



Government of the Republic of the Union of Myanmar

Ministry of Commerce

Notification No. 50/2017

1379, 4th Waning Day of Thadingyut
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The Ministry of Commerce hereby releases these Rules according the authority given by sub-section (a), section 56 of the Competition Law with the consent of the Union Government.

Chapter (1)

Title and definitions

1. These Rules shall be called the Competition Rules.
2. The terms in the Rules shall have the same meaning as the terms in the Competition Law. Furthermore, the following terms shall have the meanings hereunder:
 - (a) “**Law**” means the Competition Law.
 - (b) “**Expert**” means a person who underwent special training in order to handle competition matters or a person who has special knowledge in a subject.
 - (c) “**Ministry**” means the Ministry of Commerce of the Union Government.
 - (d) “**Commission Office**” means the department formed by the Ministry in order to perform the office work of the Myanmar Competition Commission and the duties assigned by the Commission.
 - (e) “**Form**” means a form prescribed in these Rules.

Chapter (2)

Myanmar Competition Commission

3. In order to form the Myanmar Competition Commission, the Ministry shall request a list of knowledgeable persons from the relevant ministry, government department, government organisation and non-governmental organisation, choose the relevant persons and submit a list of the selected persons who are proposed to become members of the Commission to the Union Government. A list of the proposed vice-chairman and secretary can be submitted together with the submission.
4. At least one representative from the following ministries and organisations shall be included in the list of selected persons who are proposed to become members of the Commission.
 - (a) Ministry of Commerce



- (b) Office of the Union Attorney General
 - (c) Ministry of Home Affairs
 - (d) Ministry of Transport and Communications
 - (e) Ministry of Industry
 - (f) Economic expert
 - (g) Legal expert
 - (h) UMFCCL and other associated organisations
5. The number of the Commission members shall be odd; there shall be nine or more members.
6. The chairman of the Commission shall have expertise and knowledge in law, economics or trade and shall have experience in his field.
7. The Commission members shall -
- (a) be Myanmar nationals residing in Myanmar;
 - (b) have good morals;
 - (c) have expertise and knowledge in law, economics or trade and have a minimum of five years of experience in his field;
 - (d) have the rank of a deputy director-general or above if he is a civil servant.
8. Members of the Commission who are not civil servants shall work full-time as they are entitled to a salary, *[the reimbursement of]* expenses and allowances from the Ministry.
9. (a) The term of the chairman of the Commission shall be the same as the term of his Union level office.
- (b) The term of the members of the Commission shall be 3 years.
10. Members of the Commission may only work for 2 consecutive terms. However, the terms may be extended if there is a requirement for expertise or if it is otherwise expedient.
11. The Union Government shall terminate the chairman or members of the Commission if the following circumstances occur and replace the person in accordance with the provisions of these Rules.
- (a) Death;



- (b) resignation;
 - (c) sentence to a prison term due to a conviction for a crime;
 - (e) being assumed as mentally disabled according to the relevant law;
 - (f) being declared insolvent;
 - (g) having committed a moral crime;
 - (h) failure to perform the assigned duties.
12. If the chairman or a member of the Commission wishes to resign on his own accord according to Rule 11 (b), he shall submit a written notice containing sufficient reason to the Union Government through the Commission.
13. If the position of chairman or member of the Commission is vacant due to a reason and being filled, the term of the replacement shall be the remainder of the original term.
14. In order to appoint new Commission members, the Ministry shall make a list of persons who are proposed to be members of the Commission and submit it to the Union Government at least 3 months prior to the end of the term of the Commission.

Chapter (3) **Calling meetings**

15. The Commission shall hold regular meetings every 3 months. Special meetings may be held if required.
16. The chairman of the Commission shall preside over the meeting. If the chairman is absent, the vice-chairman shall preside over the meeting.
17. The quorum of a meeting is the presence of more than 50% of the members. The meeting shall be postponed to an appropriate date if the quorum is not met. The Commission Office shall inform the chairman and the members of the postponement.
18. The Commission Office shall notify, with the approval of the chairman or the vice-chairman, the date of the regular or special meeting or the postponement of the meeting due to a reason.
19. The Commission shall decide with the consent of more than 50% of its members in the meeting.
20. A committee meeting shall be held as required in instances such as when an investigation committee needs to decide upon the report of an investigation task force or upon other investigations, administrative action has to be taken or other circumstances have arisen.



