

**The Announcements of Trade Competition Commission**

**Subject: Guidelines for considering joint actions of business operators which is a monopoly or reduce competition or restrict competition in the market.**

**B.E. 2561**

---

By sections 54 and 55 of the Trade Competition Act, B.E. 2560, any business operator is prohibited to joint actions of business operators which is a monopoly or reduce competition or restrict competition in the market by defining the action as the offense, in addition, Section 54, at the last paragraph and Section 56 have specified an exception to the offense.

By virtue of Section 17 (3) of the Trade Competition Act, B.E. 2560 and considering the offense under Section 54 and 55 of the Trade Competition Act, B.E. 2560 including with Exceptions to the such offense under Section 54, at the last paragraph and Section 56 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 joint actions of business operators which is a monopoly or reduce competition or restrict competition in the market, 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

“Monopoly” means The business operators do not compete in a particular market of products or services which has the power to determine the price and quantity of their products or services independently.

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

**Category 1**

**General Chapter**

---

5. In considering the joint action between business operators under the provisions of Section 54 and 55 that is allowed to consider the actions as follows:

(1) The agreement is in enforcement and isn't in enforcement which may be made in writing or verbally. The agreement may come from a discussion meeting between the business operator, sending documents, telephone communication or any other method.

(2) The decision of many associations or business operators that assemble together which is the action that has occurred as a summary such as regulations, recommendations, resolutions of the Executive Committee Resolutions of the general meeting.

(3) Joint actions that do not appear in specific agreements or do not clear in evidence which will consider the facts about the realization of business operators that they have done together.

6. In considering actions that reduce competition, consider lower competition in a particular market such as lower number of competitors in the market, the number of products or services in the market is lower competition. In this regard, it is considered only in cases where the business operator has a combined market share 10 percent or higher.

7. In considering actions which restrict competition that is considered by the limited competition in a particular market such as a competitor in a market, limited to the rights

or opportunities to sell products or services in the market or limited rights or opportunities to compete in the market. In this regard, it is considered only in cases where the business operator has a combined market share 10 percent or higher.

## **Category 2**

### **Joint actions that cause serious damage to competition**

---

#### **Part 1**

#### **Offenses under Section 54**

---

8. Joint actions between competing business operators that transgress Section 54 that have any of the characteristics as follows:

(1) To determine the purchase price or selling price or any commercial conditions, whether directly or indirectly to price fixing that has any characteristics which are as follows:

a) To determine the purchase price or selling price of a product or service in the market such as determining the same price or in the agreed price range or in the same direction. Determining the price range or the proportion that each business operator can raise or lower the price

b) The determination of trade conditions, whether directly or indirectly, that affects the price of products or services in the market such as discounts or any fees such as freights, extra services, payment and warranty terms.

(2) Quantity Limitation are as follows:

a) To determine the quantity of production, purchase or distribution of products or providing services for each business operator.

b) To determine the proportion of production, purchase or distribution of products or providing services for each business operator.

c) To determine the quota of production, purchase or distribution of products or providing services for each business operator

(3) Determining terms or conditions in the same manner to allow another party to receive an auction or bid for a product or service or to prevent another party from competing in the bid rigging that has any characteristics which are as follows:

a) The bid rigging and

b) Determining any terms or conditions that have any objectives which are as follows:

1) To allow any business operator to receive an auction or bid for that products or services.

2) In order to prevent any business operator entering the competition in the auction or bidding for such products or services.

(4) To define the area where each business operator shall sell or reduce sales or purchase products or services in that area or to determine the buyer or seller that each business operator will distribute or purchase products or services which other business operators will not purchase or sell or purchase that product or service which is called "Market Allocation" with any of the characteristics which are as follows:

a) Determining the area that each business operator shall sell or reduce the sale or purchase of products or services in that area.

b) Determining the partners such as buyers or sellers that each business operator will distribute or purchase products or services by other business operators shall not purchase or sell or purchase that products or services.

**Part 2**  
**Exceptions to the offense under Section 54**

---

9. Actions between business operators that are related to the policies or the power to order according to the announcement of the Competition Commission on criteria for consideration of business operators that are related to the policies or power orders B.E. 2561 that is not an offense under Section 54.

**Category 3**  
**Joint actions that cause damage to the competition**

---

**Part 1**  
**The offense under Section 55**

---

10. Any joint action between business operators that offend Section 55 that has one of any characteristics which are as follows:

(1) Joint actions under the article 8 (1) (2) or (4) between business operators who are not competitors in the same market that will be considered according to the criteria in article 8.

(2) Reducing the quality of products or services to be lower than previous production, selling or providing services by considering the reduction of the quality of products or services in the market of each business operator to be lower than previous production, selling or providing services. Therefore, each business operator may reduce the quality of products or services in different details.

(3) Appointment or assignment to any person who is the sole distributor of the same product or service which are as follows:

- a) The appointment or the assignment may be in writing or other forms
- b) A person who is appointed or assigned may be a natural person or a juristic person.
- c) A person who has been assigned or appointed as a distributor or representative for services in the same market or the same category.

(4) Determination of conditions or practices relating to the purchase or sale of products or services in order to comply with the agreed terms which are as follows:

- a) To determine conditions or procedures for each business operator to follow which may be in writing or other forms.
- b) To be a condition or practice relating to the purchase or sale of products or services in the market.

**Part 2**  
**Exceptions to the offense under Section 56**

---

11. Any actions in this exception is not an offense under Section 55

(1) Actions between business operators that are related to the policies or the powers in accordance with the announcement of the Competition Commission on the criteria for consideration of business operators that are related to policies or power orders B.E. 2561

(2) Mutual agreement in a business that is intended for the development of production, product distribution and promoting technical or economic progress.

(3) Mutual agreement in the form of a business that has a contract between business operators at different levels by another party being the right to use the right in products or services, trademark, business practices or support business operations and another party is the licensee who is responsible for paying the right, fees or any other compensation as specified in the contract such as franchise agreement and authorized dealer.

12. The mutual agreement under article 11 (2) and (3) shall have the characteristics that are as follows:

(1) Does not create limits that exceed the need for achieving the specific benefits in article 11 (2) and (3). It must be considered that the benefits that occur for the purpose of the exception that must be reasonable to the action which has caused a negative impact that is a limitation of competition in the market.

(2) Does not cause significant monopoly or competition in the market or a joint action that be within the scope of the exception must not cause a monopoly in the market or business operators who have join action together that must have a combined market share of less than 10 percent.

(3) To consider the impact on consumers in terms of prices, qualities, quantities or alternative of using products or services.

Announced on October B.E. 2561

(Mr. Sonthirat Sonthijirawong)  
Minister of Commerce, Chairperson of  
Trade Competition Commission