Summary

Myanmar has approved its first antitrust law which is likely to come into force by the end of 2015. The new law has been passed by Myanmar’s Parliament and has been sent to President Thein Sein for his final approval and announcement of an enforcement date. Both anti-competitive agreements and abuse of market powers are understood to be prohibited by the new law, with penalties including corporate as well as individual liability. There is likely to be a transitional period of up to two years in order to provide time for increasing understanding and awareness of the new law, although Myanmar is expected to take action against serious breaches from day one. The majority of the Association of Southeast Asian Nations have antitrust regimes in place already, and Myanmar’s introduction of a new competition law is reflective of a regional increase in commitment to antitrust awareness and enforcement.

Myanmar the latest ASEAN Member State to pass economy-wide competition law, March 2015.

Myanmar passes antitrust law

- Myanmar has reportedly passed its first economy-wide competition law. The law is likely to come into force by the end of 2015.

- 2015 is a key year for antitrust in Asia: the Association of Southeast Asian Nations (ASEAN) is prioritising antitrust enforcement as part of the ASEAN Economic Community (AEC), and Hong Kong will begin enforcing its Competition Ordinance imminently (see our previous post).
Businesses face increased regulatory risk across Asia and should seek an integrated and robust approach to antitrust compliance.

Myanmar follows global precedent

Myanmar’s law is understood to prohibit both anti-competitive agreements and abuse of market power. It is also expected to regulate mergers through a market-share based merger control regime. The framework is broadly consistent with international best practice in jurisdictions such as the European Union and United Kingdom.

The Ministry of Commerce will enforce the law. Penalties include both corporate and individual liability – maximum fines are reported to be up to Kyat 15 million (approximately USD $15,000) and individuals can face up to 3 years in prison.

A transitional period of up to two years is likely to apply, with that time being used to promote awareness and understanding of the law. However, Myanmar is expected to enforce serious breaches of the law from day one.

Antitrust enforcement is central to the ASEAN Economic Community

The majority of ASEAN States have comprehensive antitrust regimes in place. Competition law is a central tenet of the AEC. ASEAN has promoted a regional approach to competition enforcement since 2010 – regulatory consistency and predictability is expected to help facilitate foreign investment throughout the AEC.

Those remaining ASEAN Member States without dedicated or consolidated competition frameworks (Brunei, Cambodia, Laos and Philippines) are reported to be working towards implementing appropriate legislation by the end of 2015.

Asian antitrust enforcement growing

Myanmar’s commitment to competition law mirrors a broader regional escalation in antitrust awareness and enforcement. The majority of Asian jurisdictions now have comprehensive antitrust frameworks, which typically mirror European Union and international best practice.
China's Anti-Monopoly Law draws heavily on European Union competition law, and China's regulators have a very strong record of active enforcement against international businesses. For example, most recently, China imposed a near-USD $1 billion fine on Qualcomm for abusive patent licensing practices (see our previous post).

ASEAN antitrust enforcement is also continuing to accelerate in line with international best-practice. A number of ASEAN Member States – led in particular by Singapore, Indonesia and Malaysia – are sophisticated and active antitrust enforcers, fining or imposing remedies on multinational businesses such as Malaysian Airlines, DHL, Nestlé and MOL in both antitrust and merger cases.

**Implications for businesses**

All businesses active in Myanmar should ensure compliance with competition law from the date of implementation. Given the regional growth in antitrust enforcement, an integrated cross-border approach to compliance is essential. Robust internal compliance can also give confidence to deploy competition law arguments in commercial negotiations.

**RELATED PRACTICES**

Antitrust and Competition

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This document provides a general summary and is for information/educational purposes only. It is not intended to be comprehensive, nor does it constitute legal advice. Specific legal advice should always be sought before taking or refraining from taking any action.