

The Thai Competition Regime: An Uphill Battle

JFTC Seventh Competition Policy
Research Centre International
Symposium

19 February, 2010

Tokyo

Deunden Nikomborirak
Thailand Development Research Institute (TDRI)

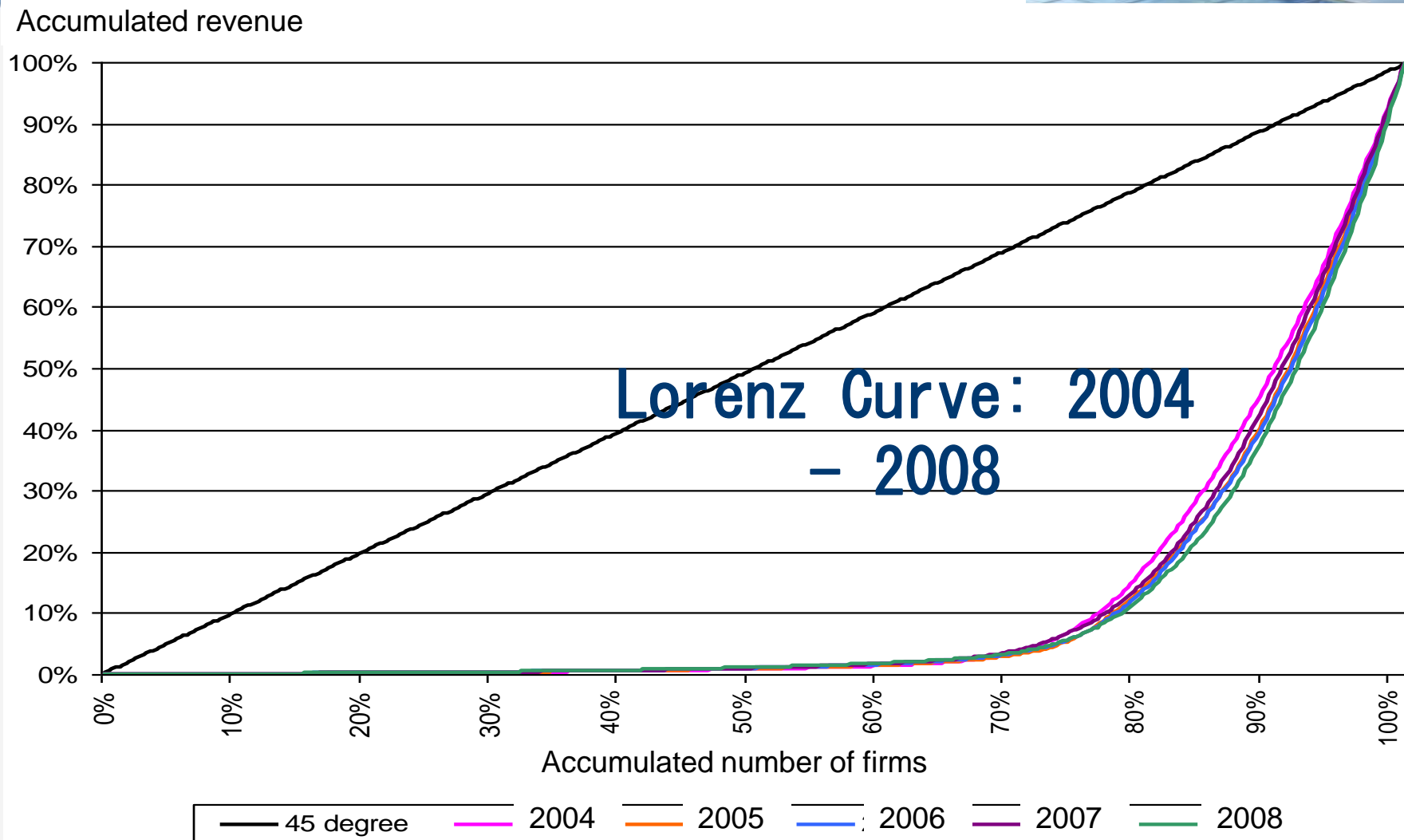
Presentation Outline

1. Increasing Concentration in the Thai Business Sector
2. Anti-competitive practices in the private sector.
3. State monopolies and monopolistic concessions.
4. Competition Regime: The law and its enforcement record.
5. Lessons learned & Going Forward

