

### TOWARDS TRANSFORMATION

THE ROLE OF PRIVATE ENTERPRISES
IN PROVIDING PUBLIC SERVICES IN VIETNAM
Conformity Assessment Service



### RESEARCH TEAM

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**Conformity Assessment Service** 



### **PREFACE**

Governments have always been concerned with a challenge to provide high quality and cost-efficient public services in response to citizens' and businesses' demands. Yet, there are many different perspectives, approaches and models to address this challenge.

In Vietnam, public services were formerly provided by the state through agencies, non-productive units or state-owned enterprises. Since the adoption of the Doi Moi (renovation) program, an increasing number of domestic and foreign-invested private sectors have been allowed to participate in the provision of public services.

The Party and the State adopted the policy of "developing the market of public services and attracting all economic sectors to participate in the development of public and social services". This is an important goal set out in the 6th Central Resolution of the Central Committee of the 12th Party Committee in October 2017. However, it is a long way from the policy to concrete measures. Some sectors have attracted a great deal of the private sector participation in providing public services, others moved very slowly.

This report is designed to shed light on the case of conformity assessment services by examining the context, analyzing the root cause and providing solutions to promote private participation in public service delivery.

People tend to refer to common services such as transportation, health care, education, electricity, water, environmental protection when it comes to public services. This report, however, aims at focusing on a service that is rarely mentioned, but plays a tremendous role in the economy - a conformity assessment service, for three following reasons:





This service helps provide information to individuals and organizations using goods and services, and remedy the information asymmetry in the market mechanism, thereby promoting the sound economic development.





This service plays a vital role in enhancing the competitiveness of Vietnamese goods in the international market.





Most crucially, this service is similar to other public administrative services that are being provided by state agencies such as appraisal of dossiers, licensing, administrative procedures, inspection, supervision, auditing... Lessons learned in this field can be used to promote private participation of public administrative services.

The report was conducted by a team of experts from the Legal Department, Vietnam Chamber of Commerce and Industry (VCCI) under the guidance of Dr. Vu Tien Loc, President of VCCI.

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We are indebted to the experts for their insights and comments on the report. We are especially thankful for the businesses who generously spend their precious time sharing useful information through their feedbacks and interview on the report.

The views, and errors, if any, expressed in this report are those of the expert team and do not necessarily reflect the views of VCCI or USAID.

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### LIST OF ABBREVIATION

FDI Foreign Direct Investment

ISO International Organization for Standardization

PPP Public-Private partnership SOE State Owned Enterprise

USAID United States Agency for International Development

VCCI Vietnam Chamber of Commerce and Industry



As the economy grows, the demand for better public services increases while budget resources have to serve a wide set of competing priorities. Thus, engaging the private sector in delivering public services will reduce the burden on the government budget, improve service quality, and create more business opportunities in the economy. To realize this, the government needs to focus on ensuring fair and conducive environment for all players to compete and provide quality services at reasonable costs. In 1997, the Government of Vietnam and the Party adopted the policy to attract the private sector to participate in the provision of public services, which integrates both private and state providers of public services to co-exist and compete on an equal footing. In 2017, the Government of Vietnam approved another policy which restricts the participation of the state sector in areas where private players can operate. Nevertheless, the implementation of these policies varies.

The current laws only restrict private participation in supplying 20 kinds of goods and services implicating the presence of state monopoly. However, due to incomplete bidding mechanisms for investor selection, bidding for selection of contractors, and resource auctions, the number of fields and areas that the private sector has not yet participated in remains significant.

Drawing on the case of conformity assessment service<sup>1</sup>, the objective of this report is to explore the process of private sector participation in public service provision. The report then proposes recommendations to promote private participation in the provision of public services in general and in Conformity Assessment in particular.

Private participation in the provision of public services has occurred in various areas under the form of public private partnership investment or socialization. Education and healthcare are typical of the model of public service socialization where the state allows private sector to invest in providing public services through 100% private equity or joint venture with public entities so as to provide value-added services to those in need. Private notary offices in the provinces and cities have remarkably reduced the pressure on public notary offices. Investments in the form of Public-private partnership (PPP) also contribute to altering the appearance of infrastructure, transport services and electricity generation, etc.

Vietnam has opened the Conformity Assessment market for private sector and foreign investors since the Doi Moi period as a result of escalating demand for international trade. SGS Vietnam office was established in 1989 to provide goods inspection and conformity certification services in Vietnam. The establishment of many private enterprises in this field has contributed to enhance services through a competitive market mechanism.

Conformity assessment service providers participated in the survey are divided into three groups with the following proportion of quantity of providers and market share: Domestic private enterprises and Vietnamese business associations account for roughly 42% number of providers and approximately 30% market share; Foreign enterprises account for about 7% number of providers in the proportion and 26% market share; State entities (including central public entities, local non-business entities and State of enterprises' entities) accounted for almost 51% number of providers and 44% market share.

<sup>1</sup> Conformity assessment service includes activities such as inspection, appraisal, testing, inspection, recognition, certification, observation, evaluation, rating and other terms. Details about this service will be clarified in the next content.

In general, the clients rated the foreign enterprises' service quality as among the best three groups mentioned above. The domestic private enterprises indicate the worse quality of equipment, professional qualifications and service attitude, but this gap is not too substantial. Meanwhile, service quality of state units is the lowest. The service attitude of staff in State entities is also less positive than those from the domestic and foreign private enterprises. However, in terms of personnel expertise, there is no big difference between the State entities and the domestic private enterprises. The clients also report that it is relatively common to pay informal fees to public entities (29% of firms pay informal fees) much higher than domestic private enterprises (16%) and foreign units (6%).

The survey also reveals that the domestic private sector has a more flexible mechanism than the state units in mobilizing finance to invest and recruit suitable personnel. Overall the domestic private sector has shown superior business governance than the state ones, demonstrated by its ability to optimize service delivery processes, and the ability to deliver services at a competitive cost.

The level of competition, development and elimination of private entities is also higher than that of public entities. In the past 5 years, a considerable number of private entities have gone bankrupt, dissolved or are in the process of shrinking or diminishing customer base. Whereas, many other entities are growing and holding a larger market share of service providers.

In the survey, private entities which are transformed from a former state entities generally agree that such transformation has notably contributed to an improvement in service quality, service attitude, staff expertise and equipment capacity. The transformation from public entities to private enterprises in the field of Conformity Assessment has gained support from a large number of respondents participated in the survey, including the public entities.

Nevertheless, customers who are using public services reported that they still have difficulty changing service providers because public entities are often authorized to provide services while private sector is more or less able to do so. While many private enterprises providing services claimed that they are treated less favorably than state entities; state entities are concerned that the quality of many private entities participated in providing Conformity Assessment services may not be guaranteed. A vivid example is the situation where some private enterprises "sell licenses", neglecting to comply with market standards. This reflects a problem of the current Conformity Assessment service delivery market where shortcomings exist in the legal framework, especially administrative procedures for entering the market and the absence of technical regulations to manage market discipline.

Through the case study of Conformity Assessment service, the report pointed out that the competition and operation of the market mechanism positively contribute to service quality improvement. The role of the State needs to transform from service providers and state management to independent, transparent and effective governance The State needs to ensure fair competition, encourage parties to improve service quality through building an appropriate legal framework and technical regulation system. promoting transparency in market entry, ensuring service availability competition and antitrust while minimizing the risk of corruption. To further develop Conformity Assessment service, the State should priories three following issues: (1) clear specification of technical standards (2) random verification of assessment results and; (3) exerting sanctions on service providers violations. Conversely, the State should not control the service charges and the number of service providers.

The State should expand the scope of work, business activities to allow private participation in service provision, including the transfer of several activities from public administration to public services (such as evaluation, approval, inspection by state agencies), mandatory bidding, resources auctions, business opportunities and budget expenditure. As claimed by some enterprises and customers in the field of conformity certification, favoritism and authorization for public entities to provide services where private sector is not allowed to turns out to be a limitation. Not only does this exist in the field of conformity certification but also in many other areas. Solutions for this limitation hence calls for further future research.



## SURVEY ON THE PROVISION AND CONSUMPTION OF CONFORMITY ASSESSMENT SERVICES

In reviewing the available literature, the VCCI research team found that while there was an abundance of research on private sector participation in the provision of public services, the number of studies on conformity assessment service is rather limited. To date, few researches in Vietnam has examined the perceptions from both providers and users of conformity assessment services.

With the objective of assessing the market situation and propose reasonable policy recommendations to improve the effectiveness of market and competitiveness of Vietnamese goods and services, VCCI has conducted a "Survey on provision and use of conformity assessment services". The study combined quantitative research methods through questionnaire surveys and qualitative research through in-depth interviews.

### **QUESTIONNAIRE SURVEY**

The quantitative survey using questionnaire was conducted using mailed-out form and online survey form from mid-September and until mid-October 2019 to collect responses from 200 providers of conformity assessment service and 200 user units of conformity assessment service nationwide. Following are two links of two online questionnaires which were sent to enterprises in the survey:

- https://ee.kobotoolbox.org/x/#IX5rCFok (Questionnaire for enterprises using the service)
- https://ee.kobotoolbox.org/x/#A7Y6Yb2o (Questionnaire for enterprises providing the service)

As for service providers, the conformity assessment service providers population are retrieved from the line ministries listings. This population list has nearly 1,000 units operating in Vietnam at the time of the survey. This population list includes service providers from both the public sector, the domestic private sector and foreign-invested enterprises.

Meanwhile, the collation of service users (i.e. businesses) is much more difficult. The reason is because there is no existing list with sufficient and specific information about businesses that have used conformity assessment services. The most accurate way is to collect from service providers. However, this is not possible because of the service provider confidentiality on clients' information. Therefore, in order to have a relatively accurate population for sampling, the team acquired a list of import-export and related-service businesses that reported having performed the conformity assessment service in 2018. This list was extracted from a survey on customs administrative procedures conducted by VCCI in early 2019. Random checking and verification has revealed that this is the suitable list to use for the next steps in the sampling process.

From the existing list, the research team with collarborators' support carried out a preliminary review to serve the followings purposes: (i) eliminate duplicates; (ii) eliminating cases where service providers and service users are no longer operating; and (iii) eliminating enterprises that do not actually use conformity assessment services. Because the survey is conducted online, phone numbers and emails are very important. A team of collaborators double-checked phone numbers and email addresses. In the cases where the business or service provider lacks both phone number and email, collaborators will search and contact to add the missing information. If the information cannot be added, the business or unit will be removed from the list.

From the existing sampling frame, the research team randomly selected samples of 530 service providers and 2,676 enterprises using the service. The target of the quantitative survey is to collect responses from about 200 service providers and 200 service users. The fact that the sample size is significantly larger than the targeted number of responses is due to the low response rate of the mail-out or online survey.

In order to collect the target number of responses and overcome the low response rate, the project team developed a complete set of survey tools to send by post (for mail-out surveys) and by email (for online surveys). The survey instrument is prefaced by a VCCI official letter introducing about the survey, a paper-based questionnaire or the link to online questionnaire, and a gift voucher/link for signing up for a gift (one book) when participating in the survey. At the same time, a team of 8 collaborators was trained to understand the survey and improve on 'telesale' skills over the phone. When the survey is live, the collaborators regularly contacted businesses and service providers to clarify on questionnaires and how to fill out online questionnaires. Frequent calling and nudging significantly increased response rate and help complete the survey by the deadline.

#### **QUALITATIVE INTERVIEW**

In September 2019, the research team conducted 16 qualitative interviews with a number of conformity assessment service providers and enterprises using conformity assessment services in Hanoi and Ho Chi Minh City. These interviews helped to gain insights of the service provision and usage, especially in understanding the challenges and opportunities to private sector participation. Information from qualitative interviews shed the lights on the aspects that quantitative interviews cannot touch upon. Data from qualitative and quantitative surveys are complementary and provide useful information for the report.



# THE POLICY OF ATTRACTING PRIVATE PARTICIPATION IN PUBLIC SERVICES PROVISION

Private participation in the provision of public services was piloted in a number of areas in early years of the Doi Moi period, but it was not until 1997 that this policy was formalized by *Resolution 90-CP dated August 21, 1997 by the Government on the direction and policy of socialization of educational, healthcare and cultural activities* (Resolution 90). This resolution sets out some basic principles of public services socialization and these principles are maintained to this day, specifically:

- Allow private investment for public services provision, private investment including new investment and acquisition of public entities;
- Allowing private investment does not mean dissolution of public entities or reduction of public investment in public service provision;
- Principle of fair competition between public and private units.

It is these principles that have shaped the structure of Vietnam's public service market today - that is the co-existence of public and private units in providing services. Private units have developed rapidly but at the same time, public units did not decline in number and scope of services. However, the principle of fair competition is not always guaranteed. Although Resolution 90 is applicable to education, health care and culture, socialization in many other fields will follow this basic principle.

Persuant to Resolution 90 of 1997, the Government issued Decree 73/1999/ND-CP on encouraging socialization of activities in education, health, culture and sports. This Decree focuses on the State's incentives and supports in terms of infrastructure, land, tax, credit, insurance and commendation for community-founded units. Notably, the Decree supplemented regulations on the authority to license non-public service providers. Each service sector is still subject to professional management by respective competent regulatory agencies.

Early in 2005, the Government issued Resolution 05/2005/NQ-CP dated April 18, 2005 on promoting socialization of educational, healthcare, cultural, physical training and sports activities. This resolution maintains the viewpoints from Resolution 90 on the co-existence of public and private units, and opens up a number of notable directions as follows:

- Introduce an autonomy mechanism for public service delivery units. Convert public establishments into service delivery units;
- Initiating service segmentation according to customers using the service;
- There is a distinction between community-based private owned, for profit versus non-profit types;
- Focus on inspection and supervision acts by the State and society to ensure service quality.

