

พิมพ์ต้นฉบับบทคัดย่อวิทยานิพนธ์ภายในกรอบสี่เหลี่ยมนี้เพียงแผ่นเดียว

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The free competition play an important machanism. of market system. It facilitates the limited natural resources effectively. The competition may be found amongst the business operators or consumers. In the writer's view, the competitiveness amongst business operators or business entities plays the most important role in the marketing economic system, since business operators will compete amongst themselves by introducing good quality of goods and appropriate pricing to their consumers. As a consequence of normal mechanism of trade, both business operators and consumers will receive fair treat. As opposed to that Ideal, The business philosophy of business operators is to enhance their sale capacity to the utmost extent. Consequencely, the trade monopolization has explicitly come lin to its existence

Even though Thailand had enacted the anti-trust law, the enforcement of the law cannot be made widely due to the legislative mechanism whereby some certain businesses have to be declared as controlled businesses under the Act, and there is no private enforcement under the anti-trust law. This study is intended to analyse and to prove that in the event that the public law or specific law does not define the right of the private entities to claim for remedies, whether or not section 420 of the Civil and Commercial Code, which is the general principle for the remedy of civil damage, can be complied to penalize the traders who have the restricted trading behaviour

From the research study, it appears that Section 420 of the Civil and Commercial Code could possibly remedy individuals suffering from damage as a result of trade monopolisation. However, it should be noted that such trade monopolisation should fall into the elements of tort under Section 420, and that the such individual should specifically incur damage in specific aspect. It is also noteworthy that the burden of proof of such tort and damage shall be vested into the injured person. In this connection, the tort case relating to trade monopolisation is tort in economic, the burden of proof of the injured party in connection with tort on trade monopolisation is limited to certain extent. Therefore, the Civil and Commercial Code which is the general private law, could not be used in the prevention of monopolizing trade effectively. In order to promote the free competition, the writer is of the opinion that the anti-trust law should be amended, the mechanism and the concept of controlled businesses should be eliminated so that the legislation can be widely applied. Further, the legislation should entitle individual to exercise its rights to claim for damage to encouraging individual or private to make anti-trust law efficiently. In addition, the burden of proof in relation to tort under the Civil and Commercial Code should be amended. Likewise, the principle of "No Fault Liability" should be applied in case of litigation for damages under anti-trust law by the State. Moreover, the principle of "Punitive Damages" should be taken into consideration in respect to prevent and intimidate any further trade monopolisation.

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