21. The Commission Office shall take care of the management, invitation and minute-taking with regard to the meetings of the Commission and committees.

Chapter (4)

Duties of the Commission Office

22. The Ministry shall form the Commission Office in order to perform the duties assigned by the Commission, committees and task forces.
23. The Ministry shall arrange for capacity development of the employees of the Commission Office in order to efficiently implement competition matters.
24. The Commission Office shall -
- (a) perform the duties assigned by the Commission;
 - (b) take care of the office work of the Commission, committees and task forces;
 - (c) arrange a quarterly report to the Government on the work done and improvements made by the Commission;
 - (d) monitor the market situation and business situation in the market upon an assignment by the Commission;
 - (e) receive, scrutinise and report on complaint letters and report the findings to the Commission upon an assignment by the Commission;
 - (f) reply in writing to the persons having filed complaints as to whether the Commission is taking action upon their complaints;
 - (g) arrange required things with regard to appeals to the Commission;
 - (h) implement orders of the Commission to prosecute with regard to competition matters;
 - (i) liaise and negotiate with the court or law office with regard to a petition according to section 52 of the Law.
25. When monitoring as prescribed in sub-section (d) of Rule 24, the Commission Office shall monitor both in a normal situation and in a special situation. If an irregularity is found, the Commission Office shall report to the Commission for further investigation.
26. The Ministry may form required sub-departments under the Commission Office in order to handle competition matters.



27. The Commission Office shall scrutinise complaints according to the following framework and report to the Commission.
- (a) Situation which may have or cause an impact or which may have the potential to cause an impact on the public interest;
 - (b) situation where the Law has been violated;
 - (c) situation in which domestic or international factors are involved with regard to competition matters;
 - (d) situation which has an impact on small businesses;
 - (e) whether a business has violated the Law before.

**Chapter (5)
Investigation committee**

28. The Commission shall form an investigation committee and assign duties to it upon the receipt of a report by the Commission Office or a notice with sufficient reason or if it deems that the Law has been violated.
29. With regard to the formation of the investigation committee, a member of the Commission shall be appointed as the chairman of the investigation committee and at least one knowledgeable person from the investigation sector or other relevant sectors shall be appointed as member of the investigation committee.
30. If a civil servant is to be appointed as a member of the investigation committee, he shall have undergone special training in competition matters and shall have a rank which is not lower than deputy director.
31. The members of the investigation committee shall -
- (a) be knowledgeable in competition matters;
 - (b) not be biased and have good morals;
 - (c) have good knowledge in economics, law, trade or other relevant fields and at least 3 years of relevant experience.
32. The investigation committee shall -
- (a) commence the investigation within 7 days after having been formed by the Commission;
 - (b) report the situation of the investigation to the Commission every 15 days;



- (c) report the findings with its remark to the Commission so that action can be taken according to the Law;
 - (d) submit a final report on the findings to the Commission within 90 days after the commencement of the investigation;
 - (e) request an extension from the Commission with sufficient reason if the final report cannot be submitted within the prescribed period.
33. The investigation committee may form relevant task forces for the investigation of competition matters if required.
34. When performing its duties, the investigation committee may -
- (a) enter and search buildings, land and business premises of the person under investigation;
 - (b) upon assignment by the Commission, confiscate and seal money and other valuable items as evidence; these items shall be deposited with a bank chosen by the Commission;
 - (c) check business data, documents and evidence and confiscate these items as evidence if the Commission orders confiscation;
 - (d) with regard to confiscation, confiscation shall be made in front of two witnesses and three true copies of Form 2 “confiscation of evidentiary items form” shall be made; the person under investigation or the person whose property is being confiscated, the witnesses and the investigation officer shall sign this Form and one copy of the Form shall be provided to the person under investigation or the person whose property is being confiscated;
 - (e) if the Commission allows confiscated items to be temporarily returned during the investigation period, Form 3 “temporary return and guarantee form” shall be completed; the items may then be temporarily returned to the person whose property has been confiscated.
35. The investigation committee shall assign duties with regard to the formation of task forces required for the investigation.
36. The investigation committee shall set the investigation period when the task force is being formed and it is being assigned duties.