Thus, the policy of socializing public services has evolved from simply allowing private units to be established and to compete with public ones to more detailed contents aimed at improving the efficiency of public service provision and usage.

Resolution 19-NQ/TW 2017 at the Sixth Conference of the Party Central Committee, the 12th Tenure, on continuing to renovate the organization and management, and improve the quality and efficiency of the public social service units also has a lot of content related to the private participation in public service provision. This resolution has some noteworthy contents as follows:

- Promoting the socialization of public services, especially in sectors, fields and areas where the non-public sector can do and perform well;
- Ensuring fair competition between public and non-public units;
- Continuing the autonomy mechanism of public social service units;
- Focus on reorganizing public social service units, investments and recurrent expenditures for public social service units from the state budget, including the following measures:
  - To remedy the overlapping, dispersing and duplication of functions and tasks among public social service units
  - To restructure or dissolve inefficient public social service units
  - To promote socialization, transformation of social service units into joint-stock companies.

It is obvious that the general policy of the Party and the State is to encourage private participation in the provision of public services. However, this does not mean containing public investment, the public resources continue to be invested in new establishment and development of public units. This intensifies competition between public and private entities in the provision of public services. Recently there was a view that the State should retreat from the sectors and areas where the private sector can do and do well. However, the areas where the State should divest are not clearly defined.

The principle of fair competition between public and private units has long been set forth. However, this seems to be just a statement, without any concrete measures to eliminate conflict of interest when the state agencies are both the representative owners of the public units and the regulator through laws and regulations of all service providers in the market. In an another aspect, there has recently been concern that state units are less favorable than some private enterprises, because these enterprises are the "backyards" of state agencies officials.

The guiding documents by the Party and State show determination in improving the efficiency State-owned public service providers. This enables public units to organized and administered in the principles more like a private enterprise.

## THE LAWS RELATED TO THE PRIVATE PROVISION OF PUBLIC SERVICES

In addition to the general guidelines mentioned above, for each industry and specific field, there are different measures and ways of attracting private providers of public services. These measures are prescribed in respective legal document regulating the sector and field. For example:

- Education sector: Education Law, Higher Education Law, Vocational Education Law;
- Health sector: Law on Medical Examination and Treatment:
- Cultural and sports sector: Cinema Law, Library Law, Law on Gymnastics and Sports;
- Science and Technology: Law on Science and Technology, Measurement Law;
- Field of natural resources and environment: Law on Geodesy, Maps, Meteorology and Hydrology Law;
- Judicial field: Law on legal aid, Law on Property auction, Law on Lawyers, Law on Notary, Law on Judicial expertise;
- Agricultural sector: Law on Irrigation, Law on Forestry;
- Transport sector: Railway Law, Road Traffic Law, Civil Aviation Law, Vietnam Maritime Code, Inland Waterway Transport Law;
- Information and communication field: Publication Law, Press Law, Postal Law, etc.

Recently, Law on Public-Private Partnership Investment issued on June 18, 2020, stipulated that PPP investment sectors include: Transport; Power grids; power plants (except hydroelectric power plants) and monopoly State cases under the provisions of Eletricity Law; Irrigation; water supply; drainage, and wastewater treatment; waste treatment; Infrastructure for healthcare; education; training; Infrastructure for application of information technology.

Each of these legal documents has different provisions on the conditions and authority to license the establishment of a private service provider. Organization of the entities, service quality control, pricing are also stipulated in the above legal documents.

#### SECTORS WHERE PRIVATE PARTICIPATION IS PROHIBITED

Notably, in Vietnam, there are a number of sectors and industries that disallow private participation in the supply of goods and services. This list includes 20 industries and sectors specified by Decree 94/2017/ND-CP such as industrial explosives, gold bar production, lottery, money printing and coinage, and postal stamp, transmission and dispatching of the national electricity system, construction and operation of multi-purpose hydroelectricity systems, the operation of lighthouses and public navigation channels, the operation of coastal communication stations, air navigation, exploitation of state-invested railway infrastructure system, provision of forestry services in special-use forests, publication...

### Table 1 List of goods and services subject to state monopoly in business operations

(Issued together with Decree No. 94/2017/ND-CP dated August 10, 2017 of the Government )

Goods/Services	State monopolized business operations	Location
Goods and services serving national defense and security purposes	Minister of Defense and the Minister of Public Security shall guide in detail the implementation	The Minister of Defense and the Minister of Public Security shall guide in detail the implementation
Industrial explosive materials	Production, purchase, sale, export, import, temporary importation, re-exportation and goods in transit	The whole territory of Vietnam
Gold bar	Manufacturing	The whole territory of Vietnam
Gold material	Export and import to produce gold bars	The whole territory of Vietnam
Lottery	Publication	The whole territory of Vietnam
Cigars and cigarettes	Import (except import for duty-free sale)	The whole territory of Vietnam
National reserve operations	Managing, importing, exporting, buying, selling, preserving and protecting goods on the List of National Reserves.	The whole territory of Vietnam
Money	Print, coinage	The whole territory of Vietnam
Vietnam postage stamps	Issuance	The whole territory of Vietnam
Fireworks and fireworks-related services	Manufacturing, exporting, importing, buying, selling, transporting, storing	The whole territory of Vietnam
National electricity grid system <sup>2</sup> ;	Transmission, dispatching	The whole territory of Vietnam
Multi-purpose and nuclear power plants of important socio-economic significance.	Build and Operation	The whole territory of Vietnam
Public services to ensure maritime safety	<ul><li>Operating sea light system;</li><li>Operating public navigation channel system.</li></ul>	The whole territory of Vietnam
	Goods and services serving national defense and security purposes  Industrial explosive materials  Gold bar  Gold material  Lottery  Cigars and cigarettes  National reserve operations  Money  Vietnam postage stamps  Fireworks and fireworks-related services  National electricity grid system²;  Multi-purpose and nuclear power plants of important socio-economic significance.  Public services to ensure	Goods Aservices  Goods and services serving national defense and security purposes  Industrial explosive materials  Froduction, purchase, sale, export, import, temporary importation, re-exportation and goods in transit  Gold bar  Gold material  Export and import to produce gold bars  Lottery  Publication  Cigars and cigarettes  Import (except import for duty-free sale)  National reserve operations  Managing, importing, exporting, buying, selling, preserving and protecting goods on the List of National Reserves.  Money  Print, coinage  Vietnam postage stamps  Issuance  Fireworks and fireworks-related services  Manufacturing, exporting, importing, buying, selling, transporting, storing  Transmission, dispatching  Multi-purpose and nuclear power plants of important socio-economic significance.  Public services to ensure maritime safety  Minister of Defense and the Minister of Public Security shall guide in detail the implementation  Minister of Public Security shall guide in detail the implementation  Minister of Public Security shall guide in detail the implementation  Manufacturing  Manufacturing  Managing, importing, exporting, importing, buying, selling, transporting, buying, selling, transporting, storing  Transmission, dispatching  Build and Operation  Operating sea light system;  Operating public navigation

However, according to Article 4 of Law on Public-Private Partnership Investment issued on June 18, 2020, the private sector can participate in public-private partnership investment in Power grids; power plants (except hydroelectric power plants) and monopoly State cases under the provisions of Eletricity Law.

No.	Goods/Services	State monopolized business operations	Location
13	Public coastal information service	Managing, operating and exploiting the system of coastal information stations	The whole territory of Vietnam
14	Guaranteed flight operations	<ul><li>Air navigation service;</li><li>Aviation information service;</li><li>Search and rescue services.</li></ul>	The whole territory of Vietnam
15	The system of national railway infrastructure and urban railways invested by the State	Management and exploitation of railway infrastructure system; Excludes maintenance of railway infrastructure	The whole territory of Vietnam
16	Inter-provincial and inter-district agro irrigation work system; sea embankment	Management and exploitation in case of assigning plans	The whole territory of Vietnam
17	Forestry services in special use forests	Supply (except for landscape protection forests leased by the State to economic organizations for forest protection and development, combined with landscape business, resort, eco-tourism)	The whole territory of Vietnam
18	Publication	Publishing (excluding printing and issuance activities)	The whole territory of Vietnam
19	Public postal network	Management, maintenance, exploitation	The whole territory of Vietnam
20	Public services in press	Supply	The whole territory of Vietnam

In theory, private businesses are allowed to provide all goods and services outside this list and and list of prohibited business. However, in practice, many industries and sectors are currently closed to private participation due to the lack of adequate legal basis for operation.

### Box 1: Production of weapons, military equipment and military gears

The 2014 Investment Law does not prohibit private investment in military equipments, military gears and weapons business but only considers it as conditioned business.

In the past, the Ministry of Public Security and the Ministry of Defense both had factories and affiliated enterprises to produce weapons, military equipment and military gears for the armed forces. In recent years, the two ministries have bidded out tender to private participation in the supply of military equipment and military gears. The results are positive, with tender packages by private contractors being completed faster, cheaper, and with better quality than state-owned factories. The biggest concern when handing over tender packages to private contractors is the risk of leakage and loss of quipment. Therefore, the supervision mechanism of state agencies must be fully developed and effectively deployed. Currently, the Ministry of Defense is drafting a Decree to specify conditions for dealing in weapons, military gear and military equipment.

Another problem that hinders private participation in providing public services is the licensing process and selecting investors for by state agencies in some sectors. In some sectos, although there is no regulation prohibiting or restricting the participation of private enterprises, businesses must be licensed or contracted by state agencies to operate. If this process of licensing and contracting only select State-owned enterprises without bidding and competition with private enterprises, it effectivelys makes no difference from state monopoly. Many examples in sectors have shown this.

Currently, coal mining is not subject to the State monopoly. However, coal mines are only granted to Vietnam Coal and Minerals Group (TKV) and Dong Bac Corporation, two State-owned enterprises. Currently, according to the law on minerals, Article 22.1.a of Decree 158/ND-CP guiding the Mineral Law in detail, coal is the type of mineral not being auctioned for mining rights. In addition, newly established private enterprises cannot immediately compete with the capacity of these two large and long established State Owned Enterprises (SOEs).

As for some other areas such as airport infrastructure, roads, ports, waterways and maritime channels, the participation of private investors is subject to State licensing and based on existing projects under masterplans. Therefore, participation by a private enterprise in providing these services is actually based on the discretion, and there is no bidding to fairly select investors.

In public services financed by the state budget, the situation is similar. Article 49 of the State Budget Law still allows state agencies to allocate and assign budget estimates to subordinate units, including enterprises. In other words, if a state agency has an affiliated enterprise in a particular sector, there is no requirement for tender or auction in providing services. Thus, the opportunity for private enterprises to participate in providing these services completely depends on the discretion of that state agency.

For example, for the maintenance service of national railway system, the budget estimates are allocated to the Ministry of Transport, who in turn assigns to the Railway Corporation to perform the tasks without bidding process to select contractors.

Recently, the Government has issued Decree 32/2019/ND-CP on assigning tasks, ordering purchases or bidding for the provision of public products and services using the state budget from recurrent expenditure. This can be considered as an opportunity for deeper private enterprises participation in providing public services financed by state budget.

Currently, the official legal provisions only restricts private participation in providing public services in 20 sectors. However, in practice, the participation of the private sector in many other sectors and fields is restricted for various reasons. The key problem is that the regulations requiring bidding to select investors or contractors are not adequate. This subjects private participation in providing public services to the distretion of the state agency in charge.

# PERCEPTION OF PRIVATE PARTICIPATION IN PROVIDING PUBLIC SERVICES

A study called "Vietnam transition - Changing the attitude of the State and the market of Vietnamese people in 2014" (CAMS 2014) showed the social perception about the private participation in providing public services. This is a survey on changing perception of Vietnamese people' on the role of the State and the Market, implemented by the World Bank and VCCI from July to September 2014. The survey has collected 1,643 responses through simple sampling method. The target groups are individuals working in Government agencies, ministries, People's Committees and departments at provincial and municipal levels, National Assembly agencies, Central Party agencies, state-owned enterprises, domestic private enterprises, foreign-invested enterprises, socio-political organizations, associations, press agencies, foreign embassies, international organizations in Vietnam, researchers and lecturers, and other groups (including students, unemployed, retired people). The questions in the survey focused on the respondents' perceptions on the state and market economic model, the pricing mechanism for goods, SOE reform, and assessment of some public services...

CAMS survey results reveal that respondents basically have a higher level of satisfaction/high satisfaction with public services provided by the private sector than public services provided by the State.

Figure 1 Satisfaction levels for some basic public services provided by the State or the private sector (%)

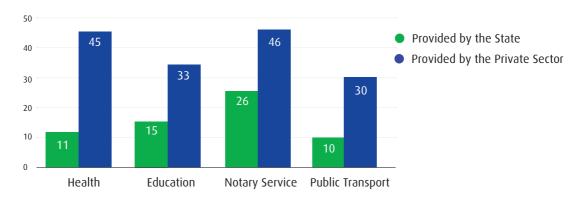
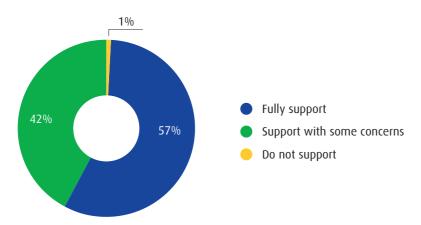


Figure 1 presents a comparison of respondents' satisfaction with some basic public services (including health, education, notarization and public transport) provided by the Government and the private sector. Survey results show that the percentage of respondents who are satisfied with public services provided by the private sector is higher 2 to 4 times than those provided by the state. For example, in the health sector, 45% of respondents are satisfied with services provided by private providers while only 11% are satisfied with public hospitals.

