



[Draft] Myanmar E-Commerce Operation Guidelines 2020 (Trade Department)

Legal basis

1. According to the authority given by resolution no. K of the fourth E-Government Steering Committee meeting dated 5th November 2019, the Ministry of Commerce issues these e-commerce guidelines.

Objectives

2. These guidelines are issued in order to promote e-commerce businesses, to implement sustainable development and to protect the rights and economic interests of consumers against unfair trade practices.

Reference

3. These guidelines shall be called Myanmar E-Commerce Operation Guidelines 2020.

Definitions

4. **E-commerce** means the sale or purchase of goods or services through computer networks by accepting or placing orders using specified methods. **E-commerce transaction** means B2B, B2G, B2C and C2C transactions. In addition to transactions in a market place and on a platform, social commerce businesses (example: transactions on Facebook and WeChat) are also included in the scope of these guidelines.

Scope

5. E-commerce operations conducted within Myanmar, from abroad inbound into Myanmar and from Myanmar outbound to a destination abroad shall be covered by these guidelines.

Existing laws and rules

6. The following laws and procedures for domestic and cross-border e-commerce operations shall retain their respective scopes of application as follows:
 - (a) **Consumer Protection Law 2018** [*should be "2019"*] to ensure that consumers obtain fair remedies for damages (examples: product liability, unfair business practices, fraudulent and wrongful description); to solve difficulties faced by consumers before an online purchase, during an online purchase and after an online purchase;



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- (b) **Telecommunication Law 2013** to keep data acquired from communication services by any of the telecommunication license holders; to prevent the disclosure of private data of users to third parties, organisations and individuals, except as otherwise permitted by law;
- (c) **Electronic Transactions Law 2014** to endorse official recognition of electronic transactions, electronic documents and electronic signatures;
- (d) **Trademark Law 2019** to protect the rights of registered trademarks according to chapter 21;
- (e) **Competition Law 2015** to prevent damages caused to consumers by the purchase or sale of goods or services at an unreasonable price in comparison to the market price according to section 27(b);
- (f) **Myanmar Companies Law 2017** to register businesses according to the law and to perform other law-related matters;
- (g) **Export and Import Law 2012** to comply with licensing requirements and restrictions; to prevent the sale and purchase of restricted goods;
- (h) **Contract Act 1872** to comply with the provisions for making contracts;
- (i) **Law Protecting the Security and Privacy of Citizens 2017** to protect against acts damaging the security and privacy of citizens;
- (j) **Code of Criminal Procedure 2016** to take action against fraud;
- (k) **Mobile Financial Services Regulations 2016** and **Financial Institutions Law 2016**
- (l) **Customs Act**
- (m) **Post Office Act**

Remark: These guidelines do not replace existing laws, rules and procedures including the Consumer Protection Law. Therefore, any business shall comply with the relevant laws, rules and procedures in addition to these guidelines.

Types of e-commerce businesses

7. The following businesses are e-commerce businesses falling within the scope of these guidelines
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- (a) **Platform operators** which are legal persons, organisations or businesses that provide cyber space for conducting independent e-commerce businesses for permitted business types, a virtual place, transaction matching or other services;
- (b) **Operators on a platform** which are any e-commerce operators which sell goods or provide services to consumers through e-mail platforms being operated by platform operators specified above in paragraph 4 (*should be "7"*) sub-paragraph (a).
- (c) **Other operator** means any e-commerce operator selling own goods or providing own services through their own website.
- (d) ...
- (e) ...
- (f) ...

Terms

- 8. Any Myanmar national aged 18 and above may apply for a license from the relevant department and operate e-commerce businesses. If a business is a joint venture with a foreign investor, compliance with the Investment Law is required.

Voluntary registration system and incentives

- 9. Any person operating or wishing to operate e-commerce businesses may download an e-commerce registration application form from the homepage of the Trade Department of the Ministry of Commerce and register voluntarily after having obtained required licenses and gone through required procedures from/by the relevant departments. The procedure for the voluntary registration system will be announced separately.
- 10. E-commerce businesses which voluntarily registered under the Ministry of Commerce shall have the prescribed incentives.