37. The investigation committee may extend the investigation period if the task force so reports and requests with sufficient reason.
38. A meeting of the investigation committee shall be held in order to discuss and decide the matter among the members if there is cause to take administrative action.
39. The investigation committee shall record, in Form 4 "daily record", its daily activities and findings during the investigation.
40. The Commission shall not appoint any of the following persons as a member of the investigation committee or task force:
 - (a) A person who filed the case and any of the relatives of a person under investigation;
 - (b) a person who has an interest in, or a business related with, the case;
 - (c) a person who has shown sufficient reason to be suspected of bias.

Chapter (6)

Formation of the task force and its duties

41. The investigation committee shall form, in order to perform the investigation with regard to competition matters, a task force with a minimum of three members, appointing a member of the investigation committee as leader.
42. If an appointed member is a civil servant, he shall have a rank not lower than staff officer and have undergone training with regard to competition matters.
43. When performing its duties, the task force shall -
 - (a) perform the duties assigned by the investigation committee;
 - (b) complete the investigation within the time set by the investigation committee;
 - (c) report to the investigation committee with sufficient reason if the assigned duties are not completed in time;
 - (d) record its daily activities in the daily record (Form 4) during the investigation;
 - (e) report to the investigation committee together with evidence after the investigation is completed.
44. During the investigation, the task force is authorised to check, according to the law, businesses, associations, persons from organisations, other persons and documents concerned.



Chapter (7)

Duties and rights of persons concerned in competition cases

45. The complainant -
- (a) has the right to speak with regard to the complaint;
 - (b) has the right to provide witnesses;
 - (c) has the right to submit evidentiary documents, financial evidence, suspicions and other reasonable perceptions with regard to the investigated case;
 - (d) shall cooperate during the investigation.
46. The person under investigation -
- (a) shall provide evidentiary documents, financial evidence and other reasonable perceptions with regard to the investigated case;
 - (b) shall cooperate during the investigation;
 - (c) shall be taken action against if he provides fraudulent or misleading information, evidentiary documents or statements;
 - (d) shall allow it and also cooperate if the investigation committee or the task force requests to enter and search a building, land or workplace which are relevant to the case;
 - (e) shall provide, in time, evidentiary documents requested by the Commission, investigation committee or task force;
 - (f) has the right to examine and to take notes and copies of the evidentiary documents related to the case;
 - (g) has the right to submit evidentiary documents as he deems fit and to defend himself against the complaint;
 - (h) has the right to provide expert witnesses to the investigation committee.
47. A person under investigation, a person whose property has been confiscated or a person with an interest in the confiscated evidence wishing to keep the confiscated item with a temporary return and guarantee Form shall request this from the Commission through the investigation committee, submitting a complete list of items and sufficient reason.