Similarly in education (15% satisfied with the state and 33% satisfied with the private), notary service (26% satisfied with the state and 46% satisfied with the private), public transport (10% satisfied with the state and 30% satisfied with the private). The trend is evident that the service users are more satisfied with public services provided by the private sector than the public sector.

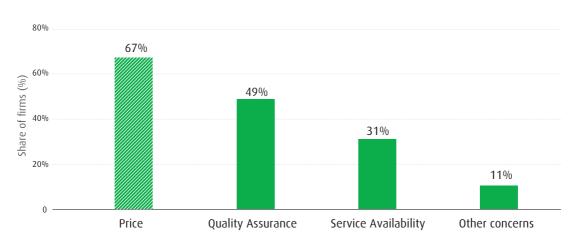
The CAMS survey also provides a clear picture of the support and concern about private participation in public service delivery. While the majority of respondents is supportive of private participation in providing public services, there still exists considerable concern. Survey results show that 57% of respondents are fully supportive and 42% supportive with some concerns and only 1% do not support the transfer of some public services to the private sector.

Figure 2 Level of support in transferring a number of public services from public sector to the private sector



Among those concerned with transferring public services to the private sector, about 67% were concerned about pricing, 49% about quality assurance, 31% about service availability and 11% with other concerns. Some other concerns raised by respondents were the weak capacity to develop the legal framework and oversee implementation of public services, the ethics of the organizational and individual providers, the level of transparency in service bidding and the risk of private sector entities becoming the 'backyard' of state officials.

Figure 3 Concerns about public services provided by the private sector



### Box 2: Producing and supplying clean water

Clean pipeline water used to be supplied to customers by State units as public goods. Recently, many private units have participated in the supply of clean water through building new factories or acquire equity of the equitized factories.

In October 2019, an environmental incident at the headwaters supplying to the Song Da clean water plant (a fully equitized unit) contaminated domestic water for many areas in Hanoi. According to information provided by Hanoi and Hoa Binh authorities through press agencies, clean water at the headwaters of Song Da clean water plant was contaminated with organic matter from several barrels of oil. The plant's water treatment system did not remove all the contaminants and the water supplied to the people of Hanoi did not meet technical standards for domestic water. The incident affected the water supply for about 250,000 households in Hanoi for weeks.

Many argue that this is partly due to the equitization policy of water companies. However, reviewing the regulations on the management of domestic water quality, it can be seen that they are quite lax. According to the current regulations, the water supply units are only obliged to periodically test the output water at a frequency of 1 time per week for Group A indicatord and every 6 months or 2 years for indicators under Group B and C.

Clean water production establishments do not have to install automatic observation equipment for input as well as output water quality, testing data were not transmitted to the state agencies for supervision. Water production facilities also do not need a backup mechanism to control risks when the input source is polluted or the machinery and equipment for water treatment are damaged such as contingency alternative source and tank.

Under such a lax mechanism for water quality control, be it private or the state that operates the production facilities, the security of clean water is very fragile. Thus, in this case, the problem is that the State does not have sufficient legal framework to monitor and ensure the quality of public services, it is not whether the operator is public or private.

Hence, it is relatively obvious that users are more satisfied with the public services provided by the private sector than the public services provided by the state units. Therefore, the majority of public opinion supports the general view of allowing private units to provide public services. However, concerns about price, service quality, and service availability are still large. In addition, factors such as the State capacity to develop the legal framework and supervise the implementation of the legal framework for public services are weak, the ethics of organization and individual service providers, and transparency in service bidding and the risk of private sector entities becoming 'backyards' of public officials are common concerns.

Practices in many sectors have indicated that, in order for the private sector to sustainably participate in public services provision, the role of the State is extremely important. The state will no longer directly provide the service, instead, set the legal framework and oversee the provision of services.

Let's beware that, for public entities, the State can determine the price, quality and service availability through the owner's order. As for the private units, the State is resorted to use legal provisions, sanctions or regulate through economic motivation. It should also be noted that legal instruments, sanctions and economic motivations may also apply to public entities. And if the Government can make good use of these tools, the difference between public and private units will not be in stark difference.



This study selected the public service sector to further assess the a private enterprises provision capability. Among the many public services, the research team decided to select conformity assessment services for a number of reasons.

- Firstly, this is a very important service that helps to facilitate the flow of goods and also helps protect people safety and health. According to Department of Customs estimates, about 25 to 40% of Vietnam's imports and exports need assessing the conformity with standards and technical regulations of some form;
- Secondly, there exist many shortcomings in the State management mechanism for goods quality control. The market structure in sector is quite complex and is divided among many line ministries. Therefore, differences exist among areas of conformity assessment, which is very convenient for comparing and drawing experience lessons;
- Thirdly, the number of conformity assessment service providers is currently quite large (more than 1,000 units), including all economic sectors, directly competing with one another. Some sub-sectors have many competing units, while others have state units only. It is this difference that helps the research to verify the effectiveness of private enterprises' participation;
- Fourthly, this is a type of public service that is rarely mentioned in the research reports, but has been included in the policies and resolutions of the Party and the State in revamping public service delivery units Findings and arguments in this area fill the information gaps for appropriate policy making.

<sup>3</sup> Project on renewing model of quality inspection of exported and imported goods in Vietnam of the Department of Customs in 2019.

### SCOPE OF CONFORMITY ASSESSMENT SERVICES

There are many different interpretations of conformity assessment services. The service of conformity assessment includes many activities such as technical inspection, appraisal, experimenting, testing, inspection, accreditation, certification, monitoring, evaluation, ranking and some other terms.

The Law on Standards and Technical Regulations explains the concept of conformity assessment in Article 3.5 as follows:

5. Conformity assessment is the identification of the object of activities in the standards domain and the object of activities in the field of technical regulations domain in accordance with the technical characteristics and management requirements specified in the relevant standards and corresponding technical regulations.

Conformity assessment includes activities of testing, calibration, inspection, certification of standard conformity, certification of technical regulations conformity, declaration of standards conformity, declaration of technical regulations conformity, capacity recognition of testing laboratories and calibration rooms, conformity certification organizations, inspection organizations.

Therefore, by this definition, conformity assessment is applicable only when it is necessary to conform to standards or technical regulations issued under this Law.

The common feature of these services is that a unit based on reputation or authorization from another reputable unit, using knowledge and specialized machinery to verify a product or goods information, services or other information provided to another party.

However, in practice there are many other activities, regulated by other laws that have similar characteristics as conformity assessment. For example:

- Environmental monitoring activities, specified in the Law on Environmental Protection, can also be considered as a form of conformity assessment service. Because environmental monitoring activities are to determine whether environmental factors such as waste, air, and water are in conformity with environmental technical regulations and standards;
- The inspection and appraising of construction safety and fire safety can also be considered as a form of conformity certification service. In essence, this is also to assess whether a construction works conform with standards, technical regulations on construction safety or fire protection;
- Notary, authentication, and price appraisal activities are similar in nature because these are activities that use expertise to assess whether a certain goods or service conform with standards. These services also provide certificattion so that the goods or services can be provided to another party.

Theoretically, the conformity assessment service helps overcome the information asymmetry. Naturally, the supplier of goods and services will have more information about goods and services than the buyer, thus having a better advantage in the trading relationship. To overcome this problem, it is necessary to have a qualified and reputable third party, recognized by the purchaser, to verify the quality, quantity

This report will focus on conformity assessment services in science and technology. However, the state management practices in this field are applicable to other areas and vice versa.

#### OVERLAPPING WITH COMMERCIAL INSPECTION

of goods and services and inform the purchaser to balance the information.

The existing legislation on conformity assessment is concentrated in the Law on Product Quality, the Law on Standards and Technical Regulations and Decree 107/2016/ND-CP<sup>4</sup>. However, the Commercial Law in 2005 has a regulation on commercial inspection. Commercial inspection services are also included in Appendix 4 of the Investment Law regarding the list of conditional business lines. Specific business conditions are stipulated by Decree 20/2006/ND-CP<sup>5</sup> and amended by Decree 120/2011/ND-CP<sup>6</sup>.

In essence, commercial inspection services have many points overlapping with conformity assessment services as follows:

### Article 254. Inspection services

Inspection services are commercial activities whereby a trader carries out the works necessary to determine the actual condition of the goods, the result of service provision and other contents requested by the customer.

### Article 255. Contents of inspection

Inspection includes one or several contents of quantity, quality, packaging, goods valuation, origin of goods, loss, safety, sanitary, phyto-sanitary standards, result of services, service delivery methods and other content required by customers.

Thus, the assessment of the quality of services and goods against quality standards is both commercial inspection and conformity assessment. Legally, an enterprise wishing to provide this service must meet both regulatory requirements at the same time.

In fact, when customers use commercial assessment services, the assessment content includes not only the quality of products but also the quantity, volume and origin of the goods. In such cases, in order to fully provide services to customers, enterprises must have both types of licenses. Customers also prefer to select the units possessing both types of licenses, and one assessment result will cover multi-purpose information, sparing the need to hire multiple inspection units.

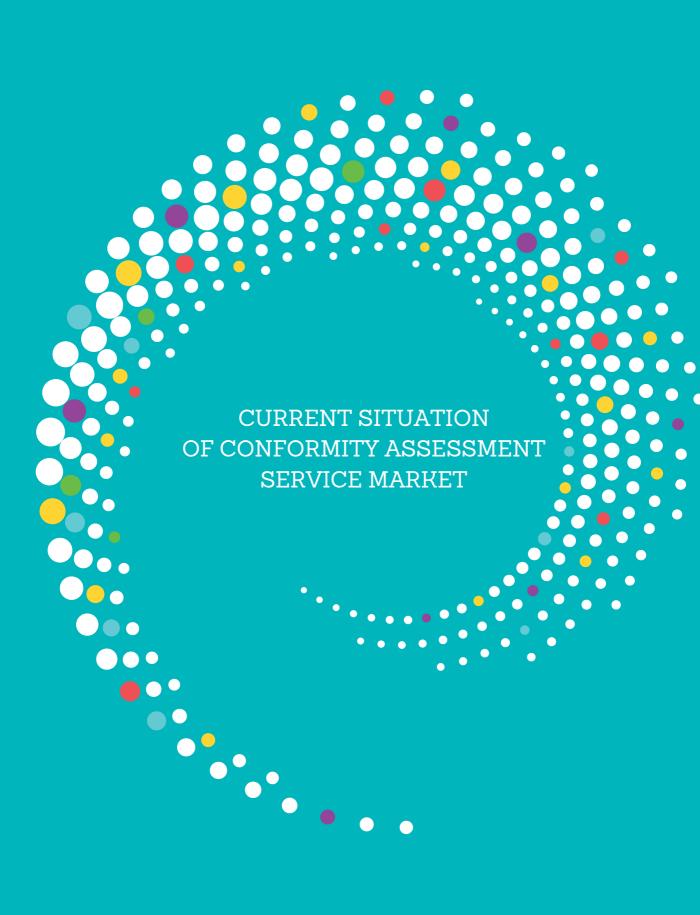
- 4 Decree No.107/2016/ND-CP of Government dated 01 Jul, 2016 prescribing conditions for provision of conformity assessment services.
- 5 Decree 20/2006/ND-CP of Government dated 20 Feb., 2006 detailing the provisions of the Commercial Law on provision of commercial assessment services.
- Decree No.120/2011/ND-CP of Government dated 16 Dec., 2011 amending and supplementing administrative procedures provided in a number of decress detailing the Commercial Law.

### THE NEED TO USE CONFORMITY ASSESSMENT SERVICES

Conformity assessment services can be classified as per customer needs of using the assessment results. Accordingly, this service can be divided into 4 groups: (1) compulsory needs; (2) voluntary needs; (3) to deal with offences; (4) to verify in case of dispute.

- Firstly, customers use the conformity assessment results to satisfy the mandatory requirements by the State. In that case, customers use the conformity assessment service to obtain the certificate so that the goods can be imported, customs-cleared, put into use or avoid being sanctioned. The assessment usually compare against a technical regulation issued by the State. However, in reality, there are still cases where assessment is required by the State but there is no corresponding technical regulation;
- Second, the customer uses the conformity assessment results to meet the requirements of the purchaser or other third party, or serves the customer's own purposes such as to self-assess or to advertise goods and service. In this case, the conformity assessment may be based on a technical standard;
- Thirdly, the customers who are state agencies use the service to serve the purpose of dealing with law offences. In many cases of inspection, examination, investigation and trials, the state agencies have the need to solicit expertise or conduct tests to serve as a basis for handling administrative or criminal offences;
- Fourthly, customers use the conformity assessment service for verification purposes. When the same goods and services have many different assessment results which result in disputes, it is required to have the verification from a reliable conformity assessment unit.

Despite the similarity in technical implementation, the above purposes may lead to different needs for service providers and different levels of equitization.



# LEGAL FRAMEWORK OF THE CONFORMITY ASSESSMENT SERVICE MARKET

The transformation in Vietnam's conformity assessment services provision began in 2000. Prior to 2000, conformity assessment services were provided exclusively by the State as a mandate to manage product and goods quality. The Ordinance on Quality of Goods and Products in 2000 has introduced a mechanism to socialize conformity assessment services. After 7 years, the Law on Standards and Technical Regulations 2006 and the Law on Product and Goods Quality 2007 further refined the mechanism to socialize conformity assessment services and expand opportunities for private sector to provide these services.

# A MARKET ENTRY FOR PROVIDING CONFORMITY ASSESSMENT SERVICES

Market entry under current laws is not too demanding. Decree 107/2016/ND-CP prescribes the conditions for getting licensed for conformity assessment service business. According to many businesses interviewed with qualitative method, the barriers to market entry are currently legally acceptable. However, there are still many hindrances that need to be resolved.

