

Abstract

Fiji, being remotely located with a small population, does not attract many players to its economy. Fewer players with large market shares coupled with high barriers to entry allow firms with substantial market power (“SMP”) to form. This research aims to explore the existence of SMP amongst selected markets and the adequacy of Fiji’s regulatory law, which is inspired by the US and EU competition regulation models.

Based on the analysis of competition cases and in-depth interviews with members of the Fijian competition authority, the research examines how FCCC has dealt with the issues of testing SMP in relevant markets. Three industries were randomly selected as case studies. These were the telecommunications industry, shipping industry and the LPG industry. SMP was tested using a three stage test. Stage One was choosing the relevant market and Stage Two was analysing the market conditions such as market shares of players and barriers to entry. Stage Three was analysing whether the player could maintain its price independently of its consumers and competitors. If Stages Two and Three was affirmative in respect of Stage One, SMP was held to exist. Legislation was closely examined to identify and verify the test of firms holding SMP.

The results show existence of firms holding SMP in the chosen markets in telecommunications, shipping and LPG sectors. Competition legislation in Fiji does not limit the mere existence of SMP but punishes abuse of its SMP. The results identify the ways in which the authority seeks to adjust its competition

system to the particularities of a small developing country, in terms of legislation, economy, culture and institutional framework. The existing legislation needs to be reformed to include provisions identifying tests for SMP. The study reveals inconsistencies between the formal provisions of the competition law and the manner in which it is applied and advances recommendations for improvement.