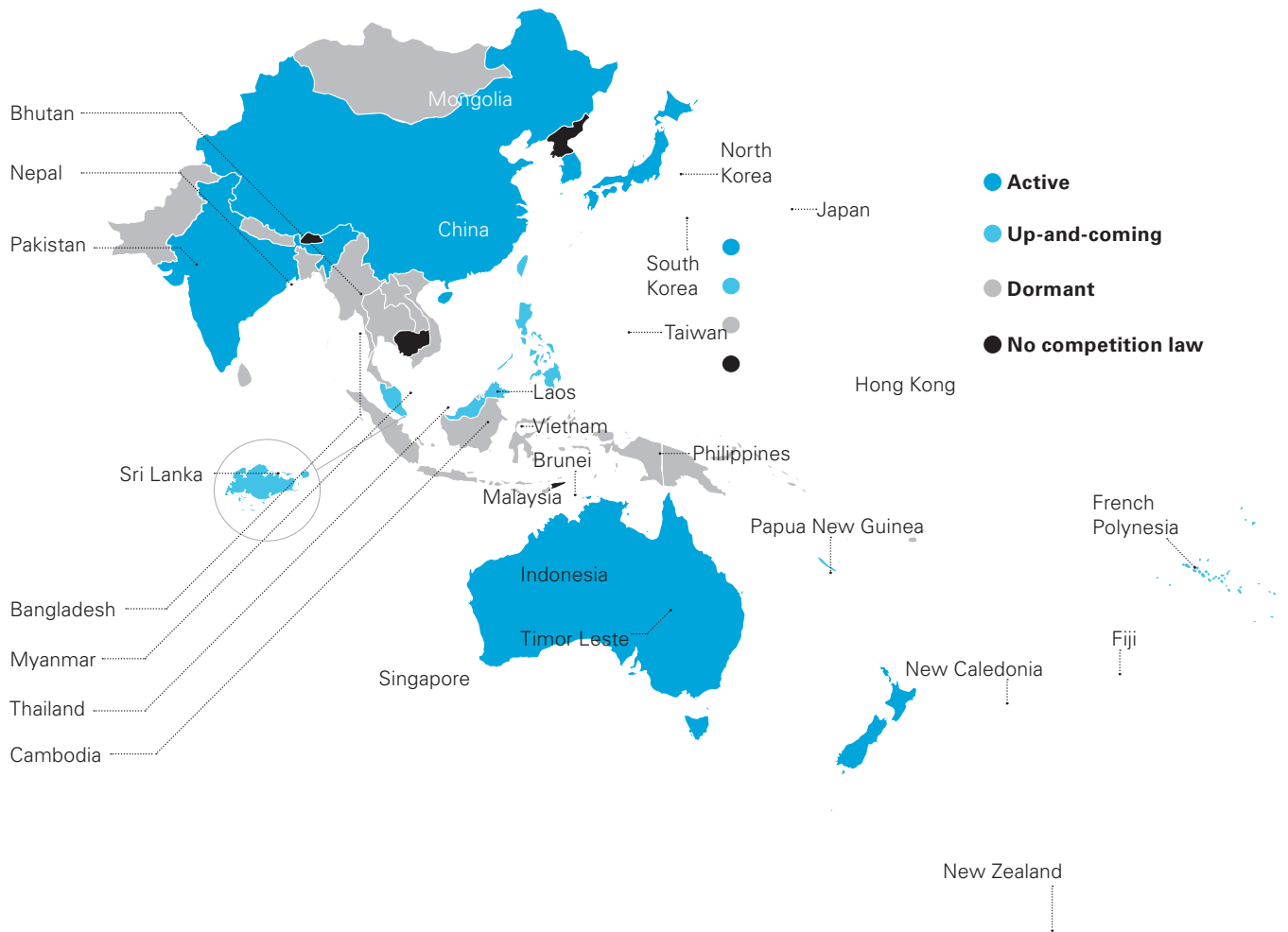


Asia-Pacific: Overview of antitrust regimes



An interactive guide to competition law enforcement in the Southeast Asia and Pacific region

In the past decade, a significant number of Asia-Pacific jurisdictions have begun to adopt and enforce competition law. This interactive map provides a general overview of the quickly evolving competition law regimes in the Southeast Asia and Pacific region. As the map highlights, the diverse political and economic developments characterizing the region have resulted in significantly varied enforcement of competition law across the region.