### EXPERIENCE ENDORSEMENT FROM THE PREVIOUS EMPLOYERS

One difficulty for many businesses when entering the market is that the regulations ask to confirm the experience of the assessors. Businesses who want to apply for an certificate of eligibility for business must prove that they have competent personnel. In the application file, the proof of personnel capability must be endorsed by the former employers of the employees. It is difficult for an employee to ask for certification by previous employers, as the previous employers are afraid that this certification will facilitate new competition in the market.

### OVERLAP ADMINISTRATIVE PROCEDURES

The overlap of administrative procedures is currently very large. Administrative procedures creates an unreasonable burden of time and cost on business. Enterprises often have to comply with the following administrative procedures:

- Obtain ISO certification, usually Bureau of Accreditation;
- Register the service as per Decree 107/2016/ND-CP;
- Apply for line ministry to be designate as required services providers.

Typically, a service business assesses the conformity for a wide range of indicators for many product items. Each of these criteria must be assessed once, making an onerous number of administrative procedures.

For example, in the field of food safety, three ministries concurrently manage food safety: the Ministry of Health, the Ministry of Industry and Trade and the Ministry of Agriculture and Rural Development. Although Decree 15/2018/ND-CP<sup>7</sup> clearly delineates the authority of the Ministries in terms of management goods, it does not specify the authority on conformity certification in the food sector. As a result, all three Ministries issue licenses, all three ministries conduct inspections and examinations on the same content.

### Box 3: Comparison with inspection, calibration and testing services

Many units providing testing services under Decree 107/2016/ND-CP also provide inspection, calibration and testing services according to Decree 105. In order to provide conformity assessment services, businesses need to do 2 to 3 times of administrative procedures, the regulation of measurement services is much simpler.

For example, when a customer asks a business to test a new indicator (on a voluntary basis), the business will have to research scientific documents to propose a suitable test method. Subsequently, enterprises must register to apply for ISO 17025 certification and carry out the procedures for registration for new indicator in Decree 107/2016/ND-CP. This extended period of time can delay customers' orders from ten days to several months.

Meanwhile, if a customer requests a service provider to test new measuring equipment. Enterprises only need to study scientific documents themselves and come up with appropriate testing methods and can immediately provide services to customers. Documents explaining this method will be archived at the enterprise and the enterprise is accountable to customers and before the law that this method is appropriate, objective and accurate.

## **B** MANAGING BUSINESS OPERATIONS

The conformity assessment service requires very strict operational process. Because these entities receive remuneration from owners of goods and services and have the right to issue certificates for goods and services, there is always a risk that the conformity assessment unit will misconduct to benefit customers. Therefore, it is very important for the State to ensure that these units comply with the professional process and deliver objective results. However, in some cases, the State has not fulfilled this role well, as mirrored in a number of problems such as lacking technical regulations and technical standards.

### LACK OF STANDARDS AND TECHNICAL REGULATIONS

There are cases when goods are subject to inspection there are no technical regulations in place. This situation has been cited many times and the Government has instructed to supplement the absent technical standards and regulations for inspections of imports<sup>8</sup>. However, there still exist inspection and verification of goods without relevant technical regulations. For example, Circular 53/2016/TT-BLDTBXH<sup>9</sup> prescribe 80 types of machines, equipment, supplies and substances with strict requirements on occupational safety and sanitation. There are still product items in this list that do not have corresponding technical regulations and standards for inspection.

This makes the process of goods inspection and examination become intuitive and unfounded and will lead to the discretion of the service provider. The service provider may decide the conformity of any goods without any liability. This makes the service quality of providers, whether private or public, not quaranteed.

<sup>8</sup> http://baochinhphu.vn/Thoi-su/Khong-ban-hanh-duoc-quy-chuan-thi-khong-kiem-tra-chuyen-nganh/359282.vgp

Gircular No.53/2016/TT-BLDTBXH of Ministry of Labour, War Invalids and Social Affairs on introduction of the list of machinery, equipment and materials subject to occupational hydrone and safety requirements.

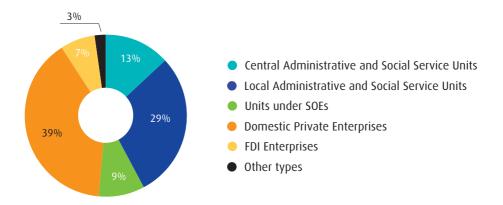
# SERVICE PROVIDER AND MARKET COMPETITION

Service providers in the survey are organizations conducting testing, experimentation, inspection, and certification of conformity of products, goods, production process, service provision, environment with announced applicable technical standards and technical regulations.

Locations of services, The questionnaire survey received responses from 199 service providers from 38 provinces and cities nationwide. Particularly, the units in Hanoi (accounting for 29.6% of the sample), Ho Chi Minh (18.1%), Da Nang (4.5%), Quang Ninh (4%), Hai Phong and Khanh Hoa (together 3.5%). The remaining 36.7% are located in 32 other localities. In addition, 28.9% of providers have branches or offices other than the head office. Most of them have offices nationwide.

*Type of ownership,* The percentage of state and private units providing services participated in the survey is relatively even, with 49% of private units and 51% of state units. Among the 51% of the state-owned units, the administrative and social service units at the central level account for 13%, the local ones 29%, the remaining 9% are units under state-owned enterprises. Of the 49% of private entities, domestic private enterprises providing conformity assessment services account for the majority of 39%, followed by Foreign Direct Investment (FDI) Enterprises (7%). Units and organizations in other types (i.e. business associations) are about 3%.

# Figure 4 Conformity assessment service providers classified by ownership



Thus, in terms of service delivery units composition, the state administrative units account for the largest proportion. This may be because the conformity assessment has long been provided by state-owned social service units before Vietnamese law allows private and foreign enterprises to provide services.

The percentage of private enterprises providing conformity assessment services is also large, accounting for 39%. Information from in-depth interviews shows that domestic private enterprises tend to be small in size, and focus on a number of niche markets rather than providing diversified conformity assessment services. Domestic private enterprises often focus on providing mandatory services to customers rather than providing voluntary services.

In addition to the above two groups, there is also a number of state-owned enterprises providing conformity assessment services. These are units operating in corporate forms and are often a subsidiary of another holding state-owned enterprise.

The percentage of FDI enterprises is not large, accounting for only 7% of the respondents. FDI enterprises often have two types, one is a well-known enterprise in conformity assessment abroad coming to Vietnam and establish a new entity. The other type is well-known foreign-owned enterprise acquiring Vietnamese enterprises or enter into cooperation contracts with Vietnamese enterprises. Despite foreign ownership, almost all the work is performed by Vietnamese people. The role of a foreign partner lies in the following: (i) allowing Vietnamese enterprises to use foreign brands and trade names to attract customers, especially foreign customers, exporter customers; and (ii) examine, supervise and assure that the company's operations comply with technical procedures and standards. Although the number of foreign enterprises is not big, these are all very strong units as opined by players in the market. They have the advantage in terms of reputation and brand name when providing services to exporter customers in the global supply chain. The customers of these businesses are often voluntary group, rarely mandatory customers.

*Turnover size,* The survey results show that the conformity assessment is actively participated by the providers with medium and large turnover. The number of providers with revenue in 2018 over VND 10 billion, accounting for about 43% of the respondents, of which, about 8% had turnover of more than VND 300 billion.

*Labour size,* Half of the providers have 40 or more employees and 1 in every 4 providers has more than 100 employees. Compared with many other professional service markets, the structure of conformity assessment services is more balanced thanks to more active participation from medium-sized enterprises. This is understandable because many conformity assessment services require intensive investment in machinery, equipment and technical infrastructure, which are often considered as barriers for many smaller enterprises.

The competitive edges in conformity assessment service is business scale and service diversity. If a provider has a large customer base, offers a variety of services, it has a lower cost and a better attractiveness to customers. For example, if a standard or specification contains many indicators, for which an entity can only provide assessment of a few not all, then the customer must look for multiple service providers. If one provider can provide all the indicators, it will reduce time and cost for customers.

*Type of services,* The survey results show the diversity of conformity assessment services. These services can be categorized into functional groups including experimenting, testing, inspection, appraisal, certification, and monitoring. Of which, "experimenting" is the most popular service group as recorded in the survey (accounting for 45.31% of the responses), followed by "certification" (23.75%), "testing"(13.13%) and "inspection"(11.88%).

Most of the aforementioned groups of services have been provided in Vietnam for a long time. In the list of respondents, the earliest provider was a state unit when conducting product quality inspections since the early 1960s. However, there were more than half of the respondents having one of the two most popular products starting within the past 10 years.

In summary, the survey results show that the service providers in Vietnam have a relatively equal number between private and state entities. The private sector providing this service are predominantly incorporated businesses, while the number of professional associations or other forms of organization is quite limited. The market is actively participated by providers with medium-sized turnover and labor in addition to the large number of small-sized units and organizations. These providers offer a variety of service groups, the most common of which are experimenting and certification of conformity. With more than half of the providers providing the key services within the past 10 years, the market for conformity assessment services in Vietnam seems to be expanding and containing many opportunities for the potential entities to join the market.

## SERVICE CUSTOMERS

In addition to surveying service providers, the research team also surveyed the customers who had been using the service.

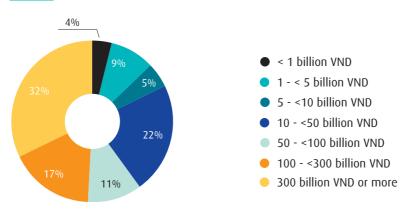
*Type of ownership,* Among 201 enterprises using the service responding to the survey, FDI enterprises accounted for the majority (56.7%), followed by private enterprises accounting for (41.8%). The remaining 1.5% is state-owned.

According to the survey sample, approximately 2/3 of respondents said they were customers to use the service directly. The rest are intermediaries (e.g., customs agents) that help other businesses with the services (about 19.7%), and businesses that are both intermediaries and direct customers (accounting for about 14.7%). In the field of goods quality inspection, there are many enterprises acting as intermediaries, connecting service users and service providers. This group has lots of practical experience and chances for comparison due to frequently contacting with many different customers, different service providers.

*Key business line,* Business customers using the most conformity assessment services are from processing and manufacturing industries (59.2%), followed by transportation, warehousing (20.9%), and wholesale, retail (14.9%). Enterprises from other sectors such as communication, media, construction, agriculture, science and technology and other occupations accounted for about 5% of the respondents.

*Size,* Medium and large-sized enterprises are the main group of customers who need to conduct conformity assessment activities. This is evident by analyzing labor size and turnover size of enterprises in the survey sample. A typical respondent enterprise has 240 employees (median value). The number of enterprises with fewer than 30 employees and the number of enterprises with more than 860 employees accounted for 25% of the survey responses respectively. Similar to the turnover size, large enterprises with 2018 turnover of VND 300 billion or more accounted for 32% of respondents, followed by the group of enterprises with a turnover of between 10 and less than VND 50 billion (22%). Enterprises with turnover of less than VND 5 billion only account for 13% of the respondents.

Figure 5 Characteristics of respondent businesses by size of turnover



*Years of business,* About two thirds of respondent enterprises have been operating for over 10 years. The number of enterprises with less than 5 years of operation accounted for only 8.9% and enterprises in operation from 6 to 10 years accounted for 23.4%.

Customers using the conformity assessment services are more popular among medium and large enterprises. The demand for conformity assessment services comes from processing, manufacturing, transportation and wholesale, retail and service sector. Businesses with demand for service have been in operation for many years in Vietnam.

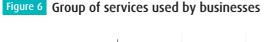
Characteristics of service demand, conformity certification services are divided into two main groups: (i) technical regulation conformity certification or other mandatory conformity assessment certification required by Vietnamese law; and (ii) voluntary conformity assessment upon the needs of the parties to the transaction.

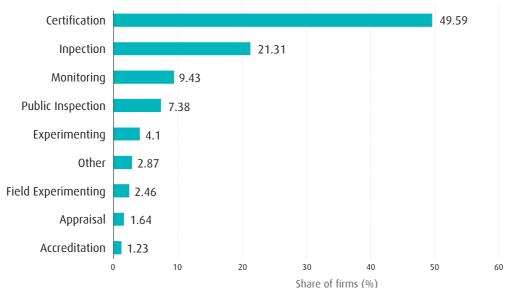
In the Vietnamese legal system, goods subject to the State's quality control are imported or manufactured for domestic consumption. The State set out these mandatory requirements to protect the environment and the people's health. Therefore, customers using mandatory services are often importers or manufacturers of domestically consumed products.

In contrast, for export goods, the foreign partner needs to ensure the quality of goods. Therefore, voluntary services customers are often exporter businesses.

## TYPES OF SERVICE

Survey results show that certification services are most sought for by businesses in the past 5 years (accounting for 49.59%), higher than inspection services (21.31%), and monitoring (9, 43%), public inspection (7.38%) and experimenting (4.09%). The two certification services used by most businesses are: management system certification (ISO certificates), and goods origin certification (C/O). The results are generally similar to the group of key services provided by the providers.





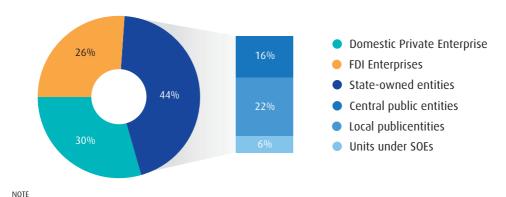
The most common conformity assessment services, such as certification, testing, monitoring and inspection, are usually conducted with products and goods in the fields of science, technology, agriculture, forestry, fishery, health, trade and service.

