



**LEGAL
UPDATE**

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The Role of Consumer Protection and Competition in Myanmar

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Introduction

In Myanmar, the legal landscape for protecting fair competition and consumer rights has developed over the past decade. The Competition Law ("**CL**"), enacted in 2015 and effective from 24 February 2017, marked a crucial step in regulating market practices. This was complemented by the introduction of Competition Rules later that same year.

Meanwhile, Myanmar introduced the Consumer Protection Law on 14 March 2014 to address consumer concerns. However, recognizing the need for stronger safeguards, the law was overhauled, resulting in the revised Consumer Protection Law ("**CPL**") on 15 March 2019, with accompanying rules issued on 18 January 2022.

This article highlights the roles of Myanmar's competition and consumer protection regimes in ensuring fair competition and safeguarding consumer rights and interests.

Objectives

The objectives of Myanmar's CPL and CL aim to safeguard consumers and promote fair market competition. The CPL focuses on protecting consumers' rights by raising awareness, disseminating accurate information, ensuring the quality and safety of goods and services, and preventing harm from hazardous products. It also promotes cooperation among consumer protection associations and enforces quick action against harmful goods.

On the other hand, the CL is designed to protect public interests by preventing monopolies, price manipulation, and unfair market practices. It seeks to control market dominance and restrictive agreements, controlling unfair market competition on internal and external trade and economic development. These laws ensure a fair, balanced, and competitive marketplace while prioritizing consumer welfare.

Regulatory Bodies

Under the CL, the Myanmar Competition Commission ("**MCC**") is the enforcement authority tasked with implementing the law's objectives. Established by the Union Government on 31 October 2018, the MCC is crucial in promoting fair competition. The MCC may independently manage and execute its functions and duties in line with the economic policies established by the State.

In parallel, the Myanmar Consumer Protection Commission ("**MCPC**"), established on 30 September 2019, operates under the CPL as the highest authoritative body responsible for effectively implementing consumer protection purposes. The Department of Consumer Affairs ("**Department**") serves as the secretariat for the MCPC.



Definitions

The CL and CPL in Myanmar provide distinct yet complementary definitions that shape the framework for fair market practices and consumer rights. There are definitions within these laws, such as *Consumer*, *Business*, *Unfair Competition*, and *Goods and Services*, that clarify the roles and protections for all market participants.

- **Consumer:** *Consumer* refers to a person who purchases, uses, or receives goods or services not for commercial purposes or resale but for personal or household use under the CPL. However, the CL does not define consumers.
- **Business, Businessperson and Entrepreneur:** *Business* in the CL includes all commercial operations, like manufacturing and selling goods, while *businessman* [Sic] is any individual or organization engaging in these activities. Similarly, the CPL defines *an entrepreneur as someone* conducting production, distribution, or service provision. These terms highlight 'participants' roles in the market.
- **Unfair Competition and Deception/Fraud:** *Unfair Competition* in the CL refers to practices that harm state interests or infringe upon consumers' or businesses' legitimate rights, while the CPL defines *Deception* and *Fraud* as actions intended to mislead consumers about goods or services. These provisions highlight each law's approach to preventing deceitful or unfair practices.
- **Goods and Services:** Both laws define *Goods* as objects available for purchase, with the CL specifying trade or manufactured items, while the CPL includes financial instruments. *Services* encompass fee-based business actions under the CL and consumer-oriented activities under the CPL, affirming that these regimes address tangible and intangible goods to safeguard consumer rights and markets.

Overview of CL's Substantive Provisions

Prohibited Anti-Competitive Practices and Conditional Exemptions: The CL penalizes acts that control competition, monopolization, unfair competition, and anti-competitive mergers. Under Section 13, the following acts are prohibited as they restrict market competition:

- Price fixing (directly or indirectly)
- Making agreements to restrain competition
- Abuse of market dominance
- Restraining the market by an individual or organization
- Preventing market sharing or resource provision
- Controlling production, market acquisition, technology, and investment
- Engaging in bid-rigging

Under Section 14, the MCC may temporarily exempt certain anti-competitive agreements if they are intended to benefit consumers by reducing costs. These exemptions are allowed for a limited time and must align with one of the following objectives:

- Reforming business structure to improve capability
- Upgrading technology to improve quality
- Developing uniform technological standards
- Standardizing business operations not related to price
- Increasing competitiveness of small and medium enterprises ("SMEs")
- Increasing competitiveness of Myanmar businesses in the international market

Regulating Market Dominance and Monopolization: The CL does not provide a specific definition for the term "monopoly." However, the provisions in Chapter 8 outline several restricted acts that may lead to market monopolization. These include:

- Controlling the purchase or selling price of goods or service fees
- Restricting services or production or imposing compulsory terms and conditions that limit opportunities to buy or sell goods to control prices
- Suspending, reducing, or restraining services, production, purchasing, or distribution without valid reasons or destroying goods to manipulate demand
- Controlling the area or market share where goods or services are traded to block competitors from entering the market
- Unfairly interfering in the business activities of others

Although the CL does not specifically define or set thresholds for prohibited monopolies or dominant market positions, specific provisions in Chapter 5 grant the MCC the power to regulate market dominance. These powers include:

- Specifying the market share, supply, capital, shares, and assets of businesses that may harm competition due to dominance, purchase, acquisition, or merger of part or all of a business by another
- Identifying limits on market share, supply, capital, shares, and assets for businesses deemed monopolistic

- Directing businesses or groups to reduce market share if they exceed levels harmful to competition
- Issuing notifications to restrict market share and promotional activities of businesses that are deemed monopolistic

Therefore, Chapter 8 addresses the actions businesses must avoid to prevent monopolistic control, while Chapter 5 outlines the powers of the MCC to monitor and restrict excessive market dominance, ensuring fair competition. Together, they aim to safeguard the market from abuses of market power that harm both competition and consumers.

Prohibited Unfair Trade Practices: According to Section 17 of the CL, the following acts are deemed unfair trade practices and are prohibited:

- Misleading of consumers
- Disclosing business secrets
- Coercing of businessmen to each other
- Defaming the reputation of another business
- Disturbing the operation of another business
- Advertising and sale promotion for unfair competition
- Discriminating among businessmen
- Selling goods at a price lower than the production cost
- Abusing business influence to induce a party breach of contract with another business
- Engaging in unfair competitive practices prescribed by the MCC



Prohibition of Mergers and Anti-Competitive Collaborations: There is no specific definition of "merger" in the CL; however, the law prohibits mergers that adversely affect market competition. This includes mergers intended to significantly increase market dominance or reduce competition in markets dominated by a single or a small number of businesses under Section 31, as well as mergers where the combined market share exceeds the threshold set by the MCC as prescribed in Section 32. However, such thresholds are yet to be prescribed. Mergers may be exempted if the business remains a small or medium enterprise under existing laws after the merger, if any merging companies face the risk of failure or bankruptcy, or if the merger promotes exports, technological development, or entrepreneurship under Section 33.

On the other hand, the Telecommunications Sector Competition Rules establish such thresholds but are applicable only to telecommunication licensees. Under Rule 15, market dominance thresholds are defined as follows: any licensee with gross revenues exceeding 50% of the total in a specific telecommunications market is presumed to hold a dominant position for ex post regulation (applied after conduct has occurred), while a 30% threshold applies for ex ante regulation (applied proactively before conduct occurs).

Overview of CPL

Consumer Rights: Consumers in Myanmar enjoy the eight fundamental consumer rights under Section 19 of the CPL as set out by the United Nations Guidelines on Consumer Protection (UNGCP). They are:

- The right to satisfaction of basic needs
- The right to safety
- The right to be informed
- The right to choose
- The right to be heard
- The right to redress
- The right to consumer education
- The right to a healthy environment

Ensuring Consumer Safety: Per the CPL, the Department plays a crucial role in ensuring the safety and standards of goods and services. Chapter XV specifies that the Department must set priority sectors to protect consumer safety with the MCPC's approval. The Department collaborates closely with relevant government departments and organizations to achieve this goal.

To ensure the safety of goods and services, the Department implements necessary safety measures, oversees production processes, and works with Consumer Protection Associations as needed. It issues orders and directives to uphold safety standards and informs the public about any hazardous goods or services identified by inspectors. Additionally, the Department

supervises consumer goods to ensure compliance with prescribed Myanmar standards and coordinates with relevant government departments to ensure that goods awaiting standardization meet minimum safety requirements.

