
General Corporate Commercial

Unfair Practices in Business in Relation to Advertisements and Sale Promotions

Introduction

On 12 April 2024, the Ministry of Commerce ("**MOC**") issued Prakas No.95 on Unfair Practices in Business in Relation to Advertisements and Sale Promotions ("**Prakas**"). The Prakas aims to define some unfair practices that are not stipulated in the Law on Consumer Protection dated 2 November 2019 and to protect the rights and interests of consumers.

The Prakas applies to any person who conducts the business of supplying and advertising goods and services through promises, advertisements, or false or misleading representation in any type, form, and means including digital means in Cambodia.

Key Features

We set out below the key features introduced by the Prakas.

I. Prohibitions

The Prakas sets out some prohibitions concerning unfair practices relating to: (1) prize giveaways; (2) advertisements and sale promotions; and (3) advertisements bearing false trade descriptions.

1. Prize Giveaway

Any unfair practice related to prize giveaways below is prohibited:

- (a) no prize provided, insufficient prize, or inequivalent value of the prize as planned unless acceptable proof is otherwise provided.
- (b) providing fake, false, or deceiving document or information about the prize recipient's identity or failure to provide other relevant information as required by the investigating officer of the Consumer Protection Competition and Fraud Repression Directorate-General ("**CCF**").

2. Advertisements and Sale Promotions

Any advertisement and sale promotion are prohibited in the event of:

- (a) having minors to offer or receive prizes and advertise products related to alcoholic beverages, energy drinks, or products prohibited by other relevant regulations;

General Corporate Commercial

- (b) all types of signboards and billboards are not expressed in Khmer language, or the Khmer font is not placed above and/or is not twice the size of the foreign font;
- (c) advertising of the sale of goods and services prohibited by regulations from trading and/or advertising;
- (d) advertising of the sale of goods and services without disclosing the minimum information in compliance with regulations issued by relevant ministries, institutions, and competent regulators;
- (e) using content and form of other person's text or spot advertisements to advertise goods and services without their consent;
- (f) forcing any person to involuntarily advertise and sell goods and services;
- (g) commission, compensation and/or other benefits as promised made by the businessperson promised by the businessperson but not provided in accordance with such promise.

3. Advertisements bearing False Trade Description

An advertisement of the sale of goods and services shall be prohibited if it bears a false trade description or similar characteristic as follows:

- (a) encouraging minors to think, follow, speak, or gesture in a manner that is contrary to custom, tradition, and morality adversely affecting the health, safety, or natural development of minors;
- (b) using words or phrases such as "the best", "only one", "number one", "superior", "unmatchable", or words with similar meanings without proper documents certified by the relevant ministries, institutions, and competent authorities;
- (c) using words or phrases such as "pop and win", "scratch and win", "buy and win", "open and win", "pop more win more", "open more win more", "scratch more win more", "buy one free one", "buy more win more", or words or phrases with similar meanings by a businessperson without specifying to consumers about the type of goods and services to be provided;
- (d) using words, writings, or pictures that are false, misleading, deceiving, obscene, erotic, or vulgar;
- (e) using text or spot advertisements in which the content does not comply with the certificate of compliance issued by MOC;
- (f) hiring or ordering any person to falsely promote that they have received a prize or other benefits from any goods and services;

General Corporate Commercial

- (g) comparing goods and services with the intention of discrediting or affecting the other provider's goods and services;
- (h) performing any gesture that affects goods and services of others; or
- (i) violation of other applicable provisions.

II. Obligations

The Prakas also sets out some requirements for any person who conducts: (1) the business of supplying goods and services on sale, clearance sale, special sale, or bundle sale; and (2) the business of prize giveaways through advertisement or lucky draws.

1. Business of supplying goods and services

A businessperson supplying goods and services shall publicly display the prescribed information when conducting the relevant categories of sale as follows:

On sale	Clearance sale	Special sale	Bundle sale
<ul style="list-style-type: none"> • Initial price • Discount percentage or new price after the discount • Sale period (start to end date) 	<ul style="list-style-type: none"> • Initial price • Discount percentage or price after clearance sale • Clearance sale and/or out-of-stock period (start to end date) 	<ul style="list-style-type: none"> • Initial price • Consideration or benefit of membership • Validity of the membership • Other required terms and conditions 	<ul style="list-style-type: none"> • The attached goods and services • Number of the attached goods and services • Total price

Moreover, the businessperson shall place a price tag on goods and/or services in Khmer currency at any selling locations such as malls, marts, gas stations, etc. (with the exception of certain stalls). If the price tag is in foreign currency allowed by relevant authorities, the Khmer language shall be placed in front of or above the foreign language in such price tag.

