

July 26th, 2005

Competition Policy and Law in Cambodia

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1. Why this study?
2. Market structure and competition
3. Sectoral policy
4. Consumer policy
5. Perspectives on competition policy
6. The way forward



1. Why this study?

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Importance of competition in economic policy regime:

- 1993 Constitution: state intervention to protect markets and consumers
- Rectangular strategy: promotion of competition
- WTO commitment



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2. Barriers to competition in the markets

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- Complicated business registration
- Lack of transparency and accountability (procurement and licensing)
- Weak institution and governance (IPs, counterfeit goods, taxes)
- Practice of unfair competition:
 - Conspire to limit access to markets/suppliers
 - Receive subsidies
 - Violate IPRs
 - Avoid labor taxes/regulations



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3. Sectoral policies

Electricity

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- Electricity in Cambodia: low capacity of power generation and electrical grid, limited access, very high costs
- Market structures: 7 distribution companies, 7 generation companies, 69 private companies (generation, distribution and transmission at rural areas and provincial towns), EDC (generation, distribution and transmission)
- Two sectoral bodies:
 - Ministry of Industry, Mines and Energy
 - Electricity Authority of Cambodia
- Electricity law:
 - To protect consumer right (reliable and adequate power supply, reasonable cost; promote private ownership and competition)
 - Transmission license is reserved for the EDC
 - Application of monopoly regime seems to contradict with the initial aims of the law
 - Absence of clear criteria for licensing



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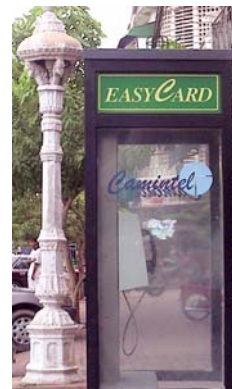
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3. Sectoral policies

Telecommunications

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- Cambodia is one of the countries in South East Asia that has the lowest level of information and communication technology, limited access and high costs
- Markets: 3 fixed line providers, 4 mobile phone companies, 4 ISPs providers
- Telecom policy: promote open, fair and competitive market
- Sectoral regulator: MPTC
- No clear legal provision governing licensing procedures
- MPTC is both regulator and operators



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3. Sectoral policies

Banking

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- Market structures: 14 commercial banks (1 is SOE), 3 specialized banks (1 is SOE), 9 licensed micro-finance institutions, 27 micro-finance NGOs, about 60 unregistered NGOs
- Absence of regulations and procedures limits the scope of competition (E.g. merger and acquisition, business diversification)
- Consumer reliability vs. lower interest rate: minimum capital requirement of US\$13 million, 10% of capital for guarantee, and 8% reserve requirement



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4. Consumer policy

Laws for consumer protection

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1. Quality and safety of products and services
 - Law on the management of quality and safety of products and services
 - Prakas No. 335 (MoC): expiry date to be fixed on food products
 - Prakas No. 329 (MoC): bans products without appropriate trademark or label
 - Prakas No. 963 (MIME): register products with MIME for proper product labeling (national standards, to prevent product counterfeiting)
2. Law concerning marks, trade names, and act of unfair competition



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4. Consumer policy

Prevalent consumer concerns

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- Limited consumer awareness about safe and quality products
- Enjoyment of consumer rights vs. poverty
- Weak enforcement of consumer protection laws and regulations
- Lack of human and financial resources



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5. Perspective on competition policy

Methodology

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- Methodology:
 - Perception survey (consumers, businessmen and policymakers)
 - Respondents were in Phnom Penh and selected on the basis of their educations



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5. Perspective on competition policy

Findings

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■ Extent of Anti-competitive practices

- Anti-competitive practice prevail in Cambodian markets
- Rank of anti-competitive practices: raising barrier to entry, collective price fixing, price discrimination, collusive tendering and tied selling
- Sectors plagued by anti-competitive practices: petroleum, telecommunication, public utility



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5. Perspective on competition policy

Findings

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■ Necessity for and scope of competition legislation

- Competition legislation should be enacted
- Objectives of the competition law: business efficiency and consumer welfare
- Competition legislation should not cover all types of enterprises (SMEs, export oriented enterprises and SOEs)
- Exception for violation: technological advancement, protection of SMEs, disadvantaged groups
- Jurisdiction over anti-competitive practices that occur abroad but impact on Cambodia's markets



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5. Perspective on competition policy

Findings

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■ Competition authority

- Autonomous and independent (not under any Ministry)
- Power: deal with both anti-competitive practices and consumer protection
- Competition authority should take part in advocacy and publicity through means of consultative committee
- Competition related issues should be given to specialized agency (40%); specialized agency and competition authority (42%)



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5. Perspective on competition policy

Findings

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■ Implementation issues

- Dominant firms is not an offense but they need to be monitored to prevent abuse of market power
- Mergers and acquisitions (M&As) should be subject to review if there is adverse effect on competition
- M&As should be reviewed if they exceed certain amount of money
- M&As are acceptable if they are for national interests (ability to compete internationally and increase competitiveness of the economy)
- Competition act should have provisions for leniency clause and whistle-blower protection



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6. Way forward

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- Appropriate competition policy and legislation
- Proper sectoral policies, competent competition authority, effective and efficient and independent judiciary
- Capacity buildings to different groups of stakeholders (policymakers, judges, prosecutors, lawyers, businessmen, consumers, civil society, academia/media, etc.)
- Good governance, transparency and accountable institutions contribute a lot to fair competition in the markets
- “Consumer protection organization” to protect Cambodian consumers and raise awareness



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Thank you for your attention



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