

The Competition Law
(The Pyidaungsu Hluttaw Law No9, 2015)
The 7th Waxing Day of Taboung, 1376 M.E
(24 February, 2015)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title, Enforcement and Definition

1. (a) This Law shall be called **the Competition Law**.
(b) This Law shall come into force from the date specified by the President with notification.
2. The expressions contained in this Law shall have the meanings given hereunder:
 - (a) **State** means the Republic of the Union of Myanmar.
 - (b) **Government means** the Union Government of the Republic of the Union of Myanmar.
 - (c) **Commission** means the Myanmar Competition Commission formed under this Law.
 - (d) **Ministry** means the ministry assigned duty by the Union Government.
 - (e) **Competition** means business related competition carried out by businesses among the businessmen in the market through competitive business activities to get more number of customers who consume by purchasing their goods and services, market share and market dominance.
 - (f) **Competition Policy** means policies laid down by the State to cause direct effect on production, services, trade, investment and

businesses in order to emerge fair competition in the market and protect the interests of the consumers from monopolization.

- (g) **Act of Restraint on Competition** means the act which reduces or hinders the competition among businesses in the market. In this expression, agreements of restraint on competition, taking chance on the abuse of the dominant market position and monopolization by any individual or group are also included.
- (h) **Unfair Competition** means competitive practices by businesses during the business process which cause or may cause damage to the interests of the State or the legitimate rights and interests of other businesses or of consumers.
- (i) **Business** means any business, such as manufactures, distributions, purchases, sells, imports, exports and exchanges the goods, or service.
- (j) **Businessman** means the person who carries out any business or service business. In this expression, an organization that operates business or service is also included.
- (k) **Goods** means materials that is traded or manufactured or consumed for the purpose of this Law. In this expression, debentures, stocks and shares are also included.
- (l) **Service** means business that is carried out by fee or remuneration or consideration for the purpose of this Law. In this expression, businesses that are specified as service by the Government from time to time are also included.

- (m) **Market** means an area where commercial dealings are conducted between persons desirous of selling and purchasing of goods and services.
- (n) **Market-share** means the percentage or ratio of the sales or services provided by the businessman out of the total sale volume of the market.
- (o) **Price** means the amount specified in the sale of goods or services.
- (p) **Committee** means other committees including the Investigation Committee formed by the Commission in order to carry out the functions and duties of the Commission.
- (q) **Working group** means the working group formed by the committee in order to carry out functions and duties relating to competition.

Chapter II

Objective

3. The objectives of this Law are as follows:
 - (a) to protect and prevent acts that injure of public interests through monopolization or manipulation of prices by any individual or group with intent to endanger fair competition in economic activities, for the purpose of development of the national economy;
 - (b) to be able to control unfair market competition on the internal and external trade and economic development;
 - (c) to be able to prevent from abuse of dominant market power;
 - (d) to be able to control the restrictive agreements and arrangements among businesses.

Chapter III

Basic Principles

4. The basic principles of competition are as follows:
 - (a) ensuring to lead to the economic developed community in the Region and State by creating free and fair competition environment in the market;
 - (b) ensuring the businesses to uniform development and enjoy equally rights through encouragement of fair competition in the market;
 - (c) enabling to protect from the detriment to the interests of the public by manipulation of price;
 - (d) ensuring to emerge free and fair competition in each area of business;
 - (e) ensuring to emerge economic community where it can carry out freely for international, regional and bilateral goods, services, investment, skilled labour and free flow of capital and to cooperate in competition network;
 - (f) implementing in the market in accordance with the competition policy;
 - (g) encouraging the innovative capability by protecting intellectual property rights of investors, inventors and producers.

Chapter IV

Formation of the Commission

5. The Government:
 - (a) shall form the Myanmar Competition Commission comprising of an appropriate person of Union level as a Chairman, professionals

and suitable persons from the relevant Union Ministries, government departments, government organizations and non-governmental organizations as members.