Survey results show the market share situation is relatively balanced between state-owned enterprises, domestic private enterprises and foreign invested enterprises. State-owned entities have the largest market share providing service to 44% respondent businesses. Of which, the proportion of customers using services provided by central, local and state-owned units is 16%, 22% and 6% respectively. Domestic private enterprises account for about 30% of market share, the remaining 26% belong to foreign invested enterprises (see figure 7).

However, if collating user survey results and the service provider survey results to see the full picture, it can be seen that while the number of non-state entities (including domestic private and foreign invested entities) account for 49%, they have gained a total market share of 56%, higher than the state-owned units' total share (44%). Nevertheless, this "slice of market share" is mainly for foreign units because domestic private enterprieses accounting for about 42% of the number of suppliers, yet only maintain 30% of the market share. In contrast, foreign service providers only have a small proportion (about 7%) but hold a significant market share, up to 26%.

Thus, it can be seen that although the number of domestic private enterprises are big, they have small scale and low competitiveness. On the contrary, the number of foreign invested enterprises are small, but they have large customers base.

# Figure 7 Market share of the conformity assessment service providers classified by ownership (%)



State-owned entities accounting for 44% of the market share include central public entities, local public entities and affiliated units under state-owned enterprises. Their market shares are 16%, 22% and 6%, respectively.

In general, the findings reflect that the market for conformity assessment services is quite diverse in terms of products and the participants. The state-owned enterprises account for the largest market share, 1.5 times the market share of the domestic private sector and foreign invested enterprises.

# **EVALUATION ON SERVICE QUALITY**

This section of the report presents some analytical results on the quality of conformity assessment service from the user perspective. The aspects examined include: attitudes of service providers, service provider expertise, and equipment for service delivery. In addition, the report also studies the changes in service quality that businesses experience over time.

## **EXISTING SERVICE QUALITY**

The following table presents the results of the enterprise survey on the quality of the conformity assessment service delivery key aspects including: (i) The attitude of service staff; (ii) Expertise of service staff; and (iii) Equipment.

# Table 2 Businesses perception on aspects of service delivery

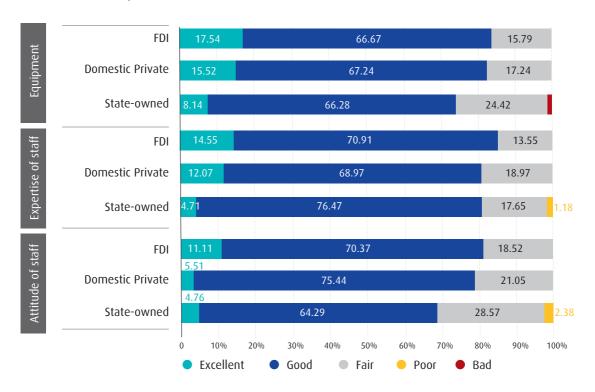
	Type of Providers	Business perception (%)						
		Excellent	Good	Fair	Poor	Bad		
Attitude of service staff	Sate-owned	8.14	66.28	24.42	0	1.16		
	Domestic Private	15.52	67.24	17.24	0	0		
	FDI	17.54	66.67	15.79	0	0		
Expertise of service staff	Sate-owned	4.71	76.47	17.65	1.18	0		
	Domestic Private	12.07	68.97	18.97	0	0		
	FDI	14.55	70.91	14.55	0	0		
Equipment	Sate-owned	4.76	64.29	28.57	2.38	0		
	Domestic Private	3.51	75.44	21.05	0	0		
	FDI	11.11	70.37	18.52	0	0		

According to the perception of businesses having used the conformity assessment services, the attitude of the staff providing these services is quite good. Among the three types of providers, the "Excellent" or "Good" ratings has reached to more than 70%. Employees in foreign invested enterprises are most appreciated for their service attitude (84.21% of business rating "Good" or "Excellent"), followed by domestic private enterprises and organizations (82.76%). Lowest ranking is for the state-owned providers. Nearly a quarter of businesses rated the service attitude of employees at the state-owned enterprises as "Fair".

Similarly, foreign invested enterprises got the highest ratings in terms of their *staff professional expertise* (85.46% of businesses rated "Excellent" or "Good"), higher than state-owned and private providers (both about 81%). Domestic private enterprises are rated higher than state units in terms of expertise with 12.07% compared to 4.71% of businesses rating "Excellent".

Meanwhile, the rating between state-owned and private enterprises is more different in quality of equipment used for the assessment. About 31% of businesses think that the equipment of state owned is Fair or Poor. This percentage is higher than the corresponding 21.05% and 18.52% of domestic private enterprises and foreign invested enterprises.

Figure 8 Percentage of business rating on the equipment, expertise and attitude of service providers



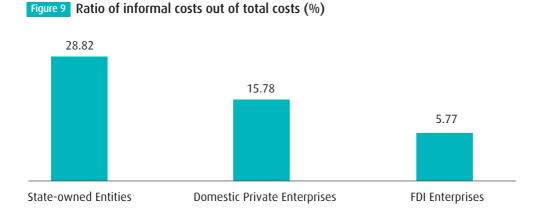
It can be seen that foreign invested entities stand out both in terms of staff service attitude, expertise and equipment. Although domestic private enterprises do not have the same service quality with foreign entities, they are still rated better than state owned enterprises. The state-owned enterprises are inferior to the other two groups in terms of equipment, expertise and especially service attitude.

### INFORMAL COSTS IN CARRYING OUT CONFORMITY ASSESSMENT SERVICES

The research team also investigated the monetary costs that businesses spent in a typical case of using the assessment service, which breaks down into the fees prescribed by the service providers. and other informal expenses. It is to examine the proportion of informal costs out of total cost for businesses.

The data analysis show that the informal costs exist in conformity assessment service provision by all state-owned, private, and foreign invested enterprises, but with varying degrees of prevalence. The percentage of informal costs reported by businesses is 20.49% and 19.23% when working with state-owned and private enterprises respectively. This percentage is significantly lower with foreign invested enterprises, only 5.71%.

Another aspect to be investigated is the scale of informal costs for a typical case of the conformity assessment service usage. The informal cost ratio is 28.82% when using the services at state-owned enterprises, which is almost double the corresponding ratio when using services provided by domestic private entities. The ratio of informal costs is lowest when using services with foreign invested enterprises about 6% of total service costs.



The analysis of informal costs once again shows businesses' positive perception about foreign invested enterprises services, and partly reflects the prevalence and cost burden in procedural compliance through domestic private enterprises and especially state entities.

### SERVICE QUALITY IMPROVEMENT OVER TIME

#### CHANGE IN TIME COST

Based on the survey data, the research team compares the time that businesses have to spend on the conformity assessment service in the last time compared to the first time they used the same service. This evaluation data is gathered from businesses that started using the service within the last 5 years. The results show that businesses acknowledge the general improvement in reducing time costs with all three groups of state-owned enterprises, domestic private enterprises and foreign invested enterprises. Only about 1.22% of the services were deemed to take longer than before and they were the services provided by domestic private enterprises. Notably, state-owned enterprises are seen to have cut their time costs (61.54% of services taking less time than before), significantly higher than the 30% of domestic private sector, despite being much lower than foreign invested enterprises (92.31%).

Figure 10 Rating by service-using enterprises on the change in time cost associated with conformity assessment services in the last 5 years, categorized by service providers



This result indicates that most of the entities show improvements in terms of time, cost and process of service provision, though the level of improvement of state agencies is more than that of private units. Despite faster improvement in service quality, state agencies' time and price are still underestimated in compared to those of private sector. This result shows that under the pressure of competition, state agencies have also changed. The private participation in the provision of public services not only helps these enterprises to have business opportunities, but also forces state agencies to transform themselves to survive and not be left behind. During the in-depth interviews, some state agencies also said that they were forced to improve themselves and learn management experience from the private sector.

### RENDERING THE SERVICE ONLINE

The transition from brick and mortar public service delivery to online platform has been a trend during the last decade and continues in the near future. However, for the conformity assessment services, this transition process is protracted. According to the service provider survey, by the end of October 2019, only 16.51% of the services reported by agencies have gone online with at least one stage in the process. The number of online services by the state entities is the lowest (accounting for 14.29%), followed by the domestic private entitie (18.68%). The application of information technology is more common with foreign invested entities with reported 25% of the services delivered online.

### SERVICE QUALITY IMPROVEMENT

In general, the service quality by all 3 groups of enterprises was perceived to either improve or remain the same over time. In the last 5 years, 55.56% of services are viewed as improving quality and 44.44% remain the same quality compared with the first-time service. Foreign invested entities still lead the service quality improvement (69.23% of services rated by businesses as having more positive changes).

# Figure 11 Business perception on general improvement conformity assessment service quality in the last 5 years



To ensure service quality, the most important thing is that the conformity assessment service provider must have good quality control procedures in place. According to the results from in-depth interviews of services users, foreign invested entities receive the highest rating for service quality, followed by the state-owned social service units and the lowest ranking goes to domestic private enterprises. This mentality makes it difficult for private entities to have sound development.

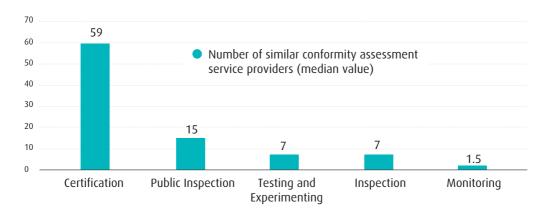
In summary, the evaluation results in section 5 show that businesses using services are relatively optimistic about the reduction in time costs and the overall quality improvement of the conformity assessment services in recent years. State-owned entities showed significant improvements, but the quality is still inferior to domestic private entities and especially foreign invested entities in terms of service attitude, expertise and quality of equipment. Service providers all need to intensify the application of information technology such as online service provision.

## SERVICE PROVIDERS SUBSTITUTABILITY

Competition is one of the important factors when reviewing the market of a specific goods or service. The participation of many service providers is an indication of a competitive market.

For the conformity assessment service providers, the research team investigates the awareness about the number of competitors who are providing the same service. The results show that, if classified by function, the certification service has the highest level of competition when a typical service provider identifies about 59 other units nationwide (median value) provide similar services. Public Inspection services are followed with an average of 15 competitor providers. The competitor number for testing and experimenting services is 7 providers. As for the monitoring service, the competition rate is lowest with only about 1.5 competitors providing similar services. Notably, monitoring is also the service where the state entities makes up the majority of the sample.

Figure 12 Estimates of the service providers on the number of service providers of similar groups on the market



The market for conformity assessment services lacks the necessary level of flexibility, especially from the perspective of business customers of state entities. Specifically, 41.86% businesses using state-owned services said it was difficult or very difficult to switch to alternative service provider. The corresponding percentage for business using services provided by domestic private entities is 21.42%. This result may suggest that state entities are providing the conformity assessment services with fewer competitors than private entities. Businesses who use the service then have limited choice if they want to switch service providers.

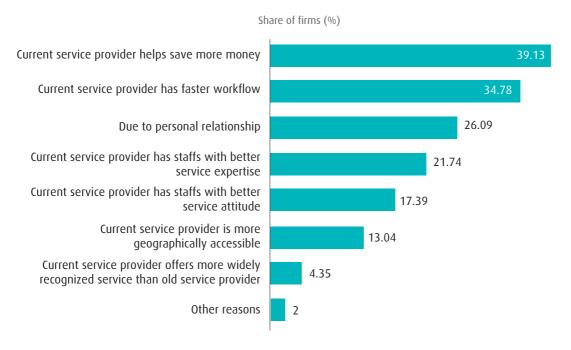
In-depth interview results show that there is direct competition between state owned social service providers and also avoidance. These entities will compete fiercely with each other when belonging to different agencies. For example, a center under the provincial People's Committee will compete directly with the centers under the ministries. In contrast, if the centers belong to the same ministry, they avoid direct competition with each other, especially in the geographical areas of service provision.

# Figure 13 Ease/difficulty to change the service provider



The survey results also show that 23.71% of businesses have changed service providers in the past. The following figure shows reason why the businesses decided to change their service provider.

# Figure 14 Reasons for changing the service provider



Thus, the primary reason driving businesses to change service providers is due to time and cost efficiency. Service providers with lower costs and faster processing time will be most preferred by businesses. It is noteworthy that the factor of "acquaintances" is considered more important by businesses than in the professional aspects and service delivery attitude. Surprisingly, the reason "being more widely recognized than the previous" ranked the lowest with only 4.35% of the responses.

In summary, the survey results shows a number of remarkable findings as follows:

- The number of domestic private conformity assessment service providers is increasing, but mostly of small scales, the aggregate market share is still smaller than the state entities;
- The enterprises using the Conformity Assessment service highly appreciated the private service providers more than the state ones for their professional qualifications, staff's service attitude and the quality of equipment;
- Similarly, time and costs, both formal and informal, associated with service provision domestic private entities are less burdensome to businesses than services provided by the state entities.



This section of the report analyses the results of the survey of service providers and users on private participation in providing conformity assessment services. Two key aspects under examination are: (i) Market entry and preparation for service delivery; and (2) Customers search and service delivery. In addition, the report examines the change by entities effectively transforming from state-owned service providers into private entities.

### Box 4. Inspection service of imported scrap

The Ministry of Natural Resources and Environment (MONRE) has allowed conformity assessment organizations to provide inspection service of imported scrap. This activity had been normal until 2018 when China changed their scrap import policy. This leads to sharp increases in the volume of scrap imported to Vietnam, lots of which do not meet technical standards.

Concerned with many conformity assessment organizations not complying with the process and fraud in the process of inspection and certification, the MONRE issued the regulation requiring the goods owner and the inspection service provider to invite representatives of the Department of Natural Resources and Environment from province where the scrap recycling plant is located to supervise this inspection. In essence, this provision revokes the scope of authority designated to the assessment service provider. However, due to the limitation of personnel in supervision from DONRE, it has led to the lengthy, time-consuming inspection process, increasing costs for scrap importing businesses. The Government has requested the MONRE to revise this regulation.