2. Business of Prize Giveaways

A businessperson providing prizes through advertisements or lucky draws shall comply with the following obligations:

General Corporate Commercial

Advertisement	Lucky draw
<ul style="list-style-type: none"> • Provide a plan for the prize giveaway, identification document or information of the winners, and other related documents to CCF as required and within the applicable timeline • Indicate in the plan of the prize giveaway at least the total goods/services of the prize attached, prize type, terms and conditions, and validity of the prize • Indicate in the identification document or information of the winner at least the following information: name, sex, address, ID number, phone number, date of receipt of the prize, prize type, and handover prize location 	<ul style="list-style-type: none"> • Conduct the lucky draw in accordance with the scheduled date • Conduct the lucky draw publicly • Ensure transparency, equality, and justice for consumers • Ensure the prize is duly handed to consumers

III. Penalties

Any violation of provisions of this Prakas will be subject to a penalty under the Law on Consumer Protection not exceeding KHR80,000,000 (approximately US\$20,000).

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

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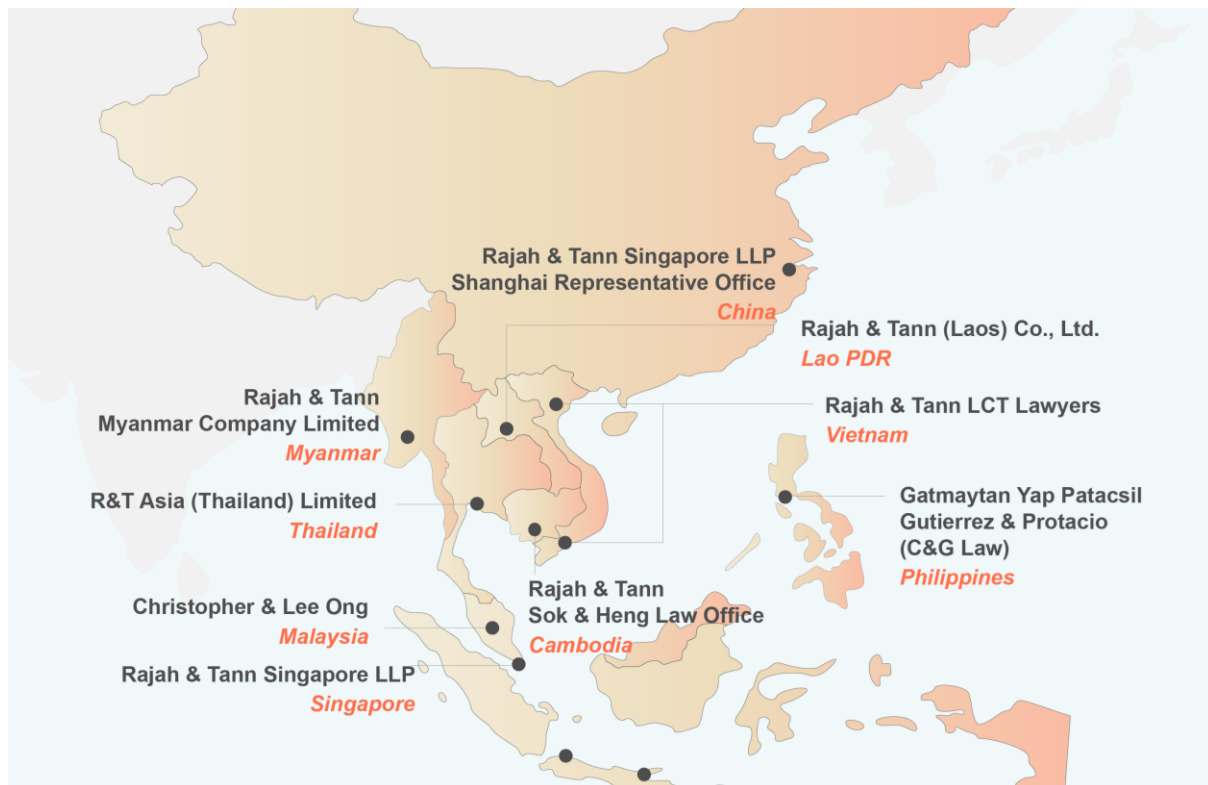
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