- (b) shall, in forming the Commission, designate Vice-chairman and Secretary out of the members and assign duty.
- (c) may reform the Commission formed under sub-section (a) as may be necessary.

6. The Commission members who are not civil service personnel are entitled to enjoy the salary, allowance and emolument allowed by the Ministry.

7. The Commission may independently administer and carry out its functions and duties in accordance with the economic policies laid down by the State.

Chapter V

Powers and Duties of the Commission

8. The powers and duties of the Commission are as follows:

- (a) cooperating and coordinating with international, regional organizations or bilateral countries on competition matters;
- (b) exempting from the compliance of this Law to businesses essential for the benefit of the State and small and medium enterprises, if necessary;
- (c) forming committees and working groups according to the necessity and specifying functions and duties thereof;
- (d) making decision on the matters submitted by the committees and working groups;

- (e) specifying necessary forms, procedures and terms and conditions of application in order to obtain permission to cooperate businesses or to restrain competition;
- (f) specifying market share, supply, amount of capital, number of share and magnitude of owned property relating to business which can cause detriment to competition due to dominance, purchase, acquisition or merger among businesses of full or partial ownership of a business by another business;
- (g) specifying and determining market share, supply, amount of capital, number of share and magnitude of owned property relating to business which is assumed as monopolization by the Commission;
- (h) directing to a business or a group of businesses to reduce the specified magnitude of market share if the ownership of market share of such business or group of businesses exceeds or is assumed by the Commission to be exceeding, the stipulated magnitude that can cause detriment to competition in the market;
- (i) prohibiting by issuing notification of restriction on market share and sale promotion of any businessman who might monopolize assumed by the Commission;
- (j) assigning duty to investigate if the Commission suspects that there is a violation of any prohibitions contained in this Law or if a concrete complaint has received;
- (k) calling for necessary evidence and data related to competition from any businessman;

- (l) calling and inquiring persons concerned to make necessary inquires relating to competition;
 - (m) inviting and discussing with professionals and experts in accord with the requirement to provide data, explanation, suggestions or opinions relating to competition;
 - (n) seizing the necessary evidence and properties in accord with the stipulations as exhibits to inspect case by case, and passing permission order or refusing to return such evidence or property on bond or revoking the permission;
 - (o) scrutinizing report on findings submitted by the Investigation Committee and directing to prosecute if necessary;
 - (p) arranging to grant an accomplice a pardon with conditions if such accomplice testifies without any concealment before the Court that he has involved in committing the crime;
 - (q) submitting advice to the Government through the Ministry in respect of matters relating to competition;
 - (r) performing the duties relating to competition assigned by the Government from time to time.
9. The Commission shall report on accomplishment of its performance and situation of development to the Government quarterly.
10. The Commission shall submit its performance urgently if extraordinary situation arises.

Chapter VI

Formation of the Investigation Committee and Functions and Duties thereof

11. The Commission:

- (a) shall form the Investigation Committee comprising minimum of five members to maximum of nine members. It shall be assigned as Chairman of the Committee to a suitable person among them.
 - (b) in forming under sub-section (a), the Committee members shall be the persons who have experience and knowledge in economics, subject, legal subject, commercial subject and other respective subjects.
 - (c) in forming under sub-section (a), the Investigation Committee members shall not be a person who involved directly or indirectly in the business matters which shall be investigated.
 - (d) may reform the Investigation Committee formed under sub-section (a), as may be necessary.
12. The functions and duties of Investigation Committee are as follows:
- (a) calling and examining for necessary evidence, document, financial evidence and concrete statement of reasons and calling and inquiring necessary witnesses for investigation matters;
 - (b) in performing the matters contained in sub-section (a), submitting to the respective departments and organizations through the Commission for enabling to take an action if it fails to comply without concrete reason;
 - (c) entering , inspecting and searching, in accordance with Law, the building , land and workplace of any businessman or person being investigated or any other person who seems to be involved in connection with them;
 - (d) submitting report on findings of investigation and for enabling to take necessary action under this Law to the Commission;

- (e) forming necessary working groups and specifying functions and duties thereof;
- (f) receiving and vetting reports on findings of investigation by working groups.