The region is generally moving toward more effective competition law enforcement. In particular, many jurisdictions have introduced or amended their laws to empower the national competition authorities and clarify their competition regimes. This trend is particularly clear with the newly established

authorities in the Philippines and in Malaysia, which are rapidly stepping up their enforcement activities. Other jurisdictions (e.g., Singapore and Vietnam) have recently updated their laws with the view of strengthening enforcement.

This map is based on knowledge built up through White & Case's long-standing presence in the region, its close relationships with local counsel in the area, and on publicly available sources. Should you require more detailed information on a jurisdiction (or additional jurisdictions not included in the map), please contact [Jacquelyn MacLennan](#), [Jan Jeram](#) or your usual White & Case contact. This page was created in September 2020 and will be updated annually.

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Description of categories:

- Active:** Relatively sophisticated competition regimes with increasingly experienced competition authorities ensuring strong enforcement.
- Up-and-coming:** Increasing appetite for competition enforcement, thanks to newly introduced or recently amended competition law regimes.
- Dormant:** Competition law has often been on the books for several years, but its enforcement faces serious challenges such as the lack of implementing rules or of skilled personnel in the authorities.
- No competition law:** Competition law has not yet been effectively introduced.

Overview of jurisdictions

Jurisdiction	Tier	Summary
Australia	Active	<p>The Australian Competition and Consumer Commission (“ACCC”) is an experienced and sophisticated authority active in both national and international cartel and antitrust matters. Its primary role is to enforce the Competition and Consumer Act 2010 and a range of additional legislation, promoting competition and fair trade and regulating national infrastructure.</p> <p>The ACCC investigates more than 20 competition cartel and antitrust cases each year. Recent cartel and antitrust cases have involved a variety of industries, including construction, shipping, travel, pharmaceuticals, and financial services.</p> <p>In the last five years, the ACCC has successfully applied to Court for pecuniary penalties totalling over A\$200 million for cartel and antitrust infringements. While the maximum and average penalties for competition law breaches are lower than those imposed in some other OECD jurisdictions, there is a concerted push from the ACCC for higher penalties.</p> <p>The ACCC also conducts market studies, most recently involving digital platforms, digital advertising, dairy, energy and car retailing industries.</p>
Bangladesh	Dormant	<p>The Bangladeshi Competition Act entered into force in 2012. While the Competition Commission of Bangladesh was effectively formed in 2016, to the best of our knowledge, it has not yet commenced effective operations.</p>
Bhutan	No competition law	<p>No competition law regime is currently in place in Bhutan. The Government of Bhutan is discussing the introduction of national competition policy and showing some interest in topics such as intellectual property, consumer protection and trade, with dedicated offices. In 2019, the Department of Trade published guidelines on ecommerce.</p>
Brunei	Dormant	<p>The Brunei Competition Order entered into force in 2015, but has not yet been implemented in practice. The Competition Commission of Brunei (“Competition Commission”) was established in 2017, but recruitment and training of personnel are still in progress. The Competition Commission launched its official website for the public in late 2019.</p>
Cambodia	No competition law	<p>Cambodia is in the process of drafting a competition law. An English version of the draft competition law was published on the authority’s website in 2018</p>

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<p>China</p>	<p>In March 2018, China established a new authority, the State Administration for Market Regulation (“SAMR”), merging the three previous antitrust authorities. The authority is made up of a mixture of experienced and inexperienced enforcers, and is active with both domestic and international cases.</p> <p>Since its creation, the SAMR has investigated on average more than 15 competition cases per year.</p> <p>The SAMR has shown interest in a variety of industries, with a particular focus on automotive, construction materials, consumer goods, public utilities and pharmaceuticals. The previous Chinese authorities demonstrated themselves to be aggressive and quite sophisticated enforcers and, for example, imposed a single fine exceeding €800 million. The SAMR is continuing this tradition and has, since its establishment, imposed significant penalties (e.g., in 2019, a fine exceeding €20 million against carmakers for a cartel in the automotive sector, and a fine exceeding €30 million against an international chemical supplier for abuse of dominance).</p> <p>The SAMR is part of the recent attempt to modernise the Chinese Anti-Monopoly Law (“AML”). In January 2020, the SAMR released for public comments draft amendments to the AML, which include a broader definition of abuse of dominance aimed at keeping up with the digitalization of the economy which is expected to enter into force, most likely, by end 2020.</p>
<p>Fiji</p>	<p>The Fijian Competition and Consumer Commission is a minor enforcer, mainly focused on domestic consumer protection. To the best of our knowledge, no major competition enforcement has been reported in Fiji.</p>
<p>French Polynesia</p>	<p>The Polynesian Competition Authority (“PCA”) was established in February 2015 in accordance with the statute of autonomy of French Polynesia within France. The PCA (1) investigates and sanctions anticompetitive practices; (2) reviews mergers; and, rather uniquely, (3) oversees operations of retail areas.</p> <p>The PCA’s 2019 Annual Report underscored the need to secure the current legal framework as a priority to allow for better intervention by the PCA. Since its creation, the PCA has been criticized for failing to be impartial. It has seen some controversy, with members resigning, decisions getting annulled for lack of impartiality, and its President having recently been removed.</p> <p>Since 2018, the PCA has issued three antitrust decisions. In its first substantive decision, in June 2018, the PCA accepted commitments from the dominant operator of the Polynesian mobile phone market. In August 2019, the PCA imposed its first fine for anticompetitive practices. The approximately €2 million fine was imposed on a dominant company in the local market for beverage supply for setting discriminating conditions between its suppliers and charging them excessive prices. This decision was quashed and the case was transferred from the PCA to the French Competition Authority. In November 2019, the PCA dismissed a claim about an alleged cartel concerning a public contract in the private security sector.</p>

