

**The Announcements of Trade Competition Commission**

**Subject: Guidelines for considering the prohibition of business operators who are authorized to be market domination.**

**B.E. 2561**

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By section 50 of the Trade Competition Act, B.E. 2560, Define the definition of the prohibition of business operators who are illegal market domination.

By virtue of Section 17 (3) of the Trade Competition Act, B.E. 2560 and considering the offense under Section 50 of the Trade Competition Act, B.E. 2560 shall be clear and consistent. The Competition Commission Committee therefore issued the following announcement:

1. This announcement is called “The Announcements of Trade Competition Commission, subject: Guidelines for considering the prohibition of business operators who are authorized to be market domination 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. The Chairperson of the Trade Competition shall be in charge of this regulation.

**Category 1**

**General Chapter**

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4. The business operator who commits an offense under Section 50 must be a business operator who has authority over the market according to the criteria announced by the board of directors.

**Category 2**

**Offense**

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5. Determining or preserving the purchasing price or selling price of products or services unfair that has one of the characteristics which is as follows:

(1) Predatory Pricing such as a very low level of products or services pricing with the objective of repelling the competitor to leave the market. It is assumed that products or services pricing is lower than Average Variable Cost: It is the pricing for eliminating competitors and business operators that who has authority over the market for specifying the pricing that must clarify justification or fairness in such pricing such as Loss Leading and Short-run Promotions such as introducing new products to enter the market or the price reduction in order to survive in the market if the market demand cannot be predicted.

(2) Pricing or Price Below Cost. It prices products or services higher than the average variable cost (AVC) but lower than the average total cost (ATC) considering by the additional facts about the reason and purpose of pricing which is reasonable or fair.

(3) Determining or maintaining the purchase price or selling price of a product or service to a business partner by price discrimination which is one of the following cases as follows:

a) To determine the purchase price or selling price of same type of product or service to different partners at different prices without cost, quantity, quality or any other attributes of the product or service reasons and there is no other appropriate reason.

b) To determine the purchase price or selling price of same type of product or service to different partners at different prices. Although cost, quantity, quality or other features are different and there is no other appropriate reason.

(4) Products or services pricing that are raw materials for business operators which is both its own customer and competitor or margin squeeze as follows:

a) The business operator who has the authority over the market for conducting business either a manufacturer or a vendor for production in the market and also a distributor of products or services.

b) The pricing for selling products or services to business operators who are both their customers and are competitors at very high prices. that may cause the business operator to not have enough profit to continue the business.

(5) The excessive pricing is to determine the selling price that results in higher profits than normal or higher profits by considering the sales or profit margins of other business operators who are comparable in both domestic and international markets.

(6) Determining or preserving the purchase price or selling price of products or service fees in an unfair manner.

6. Determination of conditions in an unfair manner to other business operators who are their own partners must limit the services, production, purchase or sale of products or limit the opportunity to purchase or sell products, receiving or providing services or in the provision of credit from other business operators which are as follows:

(1) To determine conditions for other business operators such as

- a) Discount Schemes such as Fidelity Discounts or Tied Product.
- b) Exclusive Dealing
- c) Quantity Forcing
- d) Tied Product or Tying Product
- e) Resale Price Maintenance
- f) Refusal to Supply

(2) Such conditions must have one of the characteristics as follows:

a) must limit the service, production, purchase or sale of the product of the partner.

b) must limit the opportunity to purchase or sell products, receiving or providing services of partners.

c) must limit the opportunity of partners to procure loans from other business operators

(3) Such conditions are unfair.

7. Suspension, reduction or limitation of production services, purchases, sales, delivery, importation into the Kingdom without justification, destroy or damage the product in order to reduce the amount to be lower than the market demand which are follows:

(1) Any of the following actions

a) Suspension, reduction or limitation of production services, purchases, sales, delivery, importation into the Kingdom inappropriate.

b) destroy or damage the product

(2) The objective is to reduce the number of products or services to be lower than the market demand or damage the product.

8. Intervention of business operations of others without justifiable reason which are as follows:

- (1) Intervention in the business of others who are not engaged
- (2) Such action has no justifiable reason.

**Category 3**

**Guidelines for considering unfair or unreasonable actions**

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9. Consideration of unfair or unreasonable actions which considers the following criteria.
- (1) It is an action that has never been performed before that is not a normal business operation.
  - (2) It is a condition that is not specified in writing and does not notify the trade partner in advance within a reasonable time in accordance with the normal trading practices of the parties.
  - (3) It is an act that cannot be heard for legitimate reasons in business, marketing or economics.
  - (4) Other relevant factors.

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(Mr. Sonthirat Sonthijirawong)  
Minister of Commerce, Chairperson of  
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