1. Increasing Concentration in the Thai Business Sector



Concentration of Revenue among Listed Companies



GINI coefficient

0.7617

0.7788

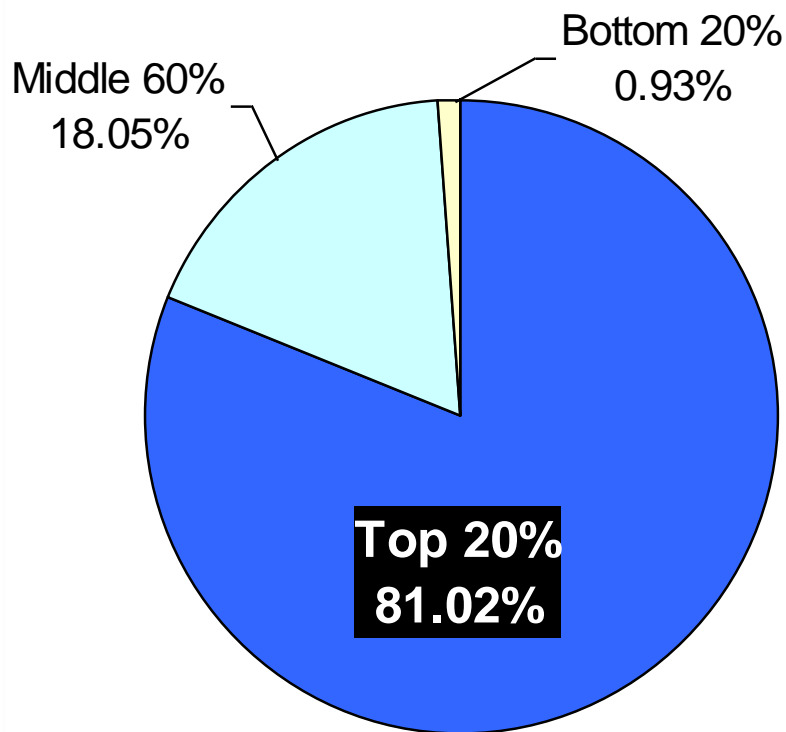
0.7800

0.7696

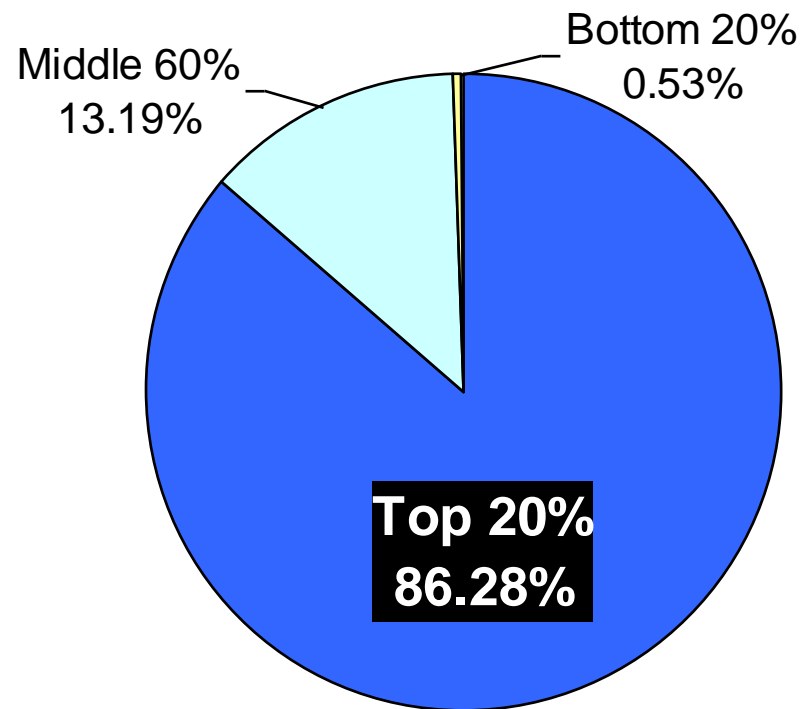
0.7864⁴

Increasing Concentration

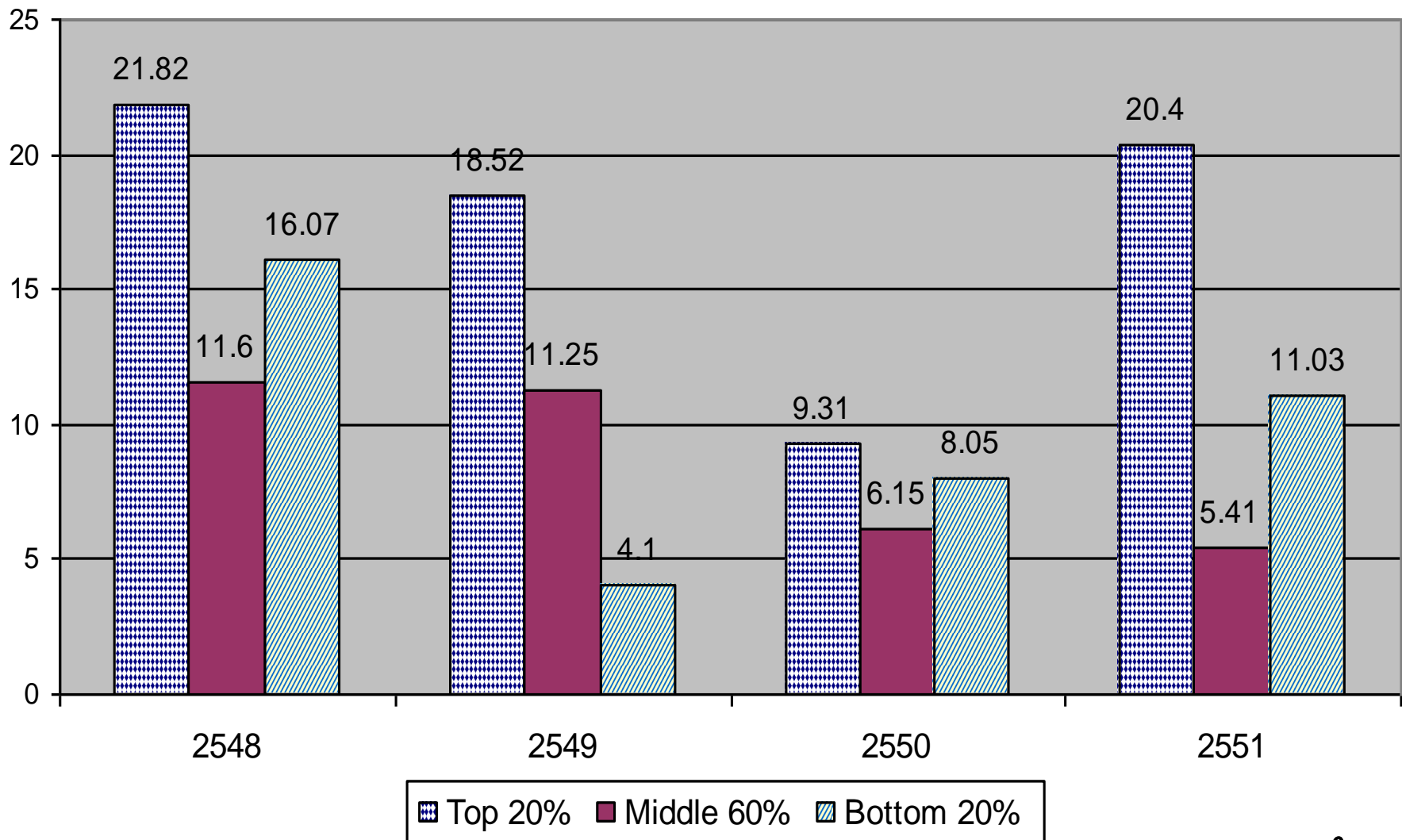
2004



2008



Revenue growth by Company's Size



Source: Stock Exchange of Thailand

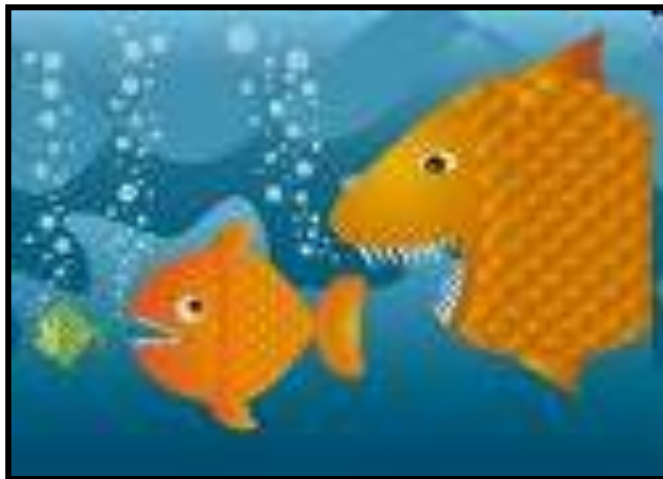
Large Corporations in Thailand

	Company	Revenue (mil. US\$)	Type of legal entity
1	PTT PCL (energy)	54,976	State owned enterprise (SOE)
2	Thai Oil PLC (energy)	12,018	SOE (PTT) subsidiary
3	IRPC PCL (energy)	7,618	SOE (PTT) subsidiary
4	THAI AIRWAYS	6,066	State owned enterprise (SOE)
5	Bangchak Petroleum (energy)	3,840	SOE (PTT) subsidiary
6	Calcomp Electronics (Thailand) PCL (electronics)	3,705	Foreign company
7	Bangkok Bank PCL (commercial bank)	3,149	Thai Bank
8	CPALL PCL (retail)	2,937	CP conglomerate
9	ADVANC INFO Service PCL (telecom)	2,859	Shinawatra conglomerate
10	Siam Commercial Bank PCL (commercial bank)	2,676	Thai Bank
11	PTT Exploration (energy)	2,599	SOE (PTT) subsidiary
12	Kasikorn Bank PCL (commercial bank)	2,478	Thai Bank
13	Big C Supercentre PCL (retail)	2,343	Central Conglomerate
