

## MONTHLY LEGAL UPDATE

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### I. OVERVIEW

Cambodia continues to develop its regulatory framework in the areas of competition and consumer protection. In May 2024, the Ministry of Commerce (“MOC”) issued a decision related to leniency under the competition law. The MOC also promulgated a regulation on unfair business practices in advertisement and sale promotion in early April. These important developments will be highlighted in this Monthly Legal Update.

### II. UNFAIR PRACTICES IN BUSINESS RELATED TO ADVERTISEMENT AND SALE PROMOTION

The Ministry of Commerce issued a Prakas on Unfair Practices in Business Related to Advertisement and Sale Promotion on April 12, 2024. It aims to regulate some unfair practices in advertisement and sale promotion, which are not stated under the Consumer Protection Law, in an effort to safeguard consumer rights and interests in Cambodia.

#### PRIZE

The businessperson who conducts prize advertisements is required to submit a prize giveaway plan, documents or information about the winner, or any other related information as required by the Consumer Protection, Competition, and Fraud Repression Directorate-General (“CCF”)’s investigating officer. The price giveaway plan must contain total goods and services with prizes, types of prizes, total number of prizes as well as the conditions and validity of prizes.

The businessperson shall not commit the followings:

- Refuse to give the prize;
- Provide an insufficient prize;
- Has an imbalance between the prize plan and prize value;
- Provide fake, inaccurate, or deceitful prize winner’s information; and
- Fail to provide the required documents to the CCF’s investigating officer.



## OBLIGATIONS TO PUBLICIZE GOODS AND SERVICES

The businessperson is required to disclose the following information during the sale promotion:

TYPES OF SALE PROMOTION	INFORMATION
<b>Discount</b>	<ul style="list-style-type: none"> <li>- Price before sale</li> <li>- Sale percentage or sale price</li> <li>- Duration of sale from start to end date and/or out of stock</li> </ul>
<b>Clearance Sale</b>	<ul style="list-style-type: none"> <li>- Price before sale</li> <li>- Sale percentage or sale price</li> <li>- Duration of sale from start to end date and/or out of stock</li> </ul>
<b>Special Discount</b>	<ul style="list-style-type: none"> <li>- Initial Price</li> <li>- Compensation or Benefits of Membership</li> <li>- Validity of membership</li> <li>- Other required conditions.</li> </ul>
<b>Bundle Sale</b>	<ul style="list-style-type: none"> <li>- Attached goods and services</li> <li>- Attached amount of goods and services</li> <li>- Total price.</li> </ul>

For the lucky draw, the businessperson is required to:

- Hold this event on the determined date;
- Hold this event in public;
- Be transparent, fair, and equal for consumers; and
- Ensure a true prize giveaway for consumers.

## PRICE TAG

The businessperson is required to tag the price tag for the goods and services displayed in the supermarket, mart, minimart, department store, station, gas station, and/or gasoline station, except the stall or counter that sells secondary products. The price tag must be in Cambodian riels unless otherwise approved by competent authorities. Such price tag must be written in Khmer and put above or before the foreign language.



## FALSE OR INAPPROPRIATE DESCRIPTION

Any false or inappropriate description of products and services is prohibited. These descriptions include any content that has:

- Negative impact on minors;
- Quality exaggeration without proper documentation;
- Exaggeration on the chance of winning;
- Obscene material, inappropriate language, or inaccurate information;
- Non-compliant contents to the compliance certificate from CCF;
- Intention to humiliate or violate the products and services of other persons; and
- Violation of other related regulations.

## OTHER PROHIBITIONS ON UNFAIR PRACTICES

The businessperson shall not commit the followings:

- Using minors for the delivery or receipt of prizes as well as the advertisement of alcohol, energy drinks, or other prohibited cases;
- Not using or inappropriately using Khmer language on the business brand board and/or advertising board;
- Advertising goods and services prohibited by law for commercial and/or advertisement;
- Advertising goods and services without meeting the minimum information requirement as per the regulation of competent authorities;
- Using another person's content for advertisements without consent;
- Forcing another person to involuntary advertise the goods and services; and
- Failure to provide compensation as per the agreement by the businessperson.

## III. LENIENCY UNDER THE LAW ON COMPETITION

The Ministry of Commerce issued a Decision on Requirements and Procedures on Leniency under the Law on Competition on May 3, 2024. This decision sets out the requirements and procedures that the Cambodian Competition Commission ("CCC") uses to grant leniency to a person who engaged in an unlawful horizontal agreement under Article 7 of the Competition Law.

### FORM OF LENIENCY

Leniency granted under this decision may take the following forms:

- Immunity from fines and sanctions;

- Reductions of fines and immunity from sanctions;
- Immunity from fines and sanctions for natural persons who are current or former employees of the person that benefits from immunity from fines and sanctions; and/or
- CCC's discretionary recommendation for reduction of fines and immunity from sanctions for natural persons who are current or former employees of a person that benefits from a reduction of fines and immunity from sanctions.

## **REQUIREMENTS FOR THE GRANT OF LENIENCY**

The CCC shall consider the following requirements for the grant of leniency:

- The request for leniency shall be made prior to the issuance of the CCC's decision on the preliminary examination by the investigating officer and the case submission to the competent court for clarification on the violation of Article 7 of the Competition Law, which is described in the leniency application.
- The person who requests leniency shall file a complete application with the CCC with the attached documents and information, which are the proof of an unlawful horizontal agreement, along with an acknowledgement that the applicant is a part of this unlawful agreement.
- The person's request for leniency shall continue to fulfill the cooperation obligation after receiving conditional leniency until the CCC's issuance of the preliminary examination of the investigating officer and case submission to the competent court.

## **PROCEDURES FOR LENIENCY APPLICATION**

The following is a brief procedure for leniency application:

- Prior to the submission of a leniency application to the CCC, the prospective applicant is required to identify the availability of a marker with the CCC. This request can be made through an anonymous means of communication.
- Upon receipt of marker availability confirmation from the CCC, the prospective applicant shall submit a marker application to the CCC.
- In the event that the CCC issues the marker as requested, the applicant shall submit a complete leniency application to the CCC. The CCC shall make an assessment of the content and notify the applicant of their decisions.

- In the event that the application satisfied the requirements, the CCC shall issue a conditional leniency to the applicant.
- The competent court has the authority to issue the final decision on leniency upon recommendation by the CCC following the issuance of the CCC's conclusion on the preliminary examination.

The CCC shall reject the leniency application or revoke the marker or conditional leniency as per the circumstances set out in this decision.

## CONFIDENTIALITY

The CCC shall maintain confidentiality of the identity of the applicant along with the attached evidential documents and information unless the disclosure is made as per Article 23 of the Law on Competition or to the extent of Article 20 of this decision.

*This Monthly Legal Update is a general information only and is not considered as legal advice or opinion. If you require any further information or have any questions, please contact **Mr. HOUN Vannak**, managing partner of **RHTLaw Cambodia**.*

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