48. If a complainant or person under investigation is a company or an organisation, its appointed representative may take part in the competition case in order to assert or defend the rights of the represented party.
49. A representative taking part in the competition case -
- (a) may take part in every step of the case;
 - (b) may submit, according to the Law, evidentiary documents in order to assert or defend the rights of the represented party;
 - (c) has the right to examine and to take notes and copies of the evidentiary documents related to the case in order to assert or defend the rights of the represented party;
 - (d) shall appear at every summons with regard to the competition case;
 - (e) shall refrain from bribing, pressing, persuading and pushing witnesses, other persons concerned and evidentiary documents *[sic]* with the aim of providing fraudulent evidence or coerced statements;
 - (f) shall refrain, before the investigation is over, from disclosing and spreading information and engaging in other similar acts with regard to business secrets and perceptions of the represented party that are related to the competition case;
50. A witness in the investigation shall -
- (a) appear in person in order to state his own knowledge concerning the case before the Commission, the committee formed for the investigation or the task force. The witness may state knowledge in writing with sufficient reason if so allowed by the Commission;
 - (b) shall provide evidence and evidentiary documents if so requested;
 - (c) the witness appearing for the investigation is entitled to a daily allowance and a travel allowance set by the Commission. If the witness is a civil servant, he is entitled to either the daily allowance set by the Commission or the daily allowance set by his department;
 - (e) shall state accurate information with regard to the competition case.
51. An expert in the investigation shall -
- (a) honestly study, analyse, and draw a conclusion from, the evidence and facts with regard to the investigation of the competition case;
 - (b) may question persons involved in the case in order to draw a conclusion with regard to the investigation;



- (c) inform the Commission in writing if he cannot comment on or draw a conclusion with regard to the investigated case due to him not having sufficient knowledge or not having obtained sufficient key information or the information provided not being key information;
 - (d) is entitled to a travel allowance and other remuneration set by the Commission.
52. The investigation committee shall refrain from appointing the following persons as experts:
- (a) A person who acts as the lawyer of or witness for a party in the same case;
 - (b) a person who is a member of the investigation committee or task force;
 - (c) a person with an interest in the business under investigation.

Chapter (8)
Filing and scrutinising

53. Any person aware of or suspecting a violation of a provision of the Law by a person may report to the Commission directly or through the Commission Office.
54. When reporting according to Rule 53 -
- (a) Shall complete a complaint form (Form 1) in the Myanmar language;
 - (b) may attach sufficient documentary evidence or state his suspicion;
 - (c) the Commission and the Commission Office shall keep confidential the profile and other related information of the complainant.
55. The Commission Office shall record the complaint, irrespective of whether the report comes with sufficient evidence or whether the complainant provides his name.
56. The Commission Office shall check the complaint addressed to the chairman of the Commission or received through the Commission Office within 7 days of its receipt as to whether it is a convincing complaint and report to the Commission.
57. The Commission Office shall, with the consent of the Commission, reply without delay to the complainant in writing as to whether the complaint is being checked.
58. Action shall be taken according to the Law against the complainant if he has omitted information, dishonestly filed the case, testified wrongly or provided fraudulent evidence with the aim of harming the public or an individual or in the knowledge that his acts might harm the public or an individual.



**Chapter (9)
Investigation**

59. The investigation committee shall start an investigation according to these Rules if the Commission ordered an investigation with regard to a competition matter.
60. The investigation committee may transfer its authority to the investigation task force with regard to the following investigation activities:
- (a) Requesting to check evidence, documents, financial evidence and other required information;
 - (b) summoning required witnesses;
 - (c) entering and searching a building, land and business premises of a business owner, a person under investigation or other associated persons.
61. When investigating competition matters -
- (a) Myanmar language and Myanmar script shall be used;
 - (b) the person concerned shall pay the expenses if a translator is required;
 - (c) a person with a business interest or right in the investigation case shall not be hired as translator.
62. The investigation committee shall report the following facts to the Commission in order to prevent the misuse and transfer of money and property of a person under investigation during the investigation period:
- (a) Brief summary of the investigation;
 - (b) discovery of a motive to commit a crime;
 - (c) circumstances of the case and duration of the investigation;
 - (d) name and address of the bank and financial institution related to the case.
63. The Commission shall coordinate with the Central Bank in order to obtain its approval regarding a request according to Rule 62 and other financial matters with regard to a competition case.
64. The members of the Commission, committee and task force and the responsible persons from the Commission Office shall -



