

FINES PROCEDURE FOR VIOLATION OF LAW ON COMPETITION

MARCH 2023 LEGAL UPDATE

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On 25 January 2023, the Ministry of Justice and the Ministry of Commerce issued an Inter-Ministerial Proclamation No. 041 (the “**Prakas**”) setting out the procedure for imposing fines in case of violation of the Law on Competition (“**Competition Law**”). The Competition Law, promulgated in 2021, stipulates certain prohibitions on entering and implementing a vertical agreement, abuse of dominant market position, and business combination. The violation of any of these prohibitions would be subject to a fine of 3% up to 10% of the violator’s turnovers received during the violation period but not exceeding three years. In case of continued violation after receiving written warning and fines, their business license, permit or approval could also be revoked.

The Prakas specifically provides for notice requirements and time-limit for violator to make an objection and appeal against the imposition of fines. The Prakas provides for the responsibility of the Competition Commission of Cambodia (“**CCC**”) for imposing fines and the General Directorate of the Consumer Protection, Competition and Fraud Repression (“**CCF**”) for carrying out the investigation of offenses and fines procedure. It is also worth noting that the CCC, which was established by the Competition Law, may have other roles and responsibilities to enforce the Competition Law, such as to issue necessary measures pertaining the prevention, restriction or distortion of market competition.

Fine Notification

A notice and related documents will be delivered to the violator’s registered address. Upon receipt of the notice, the violator may pay fines to the CCF’s investigator immediately, within 30 days or a period set by the CCF. If the violator refuses to acknowledge receipt of fine notice, or the business owner or their representative is unable to do so, the investigator can post the notice at the violator’s address or place of business and the relevant commune/district office. Upon doing so, it shall be deemed officially acknowledged by the violator.

Objection and Appeal

Any violator who wishes to challenge the imposition of fine can file an objection to the CCC’s office within 15 days of receipt of the fine notice. The CCC then has 30 days to respond to such objection. If the violator remains unsatisfied with the CCC’s response, within 30 days they can further appeal to the competent court.

Conclusion

The Competition Law and the Prakas are quite new to the business community. Thus, it would be prudent for businessmen to ensure their good understanding of the legal requirements and to comply with them by seeking a proper legal advice.

This Legal Update shall not be deemed as legal advice. Please do contact us should you require legal advice.

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