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Myanmar Updates

CONSUMER PROTECTION LAW

Date & Time: 29th May 2019

Venue: Ballroom – Royal Thai Embassy to Myanmar

Speaker: Mr. Pakpoom Vetvitayanuwat,
Decha & Co (Myanmar) Limited

Email: pakpoom@dechaco.com



I. Introduction to Consumer Protection Law

Sale of Goods

“caveat emptor”

- ▶ let the buyer beware that the seller of the product will not be held responsible for its quality unless stated in a warranty.



Consumer Bill of Rights

- ▶ International Organization of Consumers Unions (IOCU) in 1960.
- ▶ On 15 March 1962, US President John F. Kennedy delivered historic address to the US Congress in which he formally mentioned the issue of the consumer's rights.



“ As an American Consumer

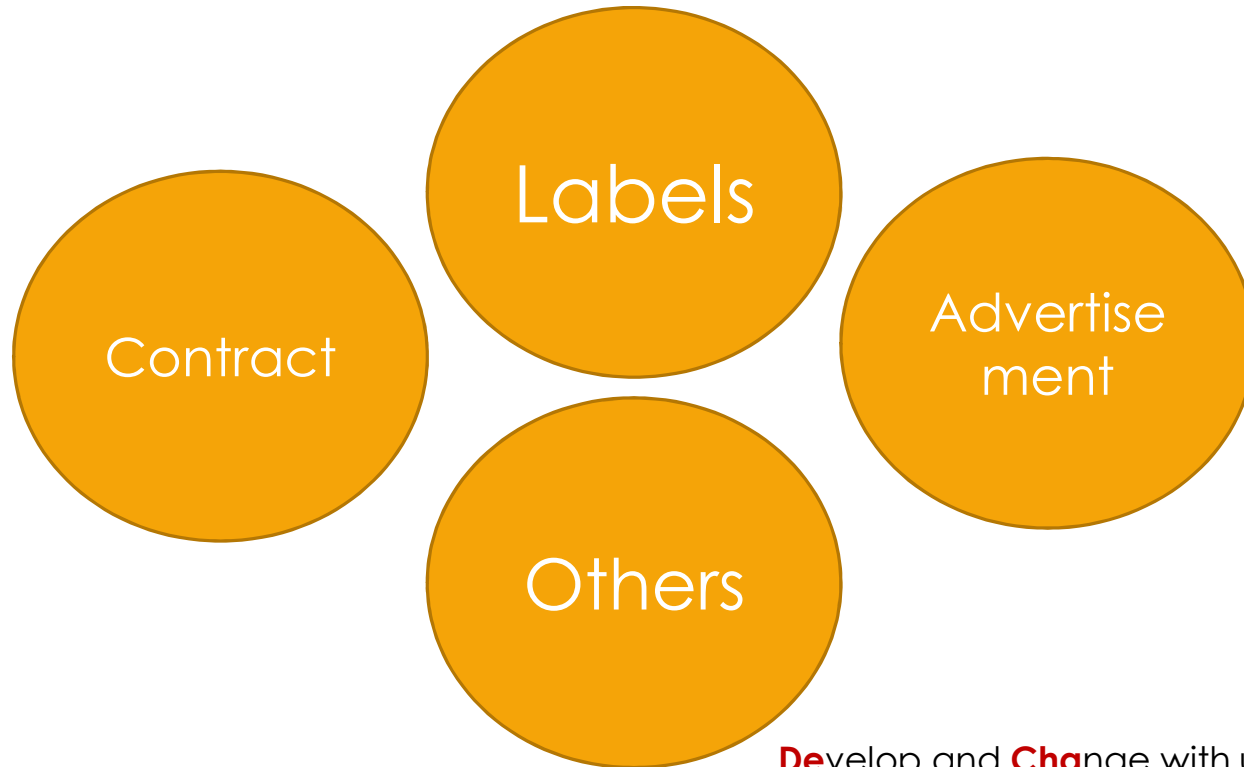
- You expect the product you purchase to work properly.
- You expect to be treated fair and honestly by a merchant.
- You expect products you buy to be reliable and safe
- If there is a problem, you expect to be able to exchange or return the item and get a refund.”



