

September 21, 2023

## Myanmar Issues Guidelines for E-commerce Businesses

Myanmar's Ministry of Commerce has announced its E-commerce Guidelines to regulate stakeholders engaging in e-commerce. The guidelines—which were issued on September 5, 2023, and took immediate effect—are mandatory for e-commerce business operators (both entities and individuals), and failure to comply with the guidelines' requirements may result in penalties under relevant laws.

The E-commerce Guidelines come as Myanmar seeks to increase its regulation of e-commerce activities. The guidelines were preceded by a July 2023 notification [requiring e-commerce business operators to register](#) their activities with the Ministry of Commerce by January 21, 2024.

### Definitions

"E-commerce" is defined as the sale of goods or services on the internet or other digital platforms. The term also covers sales promotions, marketing, logistics, ordering, and delivery. An "e-commerce platform entrepreneur" is a person who manages an e-commerce platform where two or more entrepreneurs can conduct e-commerce. An "e-commerce business operator" is a person operating or authorized to operate e-commerce activities. This includes e-commerce platform entrepreneurs, entrepreneurs selling on e-commerce platforms, and sellers through social media platforms.

### Electronic Contracts

Acceptable forms of electronic contracts, which must comply with the Electronic Transactions Law, Contract Act, and other relevant laws, include:

- Click-wrap, click-through, and web-wrap contracts;
- Browse-wrap contracts; and
- Agreements between seller and buyer on social media platforms, such as by accepting or rejecting an offer via direct message.

Samples of contract forms are appended to the guidelines.

### Consumer Protection

Disclosure notices for consumers must be comprehensible, correct, consistent, simple, accessible, and visible. They can be written in Myanmar language, English, or Myanmar language and another language. They must also comply with the relevant provisions of the Consumer Protection Law.

The guidelines provide that if the agreed delivery date is eclipsed by more than 15 days, the consumer may terminate the contract and request a full refund of payment unless the contract specifically provides otherwise. To address problems like returns, refunds, and exchanges, e-commerce operators must establish clear, equitable, and transparent procedures or mechanisms to handle complaints and facilitate compensation for damage.

### Marketing and Advertising

E-commerce business operators must ensure that their marketing and advertising of goods and services on online platforms comply with the Consumer Protection Law and the Competition Law. The guidelines also include provisions on native ads with a similar form or function to the media content being published (for example, promotional ads and paid ads published on Facebook), paid endorsements from digital influencers and celebrities, and advertising restrictions aimed at vulnerable groups (i.e., the elderly, children, and persons of unsound mind).

Additionally, e-commerce business operators must promote consumer education and awareness of rights, responsibilities, and online consumer procedures by including a link on their website that directs consumers to resources relating to consumer education programs or government-run programs.

### **Dispute Resolution**

Disputes with consumers on online platforms must be settled in compliance with the Consumer Protection Law. The guidelines also recommend that e-commerce platform entrepreneurs and e-commerce business operators consider establishing internal complaint-handling mechanisms and taking advantage of alternative dispute resolution methods, as resolving domestic and transborder consumer complaints directly with the business operator rather than resolving them in the courts plays an important role in consumer dispute and redress systems. Consumer satisfaction-measuring systems or other conflict management systems should be included in such mechanisms.

### **Online Consumer Ratings and Reviews**

Under the guidelines, e-commerce business operators may not:

- Make use of ratings and reviews that are not written by an actual user of the product; or
- Prevent consumers from posting honest reviews and ratings that are unfavorable.

E-commerce business operators are required to be open and honest about how ratings and reviews are handled. They must disclose the schedule, the rating and aggregate score standards, and the justifications for accepting or rejecting particular reviews.

### **Payment Terms and Conditions**

Online payment service providers must provide customers with a record of their transactions for the last three years free of charge upon request, and e-commerce business operators must keep evidence of purchase and payment records for at least three years.

Additionally, payment service providers are liable for making up for any losses that consumers incur resulting from fraudulent transactions or security lapses that weren't due to their own negligence.

### **Intellectual Property**

E-commerce business operators must avoid any kind of direct intellectual property infringement under the Trademark Law, Industrial Design Law, Patent Law, and Copyright Law. E-commerce platform entrepreneurs must take necessary steps to take down infringing content related to goods and services sold on their platform. Failing to perform such a necessary takedown action will be deemed as the e-commerce platform entrepreneur having the same responsibility for the infringement as the relevant e-commerce entrepreneur.

The guidelines also broadly mention rules that both e-commerce business operators and consumers must follow:

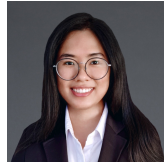
- Basic principles of protecting privacy and personal data;
- Cybersecurity rules;
- Taxation and minimum pricing rules; and
- Transborder e-commerce rules.

For more details on Myanmar's latest rules and requirements for e-commerce, please contact Tilleke & Gibbins at [myanmar@tilleke.com](mailto:myanmar@tilleke.com).

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