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<p>Hong Kong</p>	<p>The Competition Commission of Hong Kong ("Commission") is an independent body responsible for enforcing the Competition Ordinance through enforcement proceedings before the Competition Tribunal. The Competition Ordinance (Cap. 619) was enacted in 2012 and came into full effect in late 2015.</p> <p>The Commission is very active in investigating and prosecuting price-fixing, cartels, exchanges of information, resale price maintenance, bid-rigging, exclusivity agreements and other anticompetitive behavior. Over the past few years, the Commission has received over 3,000 complaints and inquiries involving a variety of competition issues.</p> <p>The Commission has recently focused on sectors such as manufacturing, IT, transport and logistics, real estate and property management.</p> <p>The Commission is also very active in publishing public advisory guidance, guidelines and toolkits, which are available on the Commission's webpage. The Commission also initiates sector inquiries.</p>
<p>India</p>	<p>The Competition Commission of India ("CCI") is an experienced regulator, active in investigating antitrust cases. Over the past years, the CCI has completed an average of around 30 investigations per year.</p> <p>The CCI has been focusing on a variety of areas, including procurement cartels, resale price maintenance and related conduct, as well as abuse of dominance across industries including automotive, manufacturing, real estate, railways, finance and pharmaceuticals. Recently, the CCI has begun focusing on digital markets and has reviewed several cases involving innovation, e-commerce and technology-driven markets.</p> <p>The CCI has long demonstrated an aggressive approach toward investigating cartels and abuse of dominance conduct. To date, the highest penalty imposed by the CCI in a cartel was a fine imposed on ten cement manufacturers and a trade association (the combined fine exceeded €736 million and the highest individual fine in this case exceeded €100 million). The CCI also frequently relies on leniency applications filed by undertakings in the cases it brings.</p> <p>As to abuse of dominance, the penalties imposed by the CCI are generally lower and less common. The highest fine imposed by the CCI for abuse of dominance was a cumulative fine of around €296 million, imposed on 14 car manufacturers. In another matter involving a state-owned entity, the CCI penalized the entity with a fine of almost €70 million for abuse of dominance. In the past, it has not been uncommon for the CCI's decisions to be reversed on appeal. In recent years, the CCI has been imposing penalties based on the concept of "relevant turnover" to achieve more proportionate results.</p> <p>The CCI is also active in market studies. In January 2020, the CCI published a market study of e-commerce in India and, in June 2020, the CCI initiated a market study on the telecoms sector and plans to initiate a market study in the pharmaceutical sector.</p>