Conditions to comply with

- 11. Businesses engaging in any of the e-commerce operations shall comply with the following conditions:
 - (a) To conduct the business according to the laws, procedures and guidelines in force;



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- (b) with regard to the delivery of goods and services to consumers, to ensure completion during the specified time frame and to take care of losses and liabilities during the delivery;
- (c) with regard to the request to use private data of users or consumers, to comply with the provisions of the relevant laws and procedures;
- (d) to issue electronic delivery forms or to issue delivery forms in accordance with the law for the sale of goods or the provision of services;
- (e) to display the business license at a visible location on the landing page of the website;
- (f) to inform the relevant authorities and to notify the public through websites and other means of communication with regard to any change in the business license of the e-commerce business;
- (g) to avoid conducting businesses in contravention to the Industrial Design Law 2019, Trademark Law 2019, Patent Law 2019, Copyright Law 2019 and other international intellectual property protection agreements to which Myanmar is a member;
- (h) to comply with the provisions regarding consumer rights and the duties of the businesses prescribed in the Consumer Protection Law 2018;
- (i) to comply with the security standards prescribed by the government from time to time;
- (j) to prioritise the interest of consumers and to avoid exploiting consumers;
- (k) to provide truthful information to consumers and to avoid fraudulent information with regard to the goods and services;
- (l) to advertise truthful information to consumers and to avoid fraudulent information with regard to the goods and services;
- (m) the following shall not be done by acts or words in marketing:
 - (1) misleading advertisement with regard to the contents, shape or information of the goods;
 - (2) misleading description with regard to the contents, shape or information of the goods;
 - (3) making misleading advertisements for goods or services;



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- (n) to ensure that consumers have the right to receive or not receive advertisements by text messages and e-mails (including unsolicited messages on mobile phones); to comply with their decision if they do not want to receive those advertisements.
12. Any person operating an e-commerce business shall:
- (a) An e-commerce platform operator shall inform the relevant authority and take necessary action if he finds an indication of illegal goods on his platform;
 - (b) an e-commerce platform operator wishing to stop his services shall notify this 60 days in advance at a visible location on the website and shall take necessary action in order to protect the interest of consumers and businesses on the platform;
 - (c) an e-commerce platform operator wishing to stop the provision of services to an e-commerce business shall notify this 30 days in advance at a visible location on the website and take necessary action in order to protect the interest on consumers;
 - (d) the links to important information, trading rules and the service agreement shall be displayed on the landing page so that business operators and consumers can access and download these easily;
 - (e) Cross-border e-commerce businesses shall comply with the relevant laws, rules, procedures and guidelines concerning the export and import of goods;
 - (f) to take necessary cyber security and technological measures against cyber attacks; to ensure security; to prevent unlawful acts and online crimes.

E-commerce trade and provision of services

- 13. *[We did not understand the original.]*
- 14. *[We did not understand the original.]*
- 15. Payment methods provided by an authorised payment service provider or a bank or an authorised payment source shall be used on an e-commerce website.
- 16. The payment for export and import of goods through e-commerce shall comply with the Central Bank's Foreign Exchange Regulation, Rules 2018 as amended.

Disclosure, transparency and registration data

- 17. With regard to information concerning the business -



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- (a) the e-commerce business operator shall provide clear and true information to the consumers and ensure that the information is easily accessible;
 - (b) the business operator shall provide their business's registered name, address, e-mail address or other electronic contact details, or phone number in advertisements and on websites in accordance with the consumer dispute resolution procedures;
 - (c) membership registration information - to display, on the organisation's homepage, the trademark of the organisation, internet address, company registration number if the business is registered as a company, and address of the office or shop.
18. With regard to the information concerning the goods and services -
- (a) to provide clear information with regard to the goods and services to enable the consumers to decide before making payment;
 - (b) to provide clear information with regard to the types of goods and quality, including the price of the goods;
 - (c) to avoid selling or providing goods and services that have a harmful impact on life, health and safety of consumers.
19. With regard to the payment method information -
- (a) the seller shall provide clear information with regard to the service fee and price of the goods and other costs to enable the consumers to decide before making payment;
 - (b) the seller shall provide sufficient time to make payment to enable the consumers to analyse the provided clear and transparent information. The payment instruction shall be written in simple terms;
 - (c) the terms and conditions with regard to the payment transfer shall be provided in writing; to provide these information to the consumers in a way that enables them to keep a record;
 - (d) at a minimum, the following information has to be provided -
 - (1) total price of the goods;
 - (2) time of delivery or performance;
 - (3) payment terms and method;
 - (4) safety and health warnings to be put in the instructions;