The above example proves that the process of allowing private participation in providing conformity assessment services for imported goods is winding and bumping, instead of being smooth.

# MARKET ENTRY AND PREPARATION FOR SERVICES PROVISION

Owing to the recent trend to simplify administrative procedures and the pressure of socializing conformity certification services, the State has reduced the conditions for establishing certification organizations. As a result, the establishment of conformity certification entity has become faster, more robust, and diversified in services provided. However, the service quality has not been controlled. As a result, the reputation of private entities has not been improved as expected.

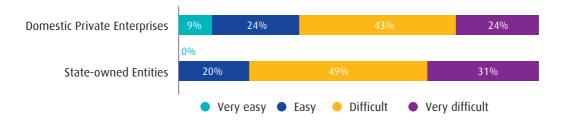
## FINANCING FOR EQUIPMENT INVESTMENT

The research team utilized the questionnaire for service users to compare public versus private service providers. Such questions are: "Based on your observations and understanding, do you think private entities do better than state ones in each of the following aspects?" The aspects compared include the ability to operate independently, the ability to mobilize finance to invest, the ability to recruit qualified staff, the ability to simplify the process, reduce fees and build good relationship with the State.

In terms of financing for equipment investment for market entry, 68.46% of service customer businesses believe that the private sector is doing better than the state owned entities, while 20.13% of businesses think the difference between these two groups is not significant.

Meanwhile, from the self-assessment of the providers, the private sector service providers are significantly more optimistic than the state owned entities. Specifically, only 19.78% of state owned entities had no difficulty in financing, the corresponding percentage of private entities was 33.78%.

## Figure 15 Ease with financing for equipment investment



Feedbacks from qualitative interviewing state owned entities revealed that the main problem of these units is the degree of autonomy in business operation. Although Decree 115/2005/ND-CP has provided for autonomy and self-responsibility by public science and technology organizations since a long time ago, the reality turns out that many entities are still faced with problems For example, even though public entities are allowed to decide on specific wages for their employees, they must not exceed the regulations, leading to difficulties in retaining high quality employees. In addition, in case of investing in high-value machinery and equipment, the public entities must still need approval from the governing body without the right to make decision. The service delivery is getting closer to the market principles;

however, being the social service units with income, the administrative and financial management regulations by the State makes it difficult for operation in practice. Therefore, the financing for equipment investment is more difficult than the private entities.

## RECRUITING QUALIFIED STAFF

69.74% of service users believe that the private sector outperforms the state entities in recruitment. Whereas 23.03% of businesses think there is no significant difference between state and private units in recruiting qualified staff.

Meanwhile, the survey results of service providers showed no significant difference between the two types of entities. Only about 31% of providers (private and State-owned) think that it is not difficult to recruit qualified personnel. Thus, recruiting qualified personnel is a major challenge for the Conformity Assessment service sector, whether the supplier is private or public. According to the survey respondents, the difficulty is that personnel often do not have a long-term attachment to the job. The cited reason is that the work requires frequent and repeated moving.

## Figure 16 Ease in recruiting qualified personnel from the service providers perspective



However, some private entities said that the advantage of non-state entities was the quality of post-recruitment personnel training. These entities have well-developed human resources training programs, especially those medium and large-scale entities. The flexible operation of private entities also allows them to quickly find, recruit collaborators and deploy training classes offsite or distance learning. The professional advisory network of private entities is well developed and is entitled to special working condition.

### COMPLIANCE WITH LEGAL REQUIREMENTS OF MARKET ENTRY

One of the difficulties for entities wishing to participate in conformity assessment services, especially non-state entities, is the commanding and compliance of legal regulations.

The first difficulty is how to understand the scope of "conformity assessment service." Decree 107/2016/ND-CP defines the providers of conformity assessment as "the organization that conducts activities of experimenting, testing, inspection and certification of conformity of products, goods and production processes, service provision and environment in conformity with the applicable announced

technical standards and technical regulations ". In fact, it is not simple to determine whether a particular service is a conformity assessment service and whether the entity is the provider or not. For example, are commercial inspection and environmental monitoring conformity assessment services? What is the conformity assessment in the cases of occupational safety inspection, motor vehicle inspection or medical equipment inspection? It is necessary to have a clear concept of the conformity services assessment for businesses to meet the legal requirements on market entry.

Compliance with legal regulations also poses certain difficulties for businesses that want to enter the market, mainly from problems of confirming experience and proving capacity. After obtaining the certificate of management system and operational capacity, entities wishing to provide conformity assessment services will need to register an establishment file in accordance with Decree 107/2016/ND-CP. The files require to register the field of operation. Such registrations in some cases cause hindrances, as mentioned by the survey respondent (see Box below). The enterprises and organizations also need to apply for a designation license from the line ministry that manages the service sector under Decree 74/2018/ND-CP<sup>10</sup>.

## Box 5. Inconsistences in registering conformity assessment operation

A provider of conformity assessment service in Ho Chi Minh City cited the difficulties due to the business line registration as prescribed in Decree 107/2016/ND-CP. This Decree requires enterprises and organizations doing business in inspection, experimenting, certification and testing services to register their business line. However, this regulation in some situations will be disadvantageous to the enterprises and organizations.

Specifically, for export purpose, the products will have to satisfy the technical standards and regulations of the importing country. This leads to the situation where the businesses demand for assessment service in Vietnam, very few or even no entities have "registered" the business line. This put exporting businesses at a disadvantageous situation. If the provider just started to register the business line, it would not meet the deadline set by the businesses.

Meanwhile, for those types of goods that businesses do not have frequent demands, it is time- and labor-consuming, costly and yields no economic value to register the business line well in advance.

A proposal from conformity assessment provider is that the State should only regulate the business line registration of items and products related to quality and for State management purpose. For commercial purpose inspection, certification and testing services, it is advisable to let the conformity assessment service provider to be accountable for all its activities as per agreements with customers.

——— Opinion from a conformity assessment service provider in Ho Chi Minh City

Decree No. 74/2018/ND-CP dated May 15, 2018 of the Government amending and supplementing a number of articles of the Government's Decree No. 132/2008 / ND-CP dated December 31, 2008, providing for detailed implementation of a number of articles of the Law on Product and Goods Quality

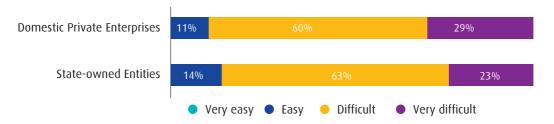
## CUSTOMERS SEARCH AND SERVICE DELIVERY

### THE POSSIBILITY TO REDUCE SERVICE CHARGES

From the perspective of the users of the conformity assessment service, many businesses expect the costs of using the service to be reduced. Of which 41.84% of business respondents believed the private sector could reduce fees lower than the state-owned entities, meanwhile, from a service provider's perspective, the ability to meet this expectation remains a challenge. According to the survey result.

Both state-owned and private enterprises are not really optimistic about the possibility of reducing service charges. Only 14.29% of state enterprises and 10.53% of private enterprises believe that it will not be difficult to reduce fees lower than the existing levels.

# Figure 17 Perception about reducing service charges



For state enterprises, some stated that the fee levels must follow the regulations of the Ministry of Finance and the institutional arrangement of the state owned enterprises has not allowed them to reduce fees or provide after-sales service with customers. Some service delivery activities are still not separate from state management activities and often associated with central or local political mandates.

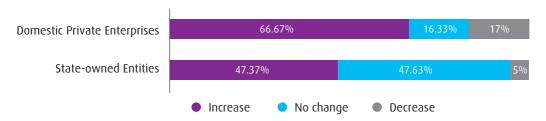
Meanwhile, the private sector deemed the possibility of reducing the fee as very difficult because of the need to have reasonable revenue to cover HR and many other expenses and taxes, which they are not supported like State entities. Furthermore, some entities must maintain a quality management system compatible with international standards, so the cost of rendering regular services will be high and the discounting price is a decision that needs careful considerations.

Both state owned and private enterprises are faced with market competition when there are a number of profit-seeking entities that do not follow strict technical process but only 'sell' license on the cheap. Some private entities also cited the cases of other organizations copying their knowledge and technology. These are issues that regulatory agencies need to have solutions to prevent and deal with.

#### **CUSTOMER**

The survey also examined the change in the customer number using the services compared within the last 5 years. It can be seen that the number of customers using services of both state-owned and private enterprises has increased over the past 5 years. 66.67% of private entities have witnessed an increase in the number of customers, which is higher than the 47.37% of state-owned enterprises. In contrast, up to 17% of private entities said that their customer numbers decreased, compared with only 5% of the state enterprises suffered the same situation. This shows that the rejection on the market for private entities is immense. If there are good business operations, private entities will quickly attract more customers and expand, but if their operations are ineffective, they will quickly lose customers. Meanwhile, state-owned entities seem to prefer stability in service provision.

## Figure 18 Change in the number of customers using the service

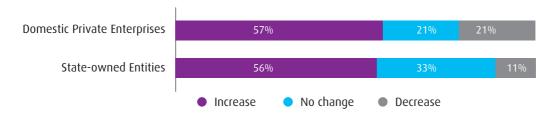


According to the survey feedbacks, one of the great advantages of state owned enterprise is that they are often favored (through the direct appointment of contractors) for projects and programs financed by the State. State owned entities are also allowed to provide services associated with state management functions. This is a great advantage over private enterprises.

### **REVENUE**

55.56% of services by state owned enterprises have increased revenue in the last 5 years. The same goes for 57.14% of private entities. The increase in customers as well as revenue with a large number of services indicates favorable business trends for both public and private entities in the provision of pedagogical assessment services.

# Figure 19 Change in revenue from key services



In short, in terms of market entry and service delivery, private entities with their flexibility are easier to finance for equipment investment as well as recruiting and training qualified personnel than state owned entities. The possibility to reduce service fees is not significantly different between State owned and private entities. Similarly, on the possibility to simplify the current service delivery process, the difference between these two groups is minor.

The situational analysis of conformity assessment services provision shows the favorable business situation of both private and State entities. These two groups have witnessed an increase in the number of customers and revenue of key services in the last 5 years.

From the perspective of service users, businesses are very optimistic about the private participation in providing services. With the exception of "reducing service charge rates" possibility, most businesses believe that the private sectors will outperform the state entities if all participate in the conformity assessment service provision.

#### POLICY RISK

The conformity assessment is subject to multiple State management regulations so the policy risk is quite high. Policy risks for this sector can be divided into 2 groups:

- Firstly, risks arise from policy changes when the State cuts down on specialized inspections. For example, the 2018 specialized inspection reduction caused revenue losses to many service providers. In particular, there is an in-depth interviews unit said that they lost 85% of revenue for this reason. Another unit with the large scale that has done multidisciplinary tests said that they were down by approximately 10% of revenue;
- Secondly, risks result from policy implementation. State agencies authorize or designate service providers for a definite term and service providers may lose their authority or designation status.

These types of risks focus on the group of customers using mandatory services and enterprises providing services as designated by state agencies. As previously mentioned, this is the type of service provided by many private enterprises and it accounts for a large proportion of the revenues of these private units. Therefore, this policy risk will continue to pose challenges for domestic private enterprises group. In-depth interviews with many businesses also concur that, if the business over focuses on compulsory services revenue portion, it is less sustainable than the revenue from voluntary service customers.

### Box 6. The ratio of revenue between voluntary customers and mandatory service customers

The ratio of revenue between the two compulsory and voluntary service categories also varies among businesses. The survey showed that among the three groups of service providers, the group of domestic private enterprises had the highest percentage of revenue from mandatory service customers. In the group of foreign invested enterprises, the revenue mainly comes from voluntary customers. The public social service entities are placed between the two groups.

The survey also showed that enterprises in the South (mainly in Ho Chi Minh City) tended to have a higher proportion of revenue from voluntary customers than businesses in the North (mainly in Ha Noi). Northern businesses have a higher proportion of revenue from mandatory service customers.

In general, businesses acknowledge that having higher revenue from commercial certification will add more stability to businesses, avoiding policy risks when there is a change in the specialized inspection regulations recently.

#### STATE REGULATIONS ON PRICING

In terms of pricing, most of the existing conformity assessment services allow service providers to compete on price. The state hardly regulates the prices, except for (1) technical testing services for machines, equipment, supplies and substances with strict industry-specific safety requirements and (2) transportation vehicle inspection service. These 2 services used to be provided by the State, now many public and private enterprises are allowed to provide. The pricing is governed by Law on Prices, or the legislation on fees and charges.

Technical testing services of machines, equipment, supplies and substances with strict specific industry-specific safety requirements shall be managed based on the minimum price method, i.e., service providers are not allowed to charge lower than the minimum price set by the State. In contrast, vehicle inspection services are managed by maximum price. The reason for the State's maximum price management may be due to the concern that the inspection service entities collect too high prices, impairing the interests of vehicle owners.

## Box 7. Minimum price for labor safety inspection service

According to Decree 149/2016/ND-CP<sup>11</sup> guiding the Law on Prices and Circular 41/2016/TT-BLDTBXH<sup>12</sup> technical inspection services for labor safety of machines, equipment, supplies and substances with strict labor safety requirements must be subject to the minimum price.

As cited by a business participating in the interview, the reason for this regulation originated from the cases where some units did not perform all steps of the inspection so it did not guarantee equipment safety. This results in very low pricing offered by these units. Under this situation, the State sees it necessary to set a regulation on minimum prices to protect service providers in accordance with professional procedures.