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<p>Indonesia</p>	<p>The Indonesian Competition Commission (“KPPU”) is an established independent authority whose enforcement powers have been historically limited to companies that have business activities directly or indirectly (through subsidiaries) in Indonesia.</p> <p>Over the past years, the KPPU received more than 100 complaints per year, mostly related to tenders (more than 50% of cases over the past few years) and focused on a variety of industries. Since 2014, the KPPU has become more active in non-tender cases, e.g., tires (2014), automatic scooters (2016), freight containers (2019), and airfare tickets (2020), in addition to numerous investigations in the food industry.</p> <p>In addition, the KPPU has also become more active in abuse of dominance cases. The KPPU recently imposed unprecedented administrative fines on two companies for discriminatory practices in the segments for: (i) online transportation apps; and (ii) transportation rental services. One company incurred total fines of €1.8 million, the largest amount ever imposed by the KPPU on one company, while the other company incurred total fines of €1.1 million.</p> <p>The Government has proposed some narrow but substantial amendments to the Indonesian Competition Law. The proposed amendments will allow the KPPU to take action against foreign companies (i.e., without subsidiaries or assets in Indonesia) with activities that affect the Indonesian economy. However, these proposed amendments are not included in the priorities for the 2020 National Legislation Program and are, therefore, unlikely to enter into force in 2020.</p>
<p>Japan</p>	<p>The Japanese Fair Trade Commission (“JFTC”) is a leading enforcer, active in domestic and international antitrust matters.</p> <p>Over the last years, the JFTC has received more than 3,000 complaints and issued cease-and-desist orders and surcharge payment orders (i.e., administrative fines) in around ten cases per year. In July 2019, the JFTC imposed administrative fines exceeding €300 million in total on eight construction companies for price fixing in the asphalt sector. The JFTC also has the authority to issue warnings and cautions against companies where it suspects unlawful behavior.</p> <p>The JFTC has recently focused on cartels and unfair trade practices (e.g., abuse of superior bargaining position) across various industries, with a particular interest in the IT and digital sectors.</p> <p>The JFTC also has the authority to conduct criminal investigations against companies and individuals for conduct such as cartels and bid rigging.</p> <p>In June 2019, Japan promulgated a bill that will come into force by the end of 2020 providing for a new leniency program designed to increase the incentives for companies to cooperate with the JFTC. This affords the JFTC some flexibility in determining the rates of fine reduction based on the degree of a company’s cooperation. In December 2019, the JFTC published guidelines on abuse of superior bargaining position relating to the provision of personal information in transactions between digital platform operators and consumers.</p>
<p>Laos</p>	<p>Laos’ Business Competition Law entered into force in December 2015 but, to the best of our knowledge, has not been implemented yet. In October 2018, an additional regulation was passed formalizing the establishment of the Business Competition Commission.</p>

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<p>Malaysia</p>	<p>The Malaysian Competition Act entered into force in 2012. The first years following the establishment of the Malaysian Competition Commission ("MyCC") were characterized by minimal enforcement.</p> <p>However, in the last few years, its activity has increased with the commencement of several high-profile price-fixing and abuse of dominance cases. In 2017, the MyCC issued a fine against insurance companies amounting to around €45 million.</p> <p>The MyCC is also active in conducting market studies. Over the last years, it has published market studies in various industries including the food, construction materials and pharma sectors.</p>
<p>Mongolia</p>	<p>The Mongolian Authority for Fair Competition and Consumer Protection was established in 2005 and focuses on consumer protection and on relatively small domestic antitrust matters. Enforcement activity appears to be minimal.</p>
<p>Myanmar</p>	<p>Myanmar's competition law entered into force in February 2017. The Government established the Myanmar Competition Commission ("MmCC") in October 2018.</p> <p>The MmCC has so far received about ten complaints, reportedly involving the pharmaceutical, education, construction, and transportation sectors. To the best of our knowledge, MmCC has not yet begun full-fledged enforcement operations.</p>
<p>Nepal</p>	<p>The Competition Promotion and Market Protection Board and the Department of Commerce are responsible for investigating and prosecuting alleged infringements of competition law. The Competition Promotion and Market Protection Act was planned in 2004 and came into force in January 2007, but remains, to our knowledge, largely unenforced.</p>
<p>New Caledonia</p>	<p>The New Caledonian Competition Authority ("NCCA") is a newly established authority responsible for ensuring compliance with the competition law passed in October 2013 that applies specifically to New Caledonia. The law aims at enforcing competition law more locally in this French territory with significant devolved powers.</p> <p>Despite only starting its activities in March 2018, the NCCA has already been showing interest in various antitrust matters. For example:</p> <ul style="list-style-type: none"> □ In July 2020, the NCCA ordered the local Post and Telecommunications Office to grant a local company access to its network on "objective, non-discriminatory and cost-oriented" terms. □ In May 2020, the NCCA dismissed a claim alleging abuse of dominance by a local organization on the market for imported meat. □ In December 2019, the NCCA issued its first substantive decision, imposing around €60,000 in fines on two suppliers and two distributors in relation to exclusivity concerns in the elevator sector, while also accepting some of their commitments. □ The NCCA also dismissed complaints alleging predatory pricing and cartel practices in the tourist accommodation and local ground handling sectors. <p>The NCCA announced that its current focus is on cartels in public procurement. It will also take a close look at the implementation of anticompetitive behavior (particularly regarding groceries and airline prices), in the COVID-19 context.</p> <p>The NCCA is also active in market investigations and has recently started a sector inquiry in the airline market.</p> <p>In the future, we expect an increased reliance on leniency to detect anticompetitive practices developed during the COVID-19 crisis. As in France, on an informal basis, the NCCA could give its approval to secure cooperation between companies, for example to manufacture masks.</p>