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- (5) to provide the pick-up, completion, return, exchange, termination and refund terms and related information;
- (6) to provide a repair and replacement guarantee and warranty of the goods;
- (7) the currency in which the price was calculated and has to be paid.

Transactions with minors

20. Businesses shall proceed with care when advertising or marketing if minors are targeted.
21. Any e-commerce shall do the following before obtaining personal data from consumers -
 - (a) to include at least one step in which the consumer can provide proof that he is 16 or above;
 - (b) to obtain the consent of parents or guardians of the minor if the user appears to be under age.

Confirmation

22. To provide a system that enables the consumer to review the goods or services about to be purchased, ensures that goods or services are checked for damages, enables the consumer to confirm the order prior to making payment and ensures that the system keeps a record of the payments.
23. The consumer may cancel the payment before the completion of the purchase.

Return, refund and replacement

24. The consumer has the right to return the good or request a new good if the good delivered is damaged or does not match with the advertisement. The seller shall cover the delivery expenses in such cases.
25. The seller must make a refund if so requested by the consumer.

Data protection and electronic security

26. E-commerce service providers, manufacturers of goods and sellers of goods shall comply with the laws and rules in force concerning data security in order to protect the interest of the consumers.
27. E-commerce businesses shall respect the privacy of the consumers; they shall inform in simple terms how they will process and use personal data of the consumers.



28. E-commerce businesses shall keep confidential the personal data of consumers, such as personal details, bank details, economic status and purchase record, unless otherwise requested by an authorised person according to the law or a court order.
29. The personal data of a consumer shall only be used for e-commerce transactions. The following shall be complied with -
 - (a) the personal details shall not be altered without the consent of the consumer;
 - (b) information shall be recorded accurately;
 - (c) data shall only be collected with good intentions;
 - (d) collected data shall only be used with sufficient grounds;
 - (e) data privacy shall be ensured;
 - (f) data shall be recorded in a transparent manner;
 - (g) *[We did not understand the original.]*
 - (h) *[the user of the personal consumer data]* shall be accountable.

Security and authentication

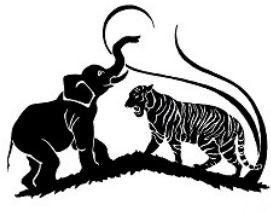
30. Businesses shall inform consumers in simple terms with regard to the processing of security and authentication matters.
31. Businesses shall update security and authentication matters from time to time.
32. Businesses shall be liable for damages occurring to consumers due to the security and authentication process.

Consumer enlightenment

33. Businesses shall make consumers aware of consumer rights and duties in the context of online purchases. Business owners are responsible to ensure that the consumers are aware of consumer protection laws and unfair practices.

Consumer protection

34. With regard to damages that occurred to consumers from e-commerce transactions, action shall be taken in accordance with the Consumer Protection Law.



Making contracts

35. The contractual terms and conditions shall be fair and transparent to consumers, and mutual consent has to be obtained when entering into a contract.
36. The contract shall be void if the contractual terms and conditions are not fair to consumers.

Dispute resolution

37. E-commerce businesses shall handle disputes with consumers in a manner that consumers do not have to incur unnecessarily high costs.
38. The aggrieved person may notify the Consumer Protection Commission if there is a dispute.

Penalties

39. Action shall be taken in accordance with relevant laws, rules and procedures against any person who does not comply with the provisions of these guidelines.

Right to amend

40. The Ministry of Commerce may amend these guidelines as deemed necessary and shall have the right to notify the public of the provisions of these guidelines.
41. The Ministry of Commerce has the absolute authority to clarify these guidelines; its decision shall be final and officially binding.



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