Assuming the above explanation holds true, this is not an appropriate management measure to achieve policy objectives. The nature of the problem lies in the lack of capacity of the State to supervise and penalize enterprises failing to have done proper business processes. Even with the minimum price policy, if a unit not complying with the correct process is not penalized, they will still offend.

Decree No. 149/2016/ND-CP of November 11, 2016 of the Government amending and supplementing a number of articles of the Government's Decree No. 177/2013 / ND-CP dated November 14, 2013 detailing and guiding the implementation of a number of articles of the Law on Prices.

<sup>12</sup> Circular No. 41/2016/TT-BLDTBXH dated 11/11/2016 of the Ministry of Labor, Invalids and Social Affairs prescribing the minimum price for technical inspection services of labor safety of machines, equipment and supplies and substances with strict labor safety requirements.

# TRANSFORMATION FROM STATE UNIT TO PRIVATE UNIT IN PRACTICE

Among the service providers participating in the survey, 7 of them used to be 100% established by the State and then was privatized. For these 7 units, the survey raised questions to assess the effect of privatization process on the two most common services of each unit (14 services in total), in terms of: changes in service attitudes of employees, staff's expertise, equipment, and service delivery processes.

The results show that there is no case where service quality get worse after the transition. After transforming from the state unit into a private unit, 10 out of 14 services were perceived better in terms of service attitude, 9/14 improved their staff professional expertise, 8/14 services are better equipped and 10/14 get streamlined on the service delivery process.

## Table 3 Change after converting from state unit to private unit

	Changes in service attitude	Changes in staff expertise	Changes in equipment	Changes in service delivery processes
Do not know/No answer	4	4	4	4
Unchanged	0	1	2	0
Better	10	9	8	10

Although these are individual cases, the results may show a positive effect from the gradual transition of the state's role in providing conformity assessment services to private entities.

In Vietnam, the 'equitisation' trend took place during the 2000s, but then seemed to level off, for a long time there were no equitized entities. In fact, a number of State enterprises in conformity certification of conformity performed relatively well after equitization. These businesses continue to reinvest and expand business such as Vinacontrol, Cafecontrol, etc.

#### NEED TO RETAIN STATE SOCIAL SERVICE UNITS

As mentioned, the report recommends intensified efforts to equitize the State social service conformity assessment units. However, some opinions may suggest retaining several units, for the following purposes:

- Firstly, to serve for the validation. When there is doubt, or disagreement about the conformity assessment results of licensed entities, a final verification is needed;
- Secondly, to ensure proficiency testing, to help ensure that the conformity assessment units have sufficient competence, qualifications and management processes;
- Thirdly, perform post-inspection of goods in the market, provide services to state agencies.

As such, social service units retained by the State will not provide conformity assessment services directly to businesses, consginor, or to certify conformity for goods. These jobs will be transferred entirely to private units.

It is controversial whether the State's social service units, apart from providing verification services, and proficiency testing, should take advantage of machinery and manpower to provide services for the market? If being allowed to take advantage, it will help reduce social costs, take advantage of idle resources to provide more services to society. But this will lead to the risk of undermining independence and objectivity when performing verification. Because, when the verifier is authorized to provide service en masse, the customer will tend to bring the goods to these verifiers to assess the conformity from the beginning. This creates an unfair competition mechanism with other units.

State agencies within their scope of work also need to use conformity assessment services to serve the inspection, examination and investigation of goods and markets. For example, a government agency that conducts a goods inspection in the market may take a sample, then send it back to a testing laboratory for assessment; or the investigating police authority takes samples and sends it to the testing laboratory to for testing some criteria that judicial expertise units cannot do. The state agencies tend to resort to the public units, or the units with state capital holding. In fact, it is very rare for state agencies to send samples to private units that have been licensed or designated, authorized to check goods quality.

Therefore, agencies with inspection, examination and investigation functions have a need to maintain public units in order to ensure the function of conformity assessment when dealing with offences of law. Because these are very high-risk cases, the violator may not agree with the results of the conformity assessment, the competent state agencies dealing with violations tend to use service delivered by units with verification functions. If using the services of entities without verification function, it may result in the situation where the offender will hire another conformity assessment unit and produce different results.

The Law on Judicial Expertise (Article 20) stipulates that local ministries and provinces must publicise lists of judicial experts for the cases and organize judicial assessment for the cases. The law still allows the use of judicial assessment services outside the list but it must be justified by a reason.

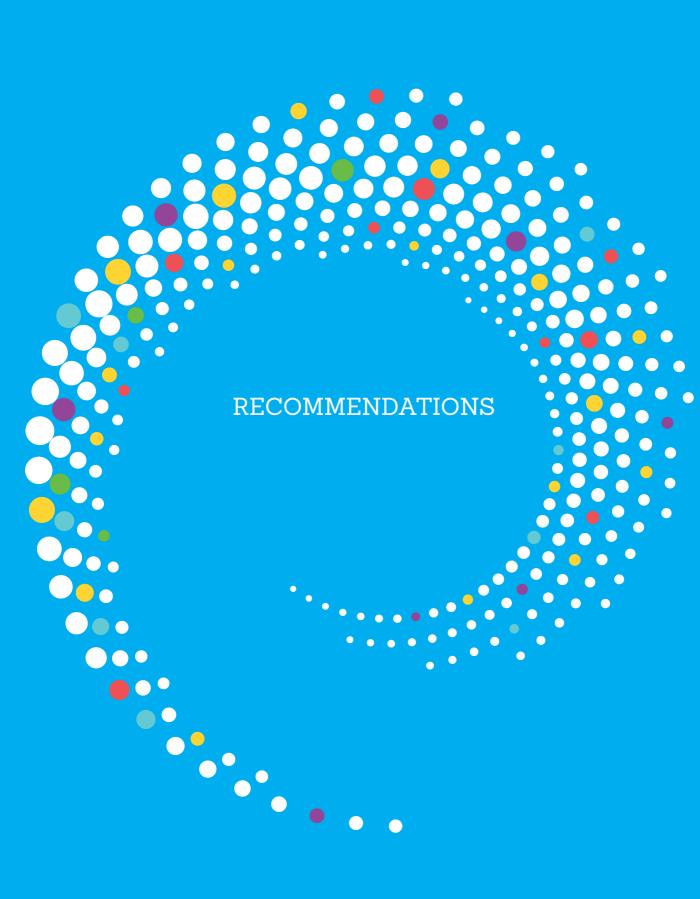
Through in-depth interviews, the units also differed in opinions when asked about the case of providing conformity assessment services as required by state agencies:

- Timewise, most of the units said that they would prioritize providing services to state agencies;
- Expenses are charged as normal;
- State agencies, when using the conformity assessment service, often focus on time factor rather than cost factor;
- Some units specializing in working for the State even have separate channels for providing services to state agencies.

It is widely accepted that units specialized in serving the inspection, examination and investigation of other state agencies, can maintain the State form (together with the verification function). However, this does not mean limiting the right of State agencies to use the conformity assessment service provided by other private parties.

In summary, there are some notable differences between the private and public entities that provide conformity assessment services as follows:

- The state units are favored, especially in the provision of services that the private sector are not permitted to provide;
- State units have difficulty in financing and human resource recruitment. Governance capacity to streamline the implementation process and reduce service prices of state units is not equal to that of private enterprises;
- Some private entities have high growth rates, but there are also many other private entities being eliminated very quickly from the market;
- The privatization of state units brings about good results on service quality. Many state units themselves also support this.



Resolution No.19-NQ/TW dated 25/11/2017 in the 6th meeting of the 12th central committee on continuing to renovate organizational and management structure, enhance quality and efficiency of public service provider yields some contents related to the renewal of non-profit units which provide scientific and technological services, including conformity assessment service:

- Review and restructure the technology and science system for the purpose of dramatically decreasing the number of contact points, including those in central and local government authorities, dissolving technology and science organizations sharing similar research subject or function in combination with restructuring of technology and science industry. There should be ideally one public service provider affiliated to Technology and Science Department.
- Select and invest in fundamental and applied science research organizations which can level up with regional and international standards. Develop and improve the capacity of technology and science service systems and develop a technology and science market in consistent with the 4th industry revolution.
- Transform technology and science organizations for applied science research whose science products are eligible for commercial purpose into enterprises or organizations affiliated to economic corporations and general companies. Consolidate the bond between technology and science organizations with universities and enterprises to integrate science research into production and business.
- Transfer some public technology and science organizations in fundamental research to universities and institutions in pursuit of tightening the relation between research and training.

# SOME RECOMMENDATIONS FOR CONFORMITY ASSESSMENT SERVICES

## AVOID THE SITUATION WHERE THERE IS ONE INDICATOR OR ONE FIELD OPERATED BY ONLY ONE SERVICES PROVIDER OR A FEW SERVICE PROVIDERS

Currently, there is a situation in which several indicators and fields operating by only one or a few service providers. In the case of several service providers, there is only one service provider in each region. This leads to the situation that there is no competition in the market for service provision at that indicator or field as for plant protection drugs. There are perhaps many causes for this phenomenon, such as insufficient market capacity; investment costs and over-purchasing machines or difficulty in seeking suitable human resources. However, some comments in the in-depth interview suggesting that one of the reasons lies in the fact the competent authority wants to maintain such a small number. This limits choices for customers using the service and thereby creating monopoly in service provision.

To address this situation, it is necessary to publish the entire list of conformity assessment service providers specified by indicators and fields in the same data sheet. This will help identify indicators or fields in which there are only one or a few service providers in different regions to facilitate further assignment.

## SHOULD NOT BE ASSIGNED FOR THE UNITS DIRECTLY UNDER THE SPECIALIZED MANAGEMENT AGENCIES

There is a phenomenon that conformity assessment units are non-productive units directly under the line ministry. This causes conflicts of interest for the management agencies, because not only do they perform the function of goods safety management but they can benefit from the specialized inspection service charges for the goods as well.

The solution to this problem is not to appoint units directly under the line ministry. In the absence of qualified private agencies, only other state units under other ministries or localities should be assigned.

#### GOOD MANAGEMENT OF LICENSING PRIVATE ENTERPRISES

It is necessary that the state management agency regulates licensing the service providers to conduct the assessment, and this is widely accepted by both the supplier and business customers with the same concurrence rate of 90% respondents, with 93.37% from service providers and 91% from business customers.

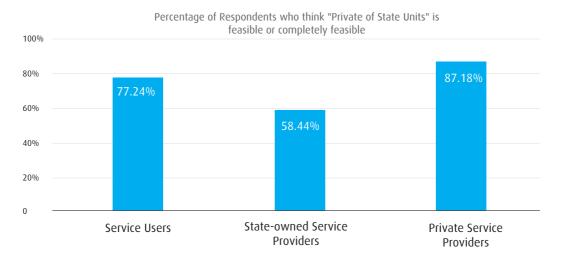
The state management agency needs to manage the number of conformity assessment service providers by ensuring that only organization capable of meeting the regulations/requirements can be allowed to operate, and avoiding the situation that many units cited in the survey. There are incompetent units and organizations being licensed, established for the purpose of "selling paper", unfair competitive pricing, but not for providing quality services.

Government agencies should also facilitate conformity assessment service providers to establish Associations/Society, such as the Association of Certification Bodies. This helps bring the entities to the table, exchange technically, promote conformity assessment activities, and avoid unfair competition. At the same time, these associations have also gather the voices to adjust inadequate state management regulations or issues (if any), as well as enhance the capacity for organizations to provide certifications according to international standards and export market standards.

### MOVE TOWARDS THE PRIVATIZATION OF STATE UNITS

The VCCI survey asks the question of the feasibility of the idea of "The State spin off its conformity assessment services to private enterprises" within the next 5 years. The results show that service users and private service providers are optimistic about this idea, especially the private entities providing services, with concurrence rate of 87.18 %. Meanwhile, the state units do not have a high consensus when 58.44% think the idea is feasible and the remaining 41.66% consider this proposal unfeasible in the next 5 years.

### Figure 20 Opinions on the feasibility of spinning off State units to the private sector



As noted by the state units in the survey, they are bound by many state management mechanisms that limit the autonomy in recruiting personnel, setting service fees and financing. The authorities need to carefully study and contemplate the areas to be privatized and develop the privatization roadmap of underperforming units. This will help solve the problems that state units often encounter. Practices from the transitioned units shows that the results are very positive.

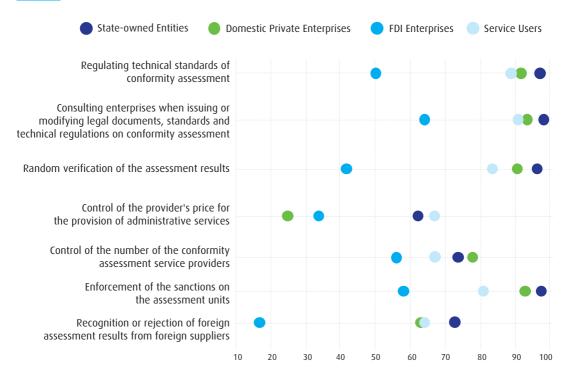
### DETERMINE THE RIGHTFUL MANAGEMENT ROLE OF THE STATE ON CONFORMITY ASSESSMENT SERVICES PROVISION

About 28% of private service providers said that state-owned units are more favored by state agencies. If counting only non-state entities (domestic private units or foreign entities), this rate is approximately 43%. This suggests that non-state entities still feel a significant level of partiality in the way state agencies treat them compared with state units.

Two thirds of the respondents think that the market does not need new units, one third think the market needs more service providers. Notably, in the group against more suppliers, 83% were state units, 17% were non-state units. The resistance reasons are quite diverse. While the group of non-state units is concerned about more competition and the risk of reducing revenue, the majority of State units object because of "not enough market demand" (20%) and "New units will cause difficulties for the state management" (80%). Surprisingly, the results from the open-end questions show that state-owned units (especially the central state-owned social service units) expressed a lot of concern about some private units "selling licenses" and does not guarantee the required market standard. This further explains the concern of the State units about the risk of State management having "difficulties" when the market expands to include more service providers.