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<p>New Zealand</p>	<p>The Commerce Commission of New Zealand ("ComCom") is an experienced enforcer with experience in both domestic and international cases, but recently appears to have mainly focused on local antitrust and consumer protection issues.</p> <p>Over the past years, ComCom has dealt with around ten competition law cases annually and focused its efforts on cartel investigations, tackling illegal credit lending and product safety issues, as well as conducting investigations into regulated markets.</p> <p>The areas of interest have been online retail, motor vehicle sales, financial institutions, and retail telecommunication sectors.</p> <p>ComCom has recently launched an anonymous whistleblower tool to help individuals report cartel conduct, and has also been preparing for the introduction of cartel criminalization, expected in 2021.</p>
<p>North Korea</p>	<p>To the best of our knowledge, no competition law is currently in place in North Korea.</p>
<p>Pakistan</p>	<p>The Competition Commission of Pakistan ("CCP") enforces Pakistan's Competition Act of 2010 and mainly focuses on domestic matters.</p> <p>Over the last years, the CCP has showed increased sophistication and dealt with a variety of topics and industries, including pharmaceuticals, public procurement, and overlaps between IP and antitrust.</p> <p>To the best of our knowledge, the CCP has been unable to fully accomplish its mandate following multiple judicial challenges to its authority, to the point that, still today, the Commission struggles to enforce its decisions in court.</p>
<p>Papua New Guinea</p>	<p>The primary goal of the Independent Consumer and Competition Commission of Papua New Guinea ("ICCC"), which was established more than a decade ago, is to administer and implement the ICCA Act and other related legislation to enhance consumer welfare, promote industry conduct and standards, and protect consumers' interests with regard to price, quality and reliability of goods and services. To the best of our knowledge, its competition law-related activity is minimal (if any).</p>
<p>Philippines</p>	<p>The Philippines enacted the Philippine Competition Act ("PCA") in 2015, but it took full effect in August 2017, after a two-year transition phase.</p> <p>The Philippine Competition Commission ("PCC") is gradually initiating high-impact enforcement cases, such as investigations in the cement and construction sectors. The PCC initiated five investigations in 2018 and fined a condominium developer for abuse of dominance in 2019.</p> <p>The PCC also conducts market studies and has, most recently, published an "issue paper" on the domestic air transport industry.</p> <p>In 2019, the Philippine Supreme Court promulgated the Rule on Administrative Search and Inspection under the Philippine Competition Act to help in the investigation and prosecution of competition law offenses. There have been no reported dawn raids as of June 2020.</p> <p>In June 2020, the Philippine Department of Justice ("DOJ") released a circular setting out the implementing rules for the criminal provisions of the PCA. The circular addresses the need to institutionalize the rules and procedures for preliminary investigation and prosecution of criminal offenses under the PCA, as well as the implementation of a leniency program by the DOJ.</p> <p>The PCC also intends to propose amendments to the PCA to the Philippine Congress to address certain issues, such as raising the amount of fines, giving the PCC power to conduct dawn raids without a court order, and reinforcing its primary, original, and exclusive jurisdiction over all competition cases.</p>

