



University
of Victoria

Graduate Studies

Notice of the Final Oral Examination
for the Degree of Doctor of Philosophy

of

THANH CONG PHAN

LLM (Nagoya University, 2013)
LLB (Hanoi Law University, 2004)

**“Competition Law and the Possibility of Private Transnational
Governance”**

Faculty of Law

Thursday, August 23rd, 2018
6:30 p.m.
Clearihue Building
Room B017

Supervisory Committee:

Prof. Victor V. Ramraj, Faculty of Law, University of Victoria (Co-Supervisor)
Prof. Mark Gillen, Faculty of Law, UVic (Co-Supervisor)
Dr. Wade Danis, Peter B. Gustavson School of Business, UVic (Outside Member)

External Examiner:

Dr. David Donald, Faculty of Law, Chinese University of Hong Kong

Chair of Oral Examination:

Dr. Lucinda Brown, Department of Educational Psychology and Leadership Studies, UVic

Abstract

Under economic globalization, anti-competitive acts transcend national borders and become a challenge for competition law as traditionally conceived. Most countries have been dealing with cross-border competition problems by using two basic methods: unilaterally extending national competition law's jurisdiction to acts conducted in foreign territory and cooperating in enforcing competition law. However, while the unilateral enforcement of competition law harms international comity, international cooperation in this area is constrained by conflicting national interests. Given such limits of statist mechanisms to deal with global competition problems, this dissertation adopts a transnational legal perspective to examine whether multi-national corporations ("MNCs") can help states govern cross-border competition problems. This dissertation argues that MNCs can play a role in the regulation and enforcement of competition law in cross-border transactions through the private transnational application of contractor codes of conduct. When an MNC internalizes competition laws of countries as standards for its behaviours, the corporation can provide a mechanism to project those national laws at transnational level by exercising its private power in a socially responsible way. In doing so MNCs can provide a form of regulation and enforcement of competition laws in an international context that national states are not likely to be able to provide in the foreseeable future.