The research team presented 7 contents related to the role of the state agency in the conformity assessment services market and study the attitudes of the parties in each of these roles. The following figure shows the agreement/full agreement rate (%) of the state entities, private domestic entities, foreign entities and business customers.

### Figure 21 Concurrence rate with each role of state management agencies classified by respondents (%)



In general, the results show significant differences between different groups of respondents. State service providers have the highest consensus with the management role of state agencies. This is in contrast to foreign invested service providers when more than half of the units disagree with the 4/7 roles listed. The level of consensus among domestic private enterprises and service users lies in between the two groups mentioned above.

The role of "regulating technical standards of conformity assessment", "consulting enterprises when issuing or modifying legal documents, standards and technical regulations on conformity assessment", "random verification of the assessment results and "enforcement of the sanctions on the assessment units" received the highest rate of support from the survey respondents. Meanwhile, "control of the provider's price for the provision of administrative services", "the control of the number of the conformity assessment service providers", and "the recognition or rejection of foreign assessment results from foreign suppliers" are the least supportive activities, especially control over service charges.

This result shows that state management agencies, instead of interfering with pricing and the number of suppliers in the market, should focus on developing policy and regulatory frameworks for conformity assessment market. Relevant authorities should promulgate or review national standards and regulations, list of items subject to specialized inspection, and disclose the above information in a convenient manner to avoid unnecessary duplication for inquiry and research by the businesses and community.

Besides, service providers and users expect the State to maintain its law enforcement capacity through verifying results and enforcing sanctions against offences by service providers. State examination of observing regulations on product quality, assessment and announcement of the conformity of products and goods circulated in the market is necessary. If detecting offences, the State agencies should strictly penalize offences and publicize offences.

# GENERAL RECOMMENDATIONS FOR PUBLIC SERVICES PROVISION

Currently, Vietnam is in critical need of renovating the provision of public services to better meet the demands of society. To do this, several solutions as follows should be implemented:

## IT IS NECESSARY TO DEMARCATE THE SECTORS THAT THE STATE KEEPS HOLDING AND SECTORS FOR PRIVATE PARTICIPATION IN SERVICE PROVISION

This demarcation is still unclear and there are many sector that the private entities can provide services but are still classified as administrative services, provided by the State. Some examples can be listed as follows:

- For service of design appraisal and quality inspection of construction works before they are put to use, many countries around the world have allowed private provision of this service. For example, there are private companies providing construction quality control services before they are put to use. Upon every project completion, the project owner must hire one of those private companies to check the quality of the project, ensuring that the project is safe and compliant with the construction safety regulations, fire protection. The building must be certified by one of the private companies before it can be put into operation. The state has the role of licensing companies to provide construction quality control services and oversee the service delivery of these companies. The state does not directly inspect construction works;
- Pre-release film screening service is similar. Currently, this is still undertaken by a government agency. It is possible to license for private units to undertake. Film producers and importers will bring their films to one of the above service providers for appraisal. Film is only allowed to be released after an appraisal unit has approved it. Similarly, publishing sector now has allowed many publishers. Book publishing, importing businesses and authors only need to be accepted by one of the publishers to be allowed to publish;
- Even in the conformity assessment service, this problem also arises when determining the fields and stages of the service to be retained and the fields and stages of the service that can be equitized. The above section of the report has analyzed the need to retain the mentioned state units (not equitized), clearly analyzed the cases that need to be verified, proficiency testing and service delivery for state agencies.

The above examples show that there is great potential for expanding the scope of public service provision.

### THERE SHOULD BE A LIST OF PUBLIC SERVICES THAT MUST BE OPEN FOR COMPETITIVE BIDDING. AND FOR PRIVATE SECTOR PARTICIPATION

In many cases, the State maintains public social service units to respond to the needs of the state. Meanwhile, the private participation through these tender packages is still very limited. The scope open to competitive bidding for private participation in the public services provision is very large. There are also countries in the world that allow private participation in investment and operation of prisons, providing goods and services to the state such as military training ... In these cases, the State plays the role as the service users through bidding packages instead of having public service delivery units to provide the services.

In Vietnam, in 2019, the Government issued Decree 32/2019/ND-CP stipulating the assignment, purchase-ordering or bidding to provide public products and services using the recurrent state budget. This Decree provides for a very wide scope of public tendering for private participation in providing services to state agencies. However, this is just a list of sector with possible private participation, not a required list for public tender. Whether or not to organize a public bidding for private participation is determined on a case by case basis and greatly depends on the discretion of the responsible officer. Normally, if there is already a state-owned social service unit doing this, it is rare for state agencies to organize public bidding. Therefore, nowadays, it is important to have the pressure to expand the scope of services that are mandatory to bid out, allowing private sector competition and participation in services provision.

Conformity assessment services is a clear demonstration for the use of the services of state agencies. When an agency needs to solicit judicial expertise or administrative inspections, these agencies often use the services of public units rather than private units. Partly because of the habit, the other part is that the state agencies trust the state's non-productive units more than the private units. However, this market requires bidding so that private service providers can also obtain service contracts with public agencies.

## THERE SHOULD BE A PLAN TO CORPORATIZE AND EQUITIZE STATE SOCIAL SERVICE ENTITIES

The promotion of corporatization and equitization of state-owned entities will help increase the private resources to invest in these entities, instead of using resources from the State. Currently, Vietnam has issued plans to divest from state-owned enterprises (Decision 58/2016/QD-TTg dated 28/12/2016 The Prime Minister on Criteria for Classifying State-Owned Enterprises, State-Owned Enterprises and List of State-Owned Enterprises in 2016-2020 period and Decision 26/2019/QD-TTg dated 15/8/2019 of the Prime Minister on the approval of the list of enterprises to be equitized until the end of 2020). Despite hindrances in implementation, at least it can be based on this plan to monitor the equitization process of State-owned enterprises. However, for the State social service entities, there is currently no detailed plan at the Prime Minister or the Government 's level on corporatization or equitization of State social service entities. These plans are still mainly developed and implemented by the governing bodies of State social service entities, without much progress.

The state agencies providing the conformity assessment service also said that many places had a policy of corporatizing or selling capital to the private sector, but the progress was very slow, or even impossible. This is due to many different reasons. Line agencies often have no incentive to equitize their non-productive units. Without a push from a higher level with specific plans and targets, it is unlikely to succeed.

#### DEMARCATION BETWEEN MONOPOLY AND COMPETITIVE SERVICES

One of the issues that makes the private sector participation in public service provision still inconsistent, is the lack of demarcation between natural monopoly public services and highly competitive public services. For example, services on clean water provision, transmission, distribution and retail of electricity, road infrastructure, seaports, airports, waterways, railways, etc. have very high natural monopoly characteristics. It is very difficult for service users to change the service provider, and it is also difficult for multiple parties to participate in the service provision because of economic inefficiency. In contrast, highly competitive services such as conformity assessment, film screening, health care, education, etc., customers can easily switch from one provider to another, and it improves efficiency to have many service providers.

This demarcation is very important, because it allows the State to apply appropriate management measures to each field. Practices have demonstrated that whether private participation in public service provision is feasible or not depends greatly on the competition or monopoly of such goods and services. For example, in the electricity sector, electricity generation is a highly competitive subsector. Therefore, currently, the private sector invests heavily in electricity generation. However, the electricity retail sector is open to competition, but it is much more difficult, as retail sales will have to be separated from transmission and distribution. Therefore, it is more difficult to allow the private sector to participate in electricity retail services.

The demarcation between monopoly and competitive public services is very important in establishing a legal framework for the management of such services. For competitive services, competition pressure will help achieve market efficiency. Therefore, State management measures should only focus on ensuring minimum service quality and service provision to protect consumers' rights. Monopoly service management measures require stronger intervention, from price management to service availability.

Conformity assessment is a highly competitive area, so equitization is quite easy. However, the role of the State at this time is to focus on maintaining market discipline to ensure quality and honesty in service delivery.

#### **AVOID EQUITIZATION TRAPS**

The experience of allowing the equitization of public services in the world has left lessons on equitization traps. This is the phenomenon when the State divest natural monopoly entities that provide public services to the private sector, changing from state monopoly to private monopoly. This can be beneficial by taking advantage of good private sector management skills to improve

production and business efficieny. However, maintaining the monopoly of the private sector may not benefit the economy. Therefore, the more important solution is to creatie and promote competition in the market. In case it is impossible to create competition in that market, due to the natural monopoly factor, State interventions are necessary such as price control, strict monitoring of service quality, and prohibiting service providers from denying customers.

#### THE ROLE OF LICENSING AND MONITORING SERVICE QUALITY OF THE STATE

In order to manage private providers of public services, the State cannot apply the admministrative orders as for public entities, but must use legal instruments instead. Therefore, it is necessary to develop legal regulations to manage. In particular, licensing and monitoring of service quality is essential in most public services provided by the private entities. Initial licensing helps ensure the capacity of the private sector to provide services, while quality monitoring helps ensure service quality for consumers. On these two tools, it should focus on post-audit service quality monitoring rather than on licensing of service delivery capacity in the first place. The monitoring must be accompanied by sanctions when offences are committed, and risk management principles should be applied to provide appropriate monitoring measures.

Conformity assessment is a typical service demonstrating the role of the State in licensing and monitoring service quality. This is an area that requires expertise, so the initial licensing by the State is the stage that helps test the facilities and human capacity of the service provider. However, Conformity assessment is an area where there is easy collusion between service users and service providers in order to falsify assessment results. Meanwhile, the licensing period only helps ensure capacity but cannot prevent fraud. Therefore, the inspection, examination and supervision of the State for this service is very important. In recent years, it is a fact that state agencies focus on licensing these units, but neglect the inspection, supervision and ensuring compliance.

Inspection, supervision and ensuring compliance for Conformity assessment should apply a variety of methods, with emphasis on proficiency testing, random sampling, or random selection to recheck. If detecting a mistake, it is necessary to handle the violation to ensure service quality.

#### MANAGEMENT WITH PLANNING TOOLS

Planning is a state management tool for some types of public services. However, this tool should only be used for resource-consuming public services. Before the Planning Law was enacted, the State maintained planning for some areas of public services such as notarization, inspection of motor vehicles... These are all highly competitive and resource consumption is limited to small scale land use, similar to other common business activities. Therefore, the application of planning is not necessary. Up to now, the Law on Planning has removed these types of planning. For certain competitive public services such as health and education, the application of planning tools should be limited to public schools and hospitals, not private entities. For public services using intensive natural resources or having monopoly characteristics such as water production, seaports, airports, roads, electricity transmission, planning is necessary.

According to the Vietnam Road Administration, after abolishing the planning of the motor vehicle inspection center, the number of units applying for a new establishment license increased sharply. The services of these centers are improved such as shorter time, more promotional activities and customer care programs. However, the management agencies also worries that competition will give registry centers more incentive to cut down on inspection steps or still issue certification when the vehicle does not meet the standards to attract customers. Therefore, state agencies need to strengthen inspection, supervision and violation handling to ensure service quality.

#### PRICE CONTROL

As mentioned, the service prices control should only be applied to monopoly services, while competitive services should be left to market to decide. In fact, this principle has been widely applied, but there are still highly competitive services that the State maintains prices controlling.

In many cases, state agencies are concerned that letting enterprises have the right to price services will lead to overcompetitive enterprises and improper service performance. This concern is similar to the reason for public service planning, on the one hand interfering with prices, and on the other hand interfering with market supply. However, this concern should be addressed through service quality monitoring, not through price controls. Price management seems easier for management agencies but it paves a way to reduce healthy competition among suppliers.

#### PROVIDING PUBLIC SERVICES TO VULNERABLE GROUPS

Currently, there exist cases where the State requires social service entities and SOEs to provide public services to vulnerable groups even though this activity may not be profitable. For example, the electricity retailing is monopolized by the Electricity of Vietnam (EVN), and this unit is obliged to sell electricity to customers in remote areas without profit. In addition, the cross-subsidization of electricity prices among consumer groups also has an element of subsidy for the poor. Many services are now being offered at very low prices to society, much lower than the production cost of that service. This deficit is financed by the state to each social service entity. These mechanisms are aimed at supporting the disadvantaged, the poor or implementing other social policies of the State.

However, if service prices remain low, and cross-subsidies are maintained among such customer groups, it will not be possible to attract private participation in service provision. Therefore, the mechanism for paying the cost of using public services for vulnerable groups needs to be redesigned. Accordingly, the State should provide subsidies for customers to use the service, rather than the service provider.

For example, in the health sector, instead of using the budget to pay for hospitals and at the same time collecting hospital fees at low prices, there has recently been a shift to a mechanism to increase hospital fees to sufficient level to cover the cost of providing services, accompanied by measures to support customers through health insurance. Patients can use health care services with health insurance in both private and public units. This approach makes both public and private hospitals compete with each other on an equal basis to provide services to customers.

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Similarly, paying for customers will be more effective for the education sector. At present, the State's payment for education is still paid to schools. This reduces the school's competition motivation to attract students. In addition, this payment will cause inequality between public and private entities in the educational services provision. Instead, the State can switch to paying for disadvantaged people. For example, each disadvantaged student will receive a scholarship and be allowed to attend any school of choice. Schools must compete with each other to attract that student. When a student enters a school, the State transmit the scholarship to the school, beit public or private. If the tuition is higher than the scholarship, the student must bear the difference. Such a mechanism will ensure fair competition between public and private schools, and it will force schools to improve service quality and lower tuition fees in order to attract students.

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