Guarantees, Accountability, and Remedies: Under Section 22 of the CPL, entrepreneurs must disclose any potential changes in the nature of goods that are not readily visible to consumers. Section 23 requires a guarantee for goods, while Section 26 mandates a service guarantee. Entrepreneurs are responsible for providing clear and accurate information about the guarantees and requirements for goods or services under Section 21(a). They must be held accountable if the goods or services fail to meet these guarantees, as Section 21(h) specified.

According to Sections 24 and 25, if goods do not align with the entrepreneur's guarantee, consumers have the right to receive similar original-quality goods if spare parts are unavailable. They may also claim goods of equivalent quality, request a refund, opt for repair or replacement, or seek compensation. Section 27 outlines consumers' rights to seek compensation for damages resulting from service failures and to claim remedies if the agreed-upon service is not provided within the guaranteed timeframe.

Sections 35 and 36 identify the parties responsible for any harm caused to consumers by using goods or services during the guarantee period. It has been established that, except for individuals authorized to use a person's name, trademark, or distinctive mark on goods, all other responsible parties fall under the definition of an entrepreneur. Additionally, any entrepreneur who sells modified or altered goods or services to consumers is responsible for any resulting damages, as outlined in Section 38.

Entrepreneurs must also ensure the availability of spare parts, provide necessary after-sales services, and comply with the guaranteed terms in the agreement during the usable or warranty period of goods or services, as required under Section 39.

Guidelines for Hazardous Goods Recall and Distribution Prohibition: Under the CPL, entrepreneurs wishing to recall hazardous goods voluntarily must report the recall and their plan to the relevant office per Section 32. The Department is responsible for establishing procedures for market recalls or prohibitions on hazardous goods or services, as outlined in Section 33. Chapter 8 of the Consumer Protection Rules elaborates on the recall process and the required steps. These rules specify that inspectors must notify the Department if a recall or temporary/permanent prohibition is necessary.

Entrepreneurs are accountable for all costs associated with recalls, whether they are voluntary, mandated by the Department, or triggered by prohibitions. If entrepreneurs intend to redistribute goods following a recall, they must notify the Department, which may allow redistribution if the goods meet safety standards. Entrepreneurs can also apply to lift a distribution ban once the goods or services are safe. The Department will review the application and may approve the request if the criteria are met.

All recalls or prohibitions must adhere to the Department's procedures, and recall announcements will be made available on the Department's website.

Shared Concern with UTP in CL and CPL

Both the CPL and CL contain provisions concerning unfair trade practices. Under Chapter

23 of the CPL, misleading consumers and fraudulent advertising are explicitly prohibited. Similarly, Chapter IX of the CL encompasses a broader range of unfair trade practices.

For example, both laws emphasize preventing deceptive advertising, thus highlighting a shared commitment to protecting consumer interests and promoting fair market competition. According to Section 63 of the CPL, entrepreneurs are prohibited from advertising fraudulent or misleading information about the quality, quantity, ingredients, usage, pricing, service rates, and delivery time of goods or services. It also prohibits false advertisements concerning product warranties, advertisements that omit risk disclosures, unauthorized use of individuals or events, and any advertising that violates existing laws or ethical standards.

Similarly, Section 23 of the CL restricts businessmen from engaging in advertising practices that could result in unfair competition. These include direct comparisons of products or services with competitors, imitative advertising that misleads customers, and broadcasting false or misleading information about product attributes such as price, quality, design, packaging, and origin.

Both laws are also concerned with sales promotions; pursuant to Section 64 of the CPL, entrepreneurs are prohibited from conducting sales promotions under certain misleading conditions, such as advertising special prices without intending to offer the advertised quantity or quality, promising bonuses or free services that are not actually provided, and

engaging in promotional tactics that cause physical or mental discomfort to consumers. Similarly, Section 24 of the CL prohibits businessmen from organizing sales promotions with the intent to deceive, discriminate among customers within the same promotional campaign, or employ other promotional methods that are restricted by existing laws.