14	Kring Thai Bank PCL (commercial bank)	2,322	State owned enterprise
15	MAKRO PCL (retail)	2,225	CP conglomerate
16	Thai Union Frozen PCL (seafood)	2,082	Thai private co.
17	Sri Trang Agroindustry PCL (rubber)	1,814	Thai private co.
18	Chareon Pokhaphand Food PCL (food)	1,718	CP conglomerate
19	BANPU PCL (energy)	1,702	Thai private co.
20	Bang of Ayutthaya PCL (commercial bank)	1,485	Foreign/Thai Bank

Characteristics of Large Companies in Thailand

- SOE contributes to 52.1 of total revenue of all listed co. In 2008 with PTT group contributing 45.6 per cent
- Most large companies operate in the non-traded sector that are subject to many domestic rules and regulations, while shielded from foreign competition.
- Many large companies belong to a conglomerate with broad business span, both horizontally and vertically.

2. Anti-competitive Practices in the Market



Complaints filed (2004- 2009)

Number of cases	74
– completed	52
– under general observation of market condition	5
– under behavioural surveillance	2
– pending submission to the Competition Committee	10
– being processed	1
– under investigation	4

Types of Businesses Alleged of Anti-competitive Practices

Number of companies: 37

- *Belonging to a conglomerate: 16*
- *Foreign companies: 7*
- *State owned Enterprise: 3*
- *Companies with state concessions: 2*

Research on Anti-Competitive Practices

- Anti-competitive practices existed in 10 industries including beer, whisky, cement, glass, concrete tiles, mobile phones, motorcycles, cable television, animal feed and rubber tyres.
- Companies with monopolistic practices on average sustained sales growth at 11-36 per cent higher than competitors in the same market during 2001-2008.

3. State Monopolies and Exclusive Concessions



Thai Tobacco
Monopoly



The State and Monopolies

- **Many state enterprises hold concessions over private competitors, restricting effective competition in the market. (MCOT (broadcasting), TOT (telecom) and CAT (telecom))**
- **Certain state departments hand out exclusive concessions to the private sector in exchange for a revenue share (Business on line and registered companies data)**

Problems with State Enterprises

- **The competition law exempts state enterprises**
- **(Large) state enterprises have high ranking state officials from the policy, regulatory and legal branches as directors.**
- **Private companies with exclusive concessions or contracts often have retired high ranking officials as director.**