Basic Consumer Rights

Original Rights	Expansion
Right to Safety	Right to satisfaction of basic needs
Right to be informed	Right to redress
Right to choose	Right to consumer education
Right to be heard	Right to a healthy environment

Consumer Protection Perspectives



II. Development of Myanmar Consumer Protection Law

Development of Consumer Protection Law

Contract Act (1872) / Sale of Goods Act (1930)



Consumer Protection Law (2014) - *repealed*



Establishment of Department of Consumer Affairs in April 2016



Consumer Protection Law (2019)



Sale of Goods Act (1930)

Section 41

- ▶ (1) Where goods are delivered to the buyer which he has not previously examined, **he is not deemed to have accepted them unless and until he has** a reasonable **opportunity of examining them** for the purpose of ascertaining whether they are in conformity with the contract.
- ▶ (2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

III. Changes in new Consumer Protection Law

Improved Definition of Consumer

Consumer means persons who buy, use, obtain, borrow goods or services or who are being given and supported with goods or services with the purpose of personal use or for other people, but not for trading such goods or services or for livelihood.

Definition of Entrepreneur

Entrepreneur means an individual person or organization conducting production, distribution, storage, transportation, sale, reproduction, exportation, importation, resale of goods, providing service or advertisement.

Additional Definition of Label

Label means facts or mark relating to the goods which is described in texts or by printing or in any other ways on the goods or packaging of the goods.

Consumer Rights as stated in the Law

Original Rights	Expansion
Right to Safety ✓	Right to satisfaction of basic needs ✓
Right to be informed ✓	Right to redress ✓
Right to choose ✓	Right to consumer education ✓
Right to be heard	Right to a healthy environment ✓

Sale of Goods

The Entrepreneur shall inform to the Consumer by clearly describing the facts regarding the natural changes of the selling goods which cannot be seen by normal eye.

Sale of Goods

The Entrepreneur shall perform to include the following in the guarantees to be described regarding the goods: -

- (a) having acceptable and usable quality by the Consumer;
- (b) having right quality, amount and weight of the goods;
- (c) being safe and harmless;
- (d) being suitable for the need of user;
- (e) containing as shown in the sample product;
- (f) being able to obtain spare part, fixable and changeable during the guaranteed period or usable period; and
- (g) being the same as the description included in the facts of Label, advertisement, offers or promotion.

Sale of Goods

If the Entrepreneur do not produce a goods to meet its quality or do not describe the information fully on the goods to be used during the guaranteed period or usable period given to Consumer, the Consumer is entitled to claim any of the following: -

- (a) to **fix or change with new one as guaranteed** or
- (b) to **get the value of goods or obtain a goods of which quality is not lower** than purchased goods or original quality if the spare part cannot be obtained;
- (c) to **change and substitute with a goods** which has equal quality with the value of bought goods for the damages caused by the defect of the Entrepreneur; and
- (d) to have **rights to ask for compensation** if there is any damage due to the failure to describe information regarding the goods or service.

Harmful Goods / Services

- ▶ The Department shall make public announcement of the action taken regarding the removal or restriction of distribution of harmful goods or service from the market with correct information.

Damage caused by Usage of Goods

If the Consumer has damage due to the use of goods or service, the following persons are responsible for it: -

- ▶ the person who sells the goods or the entrepreneur who provide the service;
- ▶ the producer of the goods;
- ▶ the person who has right to use the name of a person, trademark or other prominent mark on the goods;
- ▶ sub-distributor; and
- ▶ the person who is operating the intermediary service providing for the local Consumers either inside the country or in any foreign country.

Reseller of Goods

If any Entrepreneurs encounter any of the following situations when selling his/her goods or service to any other Entrepreneur, the Entrepreneur who make the sale shall be responsible for the loss concerning the goods or service: -

- ▶ selling the original goods or service without modifying; and
- ▶ trading the goods or service without modifying or not knowing these are not the same as the sample, quality and composition.

Reseller of Goods

If any Entrepreneurs encounter any of the following situations when selling his/her goods or service to any other Entrepreneur, the Entrepreneur who make the sale shall be responsible for the loss concerning the goods or service: -

- ▶ selling the original goods or service without modifying; and
- ▶ trading the goods or service without modifying or not knowing these are not the same as the sample, quality and composition.

Reseller of Goods

Any Entrepreneurs who sell the goods or service after modifying or changing shall have responsible for the loss concerning with such goods or services.

Description of Label

Entrepreneurs, with regard of describing Label, shall describe the followings distinctly based on the types of goods:-

- ▶ (a) Mark of goods;
- ▶ (b) Name of the type of goods, size, quantity and net weight, storage indication and usage instruction;*

Description of Label

- ▶ (c) Manufacture Date, Expiration Date and Production number;
- ▶ (d) Name and address of importer (if the goods are imported from foreign countries), name and address of production business;
- ▶ (e) Production place or place where the imported goods are repacked;

Description of Label

- ▶ (f) Names, amount and composition of the types of raw materials contained in goods;
- ▶ (g) Health impact or description and precaution of allergy;* and
- ▶ (h) Facts specified to be indicated by the relevant governmental departments.