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<p>Singapore</p>	<p>The Competition and Consumer Commission of Singapore ("CCCS") is a small enforcement authority but with a growing record of enforcement in both antitrust and consumer protection matters.</p> <p>Over the last years, the CCCS decided on an average of fewer than five cases per year, although it was able to handle a significant number of complaints annually. In recent years, the CCCS also carried out dawn raids, issued a cartel decision and opened several abuse of dominance investigations. Bid rigging is another hot topic.</p> <p>The various industries that the CCCS has investigated include cosmetics, food and beverage, e-commerce and construction. In relation to consumer protection complaints, the automotive sector is the most common target.</p> <p>In terms of fines, the CCCS has become more aggressive. In 2018, the CCS issued its largest fine to date (around €30 million) to 13 distributors of fresh chicken for fixing prices and agreeing not to compete during a seven-year period. The CCCS is also open to negotiating settlements with the parties, which occurs most frequently in relation to cases involving alleged abuse of dominance, as has recently happened in the milk powder, gasoline and car parts warranty segments.</p> <p>CCCS also conducts market studies, and has reviewed industries involving infant formula, retail gasoline and car repairs, with a particular focus on warranties. In 2018, the CCCS issued an airline guidance note to provide airlines with more clarity on the competition assessment of airline alliance agreements. The CCCS uses its market studies as a way to additionally regulate the markets.</p> <p>Amendments to the law modernizing the CCCS' enforcement toolbox came into effect in mid-2018.</p>
<p>South Korea</p>	<p>The Korea Fair Trade Commission ("KFTC") is an experienced enforcer, active in domestic and international antitrust matters, and is capable of reviewing complex cases.</p> <p>Over the past years, the KFTC has reviewed more than 3,000 cases per year.</p> <p>The KFTC has investigated abuses of market dominance and unfair trade practices in various industries. Recently, the KFTC has been focusing on sectors such as the ICT (online platform, telecommunications, intellectual property rights, semiconductors) and bio-healthcare industries.</p> <p>In 2017, the KFTC issued its highest fine ever (exceeding €800 million) against a tech company.</p> <p>The latest legislative proposal (March 2020) includes a comprehensive overhaul of the Korean Monopoly Regulation and Fair Trade Act ("MRFTA") aimed at modernizing the law. The proposed amendment would have significant ramifications on antitrust investigations and enforcement, particularly in terms of (1) strengthening enforcement (e.g., allowing the prosecutors' office to indict hardcore cartel cases without a criminal referral from the KFTC, doubling the maximum amount of administrative fines), (2) bolstering due process (e.g., guaranteeing the right to counsel in KFTC investigations), and (3) clarifying the latest legal developments (e.g., including information exchange as a type of illegal collusive conduct, clarifying the definition of resale price maintenance).</p>
<p>Sri Lanka</p>	<p>Competition law was introduced in Sri Lanka with the Fair Trading Commission Act No. 1 of 1987, giving the Consumer Affairs Authority ("CAA") wide investigative powers. While the CAA has been largely dormant since its inception, it has recently shown some investigation activity in the consumer protection sphere.</p>

Asia-Pacific: Overview of antitrust regimes (continued)

<p>Taiwan</p>	<p>The Taiwanese Fair Trade Commission (“TFTC”) is in charge of the Fair Trade Act and the Multi-level Marketing Supervision Act in Taiwan. Over the past years, the TFTC has typically reviewed more than 1,500 cases per year.</p> <p>Competition enforcement is increasing in Taiwan, especially after the amendment of the competition laws in 2015. Following the reform, the TFTC became more independent and is better equipped to take effective enforcement actions, which are expected to increase over the next years.</p> <p>The TFTC has shown particular interest in telecommunications, semiconductors, e-commerce, and digital economy-related issues.</p> <p>The highest antitrust fine issued to date against a foreign entity dates back to 2017, when the TFTC imposed a fine of approx. €653 million on a US-based tech company for abusive licensing practices and rebates.</p>
<p>Thailand</p>	<p>Despite having one of the oldest competition regimes in the region, the Office of Trade Competition has yet to see any investigations through to prosecution. Thailand has recently embarked on major reforms to strengthen its competition legislation and empower its competition authority. A new Trade Competition Act has come into force in October 2017, replacing the previous law that was in place since 1999. The Act has also created a new enforcement agency, the Trade Competition Commission (“TCC”), supported by the Office of the Trade Competition Commission, to run the day-to-day operations.</p> <p>In 2018, the TCC received around ten complaints covering abuse of dominance, restrictive agreements and, in around half the cases, unfair trade practices. In August 2019, the TCC issued its first decision. It remains to be seen whether the recent reforms will lead to greater enforcement.</p>
<p>Timor Leste</p>	<p>No competition law regime is currently in place in Timor Leste.</p>
<p>Vietnam</p>	<p>A new law on competition entered into force in July 2019, replacing the 2005 law. However, the necessary decree implementing this law only entered into force in May 2020.</p> <p>The new law merged the existing Vietnam Competition Authority and the Vietnam Competition Council into a new National Competition Committee (“NCC”). Its members still have to be appointed.</p> <p>The new law covers anticompetitive agreements, market dominance, economic concentration, and unfair practices.</p> <p>To the best of our knowledge, between 2005 and 2017, the NCC issued decisions in approximately ten cases only. It remains to be seen whether, and to what extent, the recent reform will increase the level of competition enforcement.</p>