

This is the second installment of an insightful four-part series on competition, prepared by the Competition Commission of Brunei Darussalam, which is a quasi-judicial body that is mandated to promote and sustain a fair competitive in the economic landscape of Brunei Darussalam, through the enforcement of the Competition Act. For more information, please visit www.ccbd.gov.bn or contact them through exec.secretariat@ccbd.gov.bn (E-mail) or +673 2383100 (Telephone)

Competition Act of Brunei Darussalam: An Overview

In today's competitive marketplace, governed by a set of rules and regulations, it is important to ensure that fairness and opportunity are upheld for all participants. Competition law stands as a foundational element of contemporary economies, dedicated to maintaining competitive markets and safeguarding the interests of consumers, whilst not disrupting innovation.

Purpose

At its core, Competition law, which is also known as antitrust law in some jurisdictions, is designed to promote vibrant and competitive markets. Its primary purpose is to prevent anti-competitive practices that harm consumers, disrupt innovation, and distort market dynamics. By promoting fair competition, competition law strives to ensure that businesses operate on a level playing field, whereby success is determined by merit and efficiency rather than unfair advantages or monopolistic control.



In Brunei Darussalam, the Competition Act was established in 2015 with the objective of promoting market efficiency and consumer welfare, towards developing the economy of Brunei Darussalam. Under the Competition Act, there are 3 key prohibitions; (i) Anti-Competitive Agreements, (ii) Abuse of Dominant Position, and (iii) Anti-Competitive Mergers. The enforcement of the Competition Act is done in phases, whereby the enforcement of the first prohibition, Anti-Competitive Agreements, commenced on 1st January 2020. The enforcement of the other two prohibitions, Abuse of Dominant Position and Anti-Competitive Mergers, is expected to commence in 2025. The Act applies to all commercial and economic activities across sectors regardless of ownership of the entity. However, as the Act intends to regulate the conduct of market players, it does not apply to any activity, agreement or conduct undertaken by the Government, a statutory board or any person acting on their behalf.

Key Prohibitions

Anti-Competitive Agreements

(Section 11 of the Competition Act):

This section prohibits any kind of agreement that has an object or effect to prevent, restrict, or distort competition in Brunei Darussalam. These may be oral or written agreements and need not necessarily be legally binding. Some examples of anti-competitive agreements include price fixing, supply control, market sharing, and bid rigging.





Abuse of Dominant Position

(Section 21 of the Competition Act):

This section applies when dominance and abusive conduct have been established. A firm is considered dominant when it has a substantial market share or power in a particular industry or sector. Becoming dominant in the market itself is not prohibited. However, when the firm abuses its power to engage in conducts that intent or affect the prevention, restriction, or distortion of competition in Brunei Darussalam, then it is considered illegal.

Anti-Competitive Mergers

(Section 23 of the Competition Act):

This section prohibits mergers that result in a substantial reduction in competition. A merger occurs when two previously independent entities join together, as a result of a joint venture or acquisition. Not all mergers are in breach of the Competition Act. However, it is considered illegal if the mergers have resulted, or expected to result, in a substantial lessening of competition in Brunei Darussalam.



In essence, the Competition Act of Brunei Darussalam serves as a guardian of free and fair markets, safeguarding competition for the benefit of consumers and the economy at large. Through its enforcement, the Competition Commission Brunei Darussalam seeks to foster an environment where businesses thrive through innovation, efficiency, and fair play. By ensuring fair competition, consumers can benefit from lower prices, more choices, and better products and services. The next installment of this series will discuss about Section 11 (Anti-Competitive Agreements), along with some case studies.