service market without having significant burden cost or increased risks due to the price is changed.

In this regard, the factors for considering the relevant demand substitutions are considered.

Category 4 **Considering of potential competition**

14. The potential competition may occur in the future which is considered by factors and situations in each case that may affect the market entry conditions of related products or services which will affect the competitive level of such market

Category 5
Market share

15. Considering of market share each business operator in the market must consider as a percentage from the volume of sales, sales amount, production volume or the production capacity or services in the market.

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(Mr. Sonthirat Sonthijirawong)
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Trade Competition Commission