Chapter VII

Act of Restraint on Competition

13. No person shall carry out any of the following acts which cause act of restraint on competition:

- (a) fixing the price directly or indirectly in purchase price or selling price or other commercial situation;
- (b) making agreement on restraint on competition in the market;
- (c) abusing by taking chance on the situation of dominance in the relevant market;
- (d) conducting restraint on market by individual or organization;
- (e) restraining and preventing to share market or resources provision;
- (f) restraining or controlling on production, market acquisition, technology and development of technology and investment;
- (g) collusion in tendering or auctioning;

14. The Commission may, by specifying a certain period, exempt in respect of agreement on restraint on competition which intends to lessen the expense of consumers if it is inclusive in any of the following matters;

- (a) reforming formation and type of any business to improve the capability of business;
- (b) upgrading of technology and technology level in order to improve the quality of goods and services;

- (c) ensuring to be uniform development of technological standards and quality level of different products;
- (d) ensuring to be uniform in the matters of carrying out business, distribution of goods and payment not concerned with price or facts related to price;
- (e) ensuring to raise competitiveness of small and medium enterprises;
- (f) ensuring to raise competitiveness of Myanmar businesses in the international market.

Chapter VIII

Monopolization on Market in Competition

15. No businessman shall carry out any of the following acts which cause monopolization on market:

- (a) controlling on purchase price or selling price of goods or fees of services;
- (b) restraining services or production or restricting of opportunities in purchase and sale of goods or specifying compulsory terms and conditions directly or indirectly for other businessmen, for the purpose of price controlling;
- (c) suspending or reducing or restraining services, production, purchasing, distribution, transfer or import without any appropriate reasons or destroying or causing damage the goods to reduce the quality in order to lessen under the demand;
- (d) controlling and restraining the area where goods or services are traded in order not to enter other businessmen into the market and to control market share;

- (e) interfering in carrying out business of other person without fairness.

16. The businessman may, with the permission of the Commission in order to have an effect on the maintenance of the situation of another business or creation of a new business, perform any of the following matters;

- (a) cooperating with producer, distributor and provider of any other business;
- (b) purchasing in full or in part of owned properties or shares of any other business.

Chapter IX

Unfair Competition

17. The acts for the purposes of unfair competition under this law include as follows;

- (a) misleading of consumers;
- (b) disclosing business secrets;
- (c) coercing of businessmen to each other;
- (d) defaming of the reputation of another business;
- (e) disturbing the operation of another business;
- (f) advertising and sale promotion for the purpose of unfair competition;
- (g) discriminating among businessmen;
- (h) selling goods at price lesser than production cost or cost, insurance and freight (CIF) in the market;
- (i) abusing influence of his business, inducing or instigating of a party under contract with other businesses to breach the contract;

- (j) exercising unfair competitive act in competition stipulated by the Commission for the interests of consumers when necessary.

18. No businessman shall carry out any of the following acts which mislead the consumers:

- (a) carrying out with intention to compete with the use of deceptive information which mislead the legally registered name of goods, business slogan, logo, packaging, geographical indication and other elements.
- (b) carrying out business such as production of goods and services by using the information contained in sub-section (a).

19. No businessman shall, in respect of disclosing secrets of any other business, carry out any of the following acts;

- (a) infringing security measures protected by the lawful owners of business secrets in accessing and collecting of business secrets and information related to such secret;
- (b) using or revealing information of business secret without permission of lawful owner of such business;
- (c) deceiving a person with an obligation to maintain secrets or abusing the confidence of such person in accessing, collecting, collecting or revealing of business secrets and information related to such secrets;
- (d) leaking business secrets and procedures of products distribution owned by other persons who conduct systematically in accordance with the Law;

- (e) leaking economic information by infringing security measures exercised by the State-owned organization;
- (f) carrying out business activities or applying business licence or distributing goods by using information contained in sub-section(e).