- (a) decide in accordance with the law with regard to acts against the law and acts causing unfair competition;
 - (b) keep confidential information and secrets of the related businesses confidential when performing their duties;
 - (c) respect the lawful rights and interests of related parties and persons.
65. The investigation committee or task force may request an expert to participate in the investigation by submitting his name to the Commission and obtaining its approval if the opinion of an expert is required in the investigation.
66. If more than one expert participate in the investigation, the investigation committee or task force shall report in detail each opinion if the expert opinions are contradictory.
67. The opinion of the expert shall be kept confidential and may not be used for other purposes than for the investigation and decision-making process. The opinion of the expert shall not be disclosed to any person other than persons authorised to sign the decision.
68. The investigation committee shall report to the Commission with remarks and request the Commission to issue one of the following orders upon receipt of an application according to Rule 47.
- (a) Order for temporary return with sufficient guarantee upon the application of a person under investigation, a person whose property has been confiscated or a person who has an interest in it.
 - (b) Order to prohibit the changing, transferring, hiding or changing of the form.
69. The Commission shall issue appropriate orders and instructions after scrutinising the request according to Rule 68.
70. The investigation committee shall submit an investigation report to the Commission after the investigation is completed. The following information shall be included in the investigation report:
- (a) Type of the crime and brief summary of the case;
 - (b) name, occupation, address and national registration card number of the person under investigation;
 - (c) date of the acquisition of the ownership of, or interest in, a business, money, property and information by the person under investigation with regard to a competition case in the country or abroad;



- (d) method and date of the transfer of money, property and information;
 - (e) method of the acquisition and date of the transfer of money, property and information;
 - (f) estimated value and location of the money, property and information; reason for their absence if these items are not present during the investigation;
 - (g) tables showing the money, property and information under control of the person under investigation, money, property and information not under the control of the person under investigation, types of property which has been transferred to other persons, types of property mixed with the property of others if it can be easily separated, types of property mixed with the property of others if it cannot be easily separated, other types of property.
 - (h) other business and other income of the person under investigation;
 - (i) statement of a person with an interest in the evidence;
 - (j) brief summary of the activities of the investigation committee;
 - (k) brief summary of the findings of the investigation committee;
 - (l) list of witnesses and list of confiscated evidentiary documents.
71. If the investigation committee has found a business to have violated any provision of the Law, it shall report this to the Commission with its opinion. When reporting -
- (a) it shall explain which provision has been violated, provide its opinion and provide proof therefor;
 - (b) if an informant was involved in the violation of the provision, but disclosed the violation during the investigation, *[the committee]* shall, in order to obtain relief and cause the Commission to coordinate with the relevant court and law office with regard to a relief, report to the Commission with evidence when *[i.e., the date on which]* the informant started to cooperate, how much he cooperated and which types of relief he is entitled to.
72. The Commission shall decide whether to prosecute after having scrutinised the report submitted by the investigation committee according to Rule 70.
73. No person other than an authorised person and a person with a lawful right to request *[disclosure]* is allowed to see, check, copy and disclose the investigated facts and findings from an investigation by the Commission, investigation committee and task force, the documents obtained in the competition case, the case file and case notes.



74. The investigated facts and findings from the investigation shall not be used in any case other than a related competition case.

Chapter (10)
Allowing relief

75. The Commission shall -
- (a) if an informant was involved in the violation of a provision of the Law, but disclosed the violation during or before the investigation, the Commission shall coordinate, according to section 52 of the Law, with the relevant court and law office with regard to a relief based on when the informant started to cooperate, how much he cooperated and which types of relief he is entitled to;
 - (b) the Commission may grant relief for up to five informants with regard to an investigation case.
76. The relevant court may, upon the receipt of a corresponding request by the Commission according to Rule 75, grant relief from the penalties according to the Law. In this regard -
- (a) If a person admits his involvement in the violation of a provision of the Law and cooperates before the commencement of the investigation -
 - (1) 100% of the penalties may be waived if he is an early provider of evidence and information that are helpful for the case;
 - (2) 80% of the penalties may be waived if he is an early provider of evidence and information that are helpful for the case, but the evidence and information are not complete;
 - (3) 50% of the penalties may be waived if he is the second provider of evidence and information that are helpful for the case;
 - (4) 30% of the penalties may be waived if he is the third, fourth or fifth provider of evidence and information that are helpful for the case.
 - (b) If a person admits his involvement in the violation of a provision of the Law and cooperates during the investigation -
 - (1) Relief may be granted to up to three such informants;
 - (2) 30% of the penalties may be waived if he provides evidence and information that are helpful for the case.