Description of Label

Any entrepreneurs may describe scientific research by relevant organizations and health insurances on the goods.

No Entrepreneur shall produce, trade or sell the goods which do not meet requirement of description of the Label.

Description of Label

The provisions of requirement of description of label shall be entered into force one year after the promulgation of this Law.

→ 15th March 2020

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Labeling on Sticker	N/A	Required!	N/A	Required!	Required!	N/A
Label to be Printed on outer package	Required	Required!	N/A	Required!	Required!	N/A
Label to be Printed on immediate package	Required if there is no outer package	Required!	N/A	N/A	Required!	N/A
Name of Products + Trademark	B	B	B	B/E	B	B

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Function	N/A	N/A	N/A	N/A	N/A	N/A
Instructions on the use of products / Application Guideline	B	[B]	B	N/A	[B]	B
Net Weight	B	B	B	B/E	B	B
Volume / Size	N/A	B	B	N/A	B	B

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Manufacturer's name	B	B	N/A	B/E	B	B
Address of Manufacturer	B	B	N/A	B/E	B	B
Telephone Number of Manufacturer	B	N/A	N/A	N/A	N/A	B
Manufacturing Date	B	B	B	B/E	B	B

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Shelf Life	B!	N/A	N/A	N/A	N/A	N/A
Expiry Dates	B!	B	N/A	B/E	B	N/A
FDA Registration Number	B	N/A	N/A	N/A	N/A	N/A
Batch/ Production/ Lot / Serial Number	B	B	N/A	B/E	B	N/A

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Product License	B	N/A	N/A	N/A	N/A	N/A
Brief list of ingredients	N/A	B	N/A	N/A	B	N/A
Full list of ingredients with amount	N/A	N/A	B	N/A	N/A	B
Active/Restricted Ingredients	N/A	N/A	N/A	N/A	N/A	N/A

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Percentage of restricted ingredients	N/A	N/A	N/A	N/A	N/A	N/A
Nutrition Facts	[B]	N/A	N/A	N/A	N/A	N/A
Local Distributer's Name	N/A	B	B	B/E	B	N/A
Address of Local Distributer	N/A	N/A	B	N/A	N/A	N/A

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Address of repacking / mixing	N/A	N/A	B	N/A	N/A	B
Country of Origin	N/A	N/A	B	N/A	N/A	N/A
Required Storage Conditions / Storage Instructions	B	B	N/A	B/E	B	N/A
Special Precautions / Health Impact	N/A	B	B	N/A	B	B

Description of Label

Requirements	Local Food Products			Imported Food Products		
	MOH/ FDA	Repealed CCCP	New Law	MOH/ FDA	Repealed CCCP	New Law
Specification of Allergens	N/A	B	B	N/A	B	B
Side Effects	N/A	N/A	N/A	N/A	N/A	N/A

Advertisement and Promotion

No Entrepreneur shall advertise the following type of advertisement: -

- ▶ (a) types of advertisements which lie and lure concerning with the quality, quantity, ingredients, usage, price, service charges rates of goods and time available for the goods or service;
- ▶ (b) advertisements which lie and lure regarding the guarantee of goods or service;

Advertisement and Promotion

- ▶ (c) advertisements which contain incorrect information about goods or service;
- ▶ (d) advertisements which do not inform the danger caused by using the goods or service;
- ▶ (e) advertisements used on anyone or any incident without having the permission of the relevant person;
and

Advertisement and Promotion

- ▶ (f) advertisements which are not suitable with existing laws or social ethics.

Advertisement and Promotion

No Entrepreneur shall promote the sales under the situation given hereunder regarding the goods or service: -

- ▶ (a) offering to sell the goods within a period without having any plan to sell the declared amount and quantity within specified period;

Advertisement and Promotion

- ▶ (b) offering to sell a goods or service although it was promised to be given as an award or given as free service; and
- ▶ (c) offering to sell a goods or service in a way that can disturb the Consumer physically or mentally.

Thank you for our attention.



www.dechaco.com
information@dechaco.com

Decha & Co (Myanmar) Limited

22 (C), Lane of Kabaraye Pagoda
Road, Ko Min Ko Chin Ward,
Bahan Township,
Yangon 11201
Myanmar

Tel. (+95) 94-5523-7324
Tel. (+95) 94-5523-7325
Tel. (+95) 97-6152-7123
Fax. (+95) 1-552-845