20. No businessman shall coerce consumers or partners of other business by threatening or compelling them not to transact or to cease the transaction with such business.

21. No businessman shall broadcast false information directly or indirectly in order to damage the reputation, financial situation or business operation of other businesses.

22. No businessman shall obstruct or disrupt other businesses directly or indirectly.

23. No businessman shall, for the purpose of unfair competition, carry out any of the following advertising acts:

- (a) comparing directly goods or services of a business with those of the same type of other business;
- (b) misleading customers by imitative advertising of the goods of others;
- (c) broadcasting false or misleading information to the customers on one of the following matters;
 - (1) price, quantity, quality, utility, designs, varieties, packagings, date of manufacture, durability, origin, manufactures, place of manufacture, processors or place of processing;
 - (2) usage, service, warranty period;

(3) other false or misleading information;

(d) other advertising activities prohibited by any existing Law.

24. No businessman shall carry out any of the following acts which cause unfair competition;

(a) organizing a sale promotion with intend to mislead;

(b) discriminating among customers in the same promotional campaign;

(c) exercising other promotional ways prohibited by any existing Law.

25. No businessman shall carry out any of the following acts which causes discrimination:

(a) causing obstruction in competition by refusing of permission to join his organization or to leave a business although it meets the specified qualifications;

(b) restricting objectives and activities of a business involving in business organization without concrete reasons.

26. No businessman shall sell his goods competitively in the market at price lesser than production cost of such goods or at price lesser than cost, insurance and freight (CIF) if it is imported goods in order to lessen competitiveness of other businesses.

27. No businessman shall, by abusing influence in the market, carry out any of the following acts;

(a) selling the goods or providing services at price lesser than production cost or cost, insurance and freight (CIF) in order to cause competitors to leave the market;

- (b) causing to the detriment of consumers by sale or purchase the goods or services at unreasonable price to market price or by fixing sale price for retailers;
- (c) controlling the production, distribution of goods and providing services; restraining the market; obstructing the development of science and technology; and causing the detriment of consumers;
- (d) laying down non-uniform commercial terms and conditions within the same market in order to cause unfair competition;
- (e) laying down unfair terms and conditions upon other businesses in concluding contracts regarding goods and services or coercing to accept obligations which are not related directly to such contracts;
- (f) preventing entering of new competitors into market by unfair means;
- (g) refusing or allowing discriminately the use of main infrastructures or rare resources owned or utilized by oneself in order to prevent entry of new competitors into the market.

28. No businessman shall persuade or induce a person or a business who has concluded a contract with other businesses to breach such contract before the expiry of contract term.

29. No businessman shall import goods into market through unfair means and sell such goods at price lesser than market price.

Chapter X

Collaboration among Business

30. In collaboration among business the following acts are included:

- (a) merger of businesses;
- (b) consolidation of businesses;

- (c) purchasing or acquisition of other business by a business;
- (d) joint-venture of businesses;
- (e) performing other means of collaboration among businesses specified by the Commission.

31. No businessman shall, in performing the acts contained in section 30, collaborate which enable to cause the following situations;

- (a) collaboration intends to raise extremely the dominance over market within a certain period;
- (b) collaboration intends to decrease competition for acquiring the market which is a sole or minority of businesses.

32. No collaboration of business shall be carried out if the combined market share of business collaboration is exceeded to the market share specified by the Commission.

33. Any prohibited collaboration of business or prohibition under section 31 may be exempted in the following circumstances;

- (a) where the business, after collaboration as per section 30 is still in the size of small and medium enterprise specified under any existing law;
- (b) where one or more of businesses involved in business collaboration is or are at the risk of being collapsed or of becoming bankrupt;
- (c) where collaboration among businesses is in the circumstance that effect on the promotion of export or in the circumstance that supports the development of technique and technology or that establishes entrepreneurial business.