77. With regard to the relief -
- (a) the Commission shall -
 - (1) not consider granting relief to a person who has taken the lead in violating the Law;
 - (2) not consider granting relief to a person who comes to cooperate after the investigation;
 - (b) a person seeking relief shall provide facts unknown and evidence that are useful for the case to the investigation committee and fully cooperate in the investigation.
78. The Commission, committee and task force shall keep secret the names of the complainant and informant and arrange required protection according to the Law.
79. Action shall be taken according to the Penal Code if the disclosure of information is done dishonestly for money or other purposes or if it is done honestly, but for money.

Chapter (11)

Administrative action and appeal

80. The investigation committee may form a task force to review whether administrative action may be taken if a business person has, due to a complaint, investigation or information, been found to have violated an order, directive or procedure according to the Law.
81. The committee shall decide on the administrative action after discussing the matter at a meeting. In this meeting, the business owner under investigation may be present and explain the matter.
82. The administrative action shall be effective from the date of the committee's decision.
83. The decision with regard to the administrative action shall be notified in writing to the complainant.
84. A business owner against whom an administrative action is taken and who is unsatisfied with the decision of the committee may appeal to the Commission with the following documents and evidence:
- (a) True copy of the decision or order of the investigation committee;
 - (b) evidentiary documents and other evidence relied on;
 - (c) reason for filing the appeal.



85. The Commission shall scrutinise the appeal within 7 days of its receipt and may, if required -
 - (a) summon and hear a witness or person concerned with the investigation;
 - (b) order the previous investigation committee to re-investigate the entire case or part of it or form an additional investigation committee or task force and order it to re-investigate the entire case or part of it.
86. The Commission shall allow the business owner who appealed to be present and to plead.
87. The Commission may, with regard to the appeal, confirm, amend or revoke the decision the investigation committee.
88. The Ministry shall appoint an appropriate gazetted officer as collector in order to collect fines like arrears of income tax if the business owner has not paid the fines levied as administrative action by the Commission or the investigation committee.
89. The collector appointed according to Rule 88 shall cooperate with the relevant ministry when performing his duties.
90. The fines collected in competition matters shall be contributed to the state treasury.

Chapter (12)
Prosecution

91. The Commission shall instruct a member of the investigation committee to act as complainant and file a case at the police station if a decision to prosecute has been made according to Rule 72.
92. The complainant appointed according to Rule 91 shall file a case at the police station and submit the original complaint letter to the Commission and, if the case has a previous record, a copy of the record and the previous original complaint letter or a report of the market observation, the findings of the investigation committee, evidence, an analytical report of the case, a report on the reason for prosecuting and other required information and evidence.
93. The findings of the investigation committee shall be deemed to be strong evidence.
94. The Commission shall notify the complainant in writing with regard to the *[criminal]* suit at the court resulting from the filing of the case at the police station and the decision made by the court against the business owner who violated the Law.



Chapter (13)
Miscellaneous

95. Expenses for a competition case shall only be used for measures taken in the case. The Commission shall, in accordance with the financial procedures, set the allowed expenses, make payments, and set administrative expenses and allowances for a competition case.
96. The Commission shall pay the travel, accommodation and food expenses incurred by a member of the Commission, committee or task force for attending meetings and hearings with regard to a competition case if the person is not a civil servant.
97. The Commission or the relevant department shall pay the travel, accommodation and food expenses incurred by a member of the Commission, committee or task force for attending meetings and hearings with regard to a competition case if the person is a civil servant.
98. The Commission shall pay the fees due and travel, accommodation and food expenses of an expert or specialist.
99. The Commission may cooperate with domestic or international organisations in the relevant sectors with regard to competition matters.

(Signed) Dr. Than Myint
Union Minister
Government of Republic of the Union of Myanmar
Ministry of Commerce