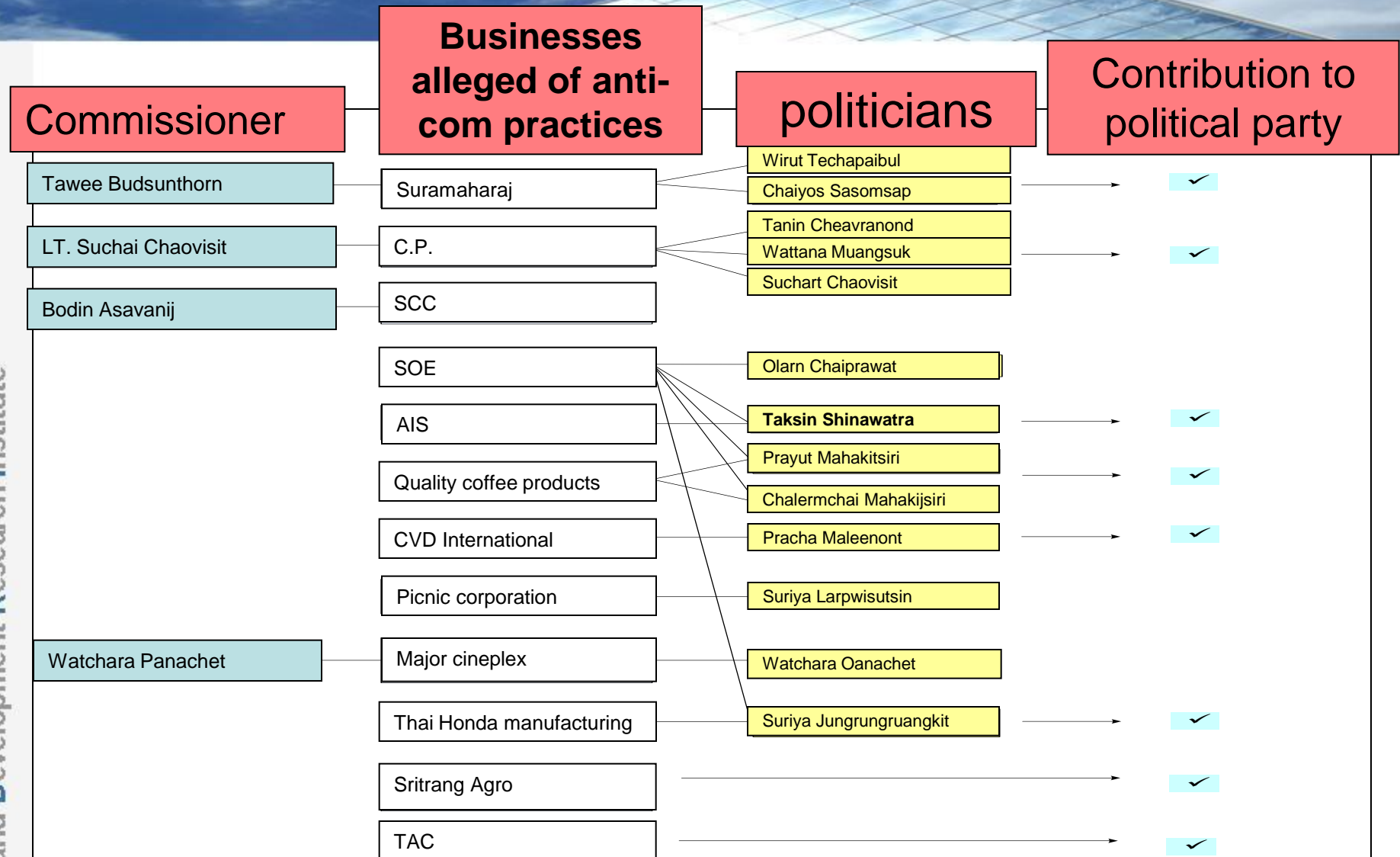
4. Competition Law and its Enforcement Record



Trade Competition Act 1999

- Thailand was the first to implement a competition law in ASEAN but implementation of the law was undermined by the absence of implementing regulations – i.e., dominance and mergers thresholds.
- There was no clear mandate for the implementation of the competition law (unlike, say, South Korea).
- The Trade Competition Committee is headed by the Minister, bureaucrats, 4-6 representative from the private sectors and “experts” hand picked by the Minister.
- The Trade Competition Office resides within the Department of Internal Trade whose broad mandate includes agricultural price support schemes, price controls...
- The Commission only filed 1 legal case thus far.

Ties between Commissioners, Businesses and Politicians



Implementation Problems

1. Failure at the Policy level

- Lack of a clear mandate, competition law and policy not part of economic/industrial policy
- Vested interests

2. Failure at the Institutional Level

- Lack of institutional and financial independence
- Lack of implementing rules and regulations.
- Lack of Transparency in Administration
- Lack of Funding
- Lack of protection of informant and confidential and internal information.

Implementation Problems

3. Failure at the Grass-root levels

- Lack of support from SMEs
- Lack of understanding about the significance of the law by NGOs and activists

5. Lessons Learned & Going Forward



Lessons Learned

- having a competition law is no panacea.
- institutional independence is a necessary when vested interests prevail within politics and the bureaucracy, but not a sufficient condition; transparency and accountability are two governance pillars that are often overlooked.
- Need carefully designed institutions that can attract qualified persons (legal experts, economists, etc.)
- need participation from grass-root level or international agreements to push competition agenda.
- advocacy work is most valuable as state rules and regulations are often the major obstacles to competition in the market



Thank You

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