Chapter XI

Taking Administrative Action and Appeal

34. The Committee may take the following one action or more than one action upon a businessman who violates the orders, directives and procedures issued under this Law:

- (a) warning;
- (b) imposing specified fine;
- (c) coordinating with relevant Ministries to close the operation of business temporarily or permanently.

35. Any person who dissatisfies the order or decision passed by the Committee may appeal to the Commission within 60 days from the receiving date of such order or decision.

36. (a) The Commission may confirm, amend or cancel the decision of the Committee when it is appealed under section 35.

- (b) The decision of the Commission under sub-section (a) shall be final and conclusive.

37. In default of payment of fine specified under sub-section (b) of section 34, it shall be collected as arrears of income tax.

38. The administrative action passed under this Law shall not prohibit taking criminal action or civil action.

Chapter XII

Offences and Penalties

39. Any person who violates the prohibition contained in section 13 shall, on conviction, be punished with imprisonment for a term not exceeding three years or with a fine not exceeding one hundred and fifty lakhs Kyat or with both.

40. Any businessman who violates the prohibitions contained in section 23, section 24 or section 29 shall, on conviction, be punished with imprisonment for a term not exceeding three years or with fine not exceeding Kyat one hundred and fifty lakhs or with both.

41. Any person who violates the prohibitions contained in section 15, section 19, section 22, section 26, section 27, section 31 or section 32 shall, on conviction, be punished with imprisonment for a term not exceeding two years or with fine not exceeding Kyat one hundred lakhs or with both.

42. Any person who violates the prohibitions contained in section 18, section 20, section 21, section 25 or section 28 shall, on conviction, be punished with imprisonment for a term not exceeding one year or with fine not exceeding Kyat fifty lakhs or with both.

43. Any person who fails without any concrete reason to apply to the request of the Investigation Committee to submit any evidence, document or financial evidence or to appear for the examination as witness for investigation under this Law shall be punished, on conviction, with imprisonment for a term not exceeding three months or with fine not exceeding Kyat one hundred thousand.

44. Notwithstanding contained in any existing law, the matters related to any provision contained in this law regarding competition shall be carried out by this Law.

Chapter XIII

Miscellaneous

45. Commission shall hold the meetings in accord with the stipulations.

46. Any member of the Commission who is not a Civil Service Personnel or Investigation Committee shall be deemed as public servant defined in section 21 of the Penal Code when performing the duties contained in this Law.

47. In prosecuting under this Law, prior sanction of the Commission shall be obtained.

48. The Ministry may appoint and assign a suitable officer as a collector to collect the specified fine contained in sub-section (b) of section 34.

49. If a person prosecuted is a business organization under this Law, the responsible person of such organization shall be prosecuted together with such business organization if he is unable to prove that the offence is committed without his knowledge or with due diligence to prevent the offence and such responsible person shall be deemed as jointly guilty for such offence if such organization is convicted.

50. The offences contained in this Law are determined as the cognizable offences.

51. An aggrieved person may also sue any person being convicted in civil action for his loss under this law.

52. The Commission may coordinate with respective Courts and Law Offices in accord with the existing laws to grant a pardon to a person as a leniency who discloses that he participated in violation of section 13.

53. When granting leniency by the respective Court, the different leniency may be granted depending upon the cooperation time and cooperation condition of any businessman.

54. The Ministry shall:

- (a) take responsibility for the office work of the Commission, Committees and the Working Groups;
- (b) bear the expenses of the Commission, Committees and working groups.

55. Any member of the Commission or of the Investigation Committee or of the Working Group or a Civil Service Personnel shall not be sued in criminal or civil action or by any other means if it is a concrete evidence that he or she exercises the power conferred under this Law in good faith.

56. In implementing the provisions contained in this Law:

- (a) the Ministry may issue necessary rules, regulations and by-laws with the approval of the Government.
- (b) the Commission may issue necessary notifications, orders, directives and procedures and the Committee may issue necessary orders and directives.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Sd/ Thein Sein

President

Republic of the Union of Myanmar