Finally, both laws address deceptive practices; under Sections 65 and 66 of the CPL, entrepreneurs are barred from deceptive actions such as selling modified or altered products, falsely claiming compliance with standards, selling expired or adulterated goods, concealing defects, and exaggerating product information. Additional prohibitions include substituting products, inflating prices before promotions, and bundling unwanted goods without justification. Similarly, Section 18 of the CL forbids businesses from using deceptive information related to trademarks, slogans, logos, packaging, or geographical indications to mislead consumers and use such tactics in producing or marketing goods and services.

Enforcement and Challenges

Under the CPL, any entrepreneur who engages in dishonest acts under Section 62, fraudulent advertising under Section 63, or deceptive sales promotions under Section 64 will face imprisonment for up to six months, a fine not exceeding two million kyats or both. Entrepreneurs who deceive consumers under Section 65 are subject to the same imprisonment term, with penalties of up to five million kyats. For fraudulent practices under Section 66, the

penalty increases to up to one year of imprisonment or a fine not exceeding ten million kyats. Violations involving mislabeled, misrepresented, or substandard goods and services under Sections 67 and 68 may result in imprisonment of up to two years or a fine of up to twenty million kyats.

The Department has managed over 120 consumer complaints since 2017, all published

on its website <https://www.doca.gov.mm/my> as of the time of writing this article. However, this figure likely underrepresents the number of infringements, as many consumers remain unaware of their rights or how they may be infringed. This situation underscores the ongoing challenges in implementing consumer protection and competition laws effectively. To ensure these laws achieve their intended impact, consumers and businesses need greater awareness and understanding of their rights and the protections available against unfair competition practices.

Under the CL, any person who restrains competition under Section 13, engages in unfair advertising under Section 23, conducts misleading sales promotions or discriminatory treatment under Section 24, or imports and sells goods below market price under Section 29 will be punished with up to three years of imprisonment, a fine not exceeding 15 million kyats, or both. The CL also imposes penalties for further acts causing market monopolization, unfair trade practices, or anti-competitive mergers, with imprisonment for up to two years, a fine not exceeding 10 million kyats, or both, and for less severe offences, imprisonment for up to one year, a fine not exceeding 5 million kyats, or both. Failure to comply with a request from the Investigation Committee to submit evidence or appear as a witness will result in up to three



months of imprisonment, a fine not exceeding 100,000 kyats, or both.

The Competition Rules include a leniency provision offering penalty reductions for companies cooperating with investigations. The first company to provide complete evidence may receive up to a 100% penalty reduction. The company may receive up to an 80% reduction if they provide supporting evidence first but incomplete. The second company providing¹. In this case, a Thai company filed a complaint against a local manufacturer for copying its product design and branding. The MCC ordered the manufacturer to stop using the copied designs and to modify the packaging, setting an important precedent. This case highlights areas for improvement in 'Myanmar's competition landscape, underscoring the need for enhanced enforcement, better transparency, and greater awareness of competition laws in the country.

The offences under both laws are cognizable. A convicted person may also face civil action for damages by the aggrieved party or consumer. The relevant Offices and Committees can impose administrative sanctions, including warnings, fines, market share reductions, and temporary or permanent injunctions. Additionally, dissatisfied parties may appeal against any administrative sanction.

evidence may receive up to a 50% penalty reduction. The third to fifth companies to submit supporting evidence may receive up to a 30% reduction. However, the MCC will not consider granting leniency to the ringleader.

So far, competition-related cases have yet to be published on the MCC website <https://www.mmcc.gov.mm/>. Only one notable case has been publicly announced so far in 2024

Further Legal Frameworks Supporting Consumer Protection in Myanmar

Mandatory Labeling: Chapter 18 of the CPL sets forth mandatory labelling requirements for goods, effective one year after the law's enactment. These provisions oblige entrepreneurs to provide product information, including type, size, quantity, net amount, storage guidelines, possible side effects, allergy precautions, and warnings, all in the Myanmar language or the Myanmar language, along with other languages. Additional directives and notifications on labelling accompany these requirements. See below for details:

- 1) On 9 May 2024, the Department of Food and Drug Administration ("FDA") under the Ministry of Health announced a "Food Product Notification." For more details, refer to DFDL's write-up on the following hyperlink: [Myanmar: FDA's New](#)

¹ <https://conventuslaw.com/report/landmark-myanmar-competition-commission-decision-targets-deceptive-branding/>

[Requirements for Food Product Code Registration - DFDL](#)

- 2) On 20 January 2022, the FDA issued Notification No. 8/2022, introducing a "Labeling Order for Pre-packaged Foods". For more details, refer to 'DFDL's write-up on the following hyperlink: [MYANMAR - LABELING ORDER AND RULES FOR PRE-PACKAGED FOODS](#)
- 3) In 2022, the FDA issued a draft guideline on nutrition labelling and nutrition claims for pre-packaged foods.
- 4) On 3 December 2019, the Central Committee for Consumer Protection issued Directive No. 1/2019, directing enterprises to provide labels in the Myanmar language or the Myanmar language alongside one or more other languages.
- 5) On 26 October 2018, the Central Committee for Consumer Protection issued Notification No. 1/2018, requiring certain product labels to include information in Myanmar language, either alone or combined with another language.

Multi-level Marketing: Amid efforts to safeguard consumer interests and maintain fair market competition, specific business models, particularly multi-level marketing ("**MLM**"), have faced increased scrutiny and regulatory action in Myanmar. MLM was introduced in Myanmar over two decades ago, but its legality has been controversial. The Bureau of Special Investigation and the FDA have taken action against many MLM companies.

On 16 September 2018, the Ministry of Commerce declared MLM an essential service and issued Notification No. 46/2018, effectively banning MLM in Myanmar. This notification

prohibits MLM operations under Section 4(c) of the Essential Supplies and Services Law. Violations of this prohibition will be punishable by imprisonment for a term ranging from a minimum of six months to a maximum of three years, along with a fine not exceeding five hundred thousand Kyats, as per Section 5 of the same law.

It's important to note that this restriction will be lifted once the Direct Selling Law comes into force. However, the law remains in draft form, with the draft issued in 2020. While MLM was once prevalent in Myanmar, it is now banned, and efforts are underway to regulate direct selling practices more effectively.

Further Legal Frameworks Supporting Competition in Myanmar

Promoting fair competition is embedded in Myanmar's Constitution. Article 36(b) of the 2008 Constitution mandates that Myanmar protect and prevent acts that harm public interests through monopolization or price manipulation by individuals or groups aiming to undermine fair competition in economic activities. This constitutional protection primarily addresses monopolistic practices.

To prohibit unfair advertising practices to ensure fair competition and safeguard the public and consumers, the MCC issued Directive No. 2/2020 on 25 March 2020. For more details, refer to DFDL's write-up on the following hyperlink: [Myanmar: Competition Commission's Advertising Guidelines](#)

Section 27 of the Contract Act of 1872 also states, "Every agreement by which anyone is restrained from exercising a lawful profession, trade, or business of any kind is, to that extent, void". However, this prohibition does not apply

to agreements restricting business activities where the goodwill of that business has been sold.

Furthermore, some sectors in Myanmar operate under sector-specific competition regimes, such as the Telecommunications Sector Competition Rules of 2015, established under the Telecommunications Law. These rules are designed to promote fair competition in the telecommunications industry by preventing anti-competitive practices and regulating market dominance among licensees.

Conclusion

To conclude, while Myanmar's consumer protection and competition frameworks are critical for promoting fair practices and competitive markets, the country still faces challenges in implementing these regulations effectively. Consumer and business awareness remains a key issue; for these laws to have a real impact, consumers and businesses need to be informed of their rights, the avenues available for redress, and, if applicable, their obligations. The alignment of Myanmar's laws with international standards, like the UN Guidelines for Consumer Protection, marks a positive step. Yet, robust enforcement and public education are essential to fully realizing the benefits. Strengthening these areas will be vital for sustainable economic growth and fostering trust in the market. As Myanmar's economy develops, enforcing and harmonizing these laws will be critical in achieving sustainable economic growth and trust among market participants.

The information provided here is for information purposes only and is not intended to constitute legal advice. Legal advice should be obtained from qualified legal counsel for all specific situations.

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